SENATE—*Wednesday, February 9, 1972*

The Senate met at 10 a.m., and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

Eternal Father, this morning we lift our hearts in reverent thanksgiving for him whom we call the Father of our Country. We thank Thee that in war and in peace George Washington lifted high a standard to which men in every age may rally. We thank Thee for his noble manhood, his chivalrous manner, his self-sacrificing patriotism, his intrepid military prowess, his loyalty to his countrymen, his confidence in the justice of his cause, his love of home and family, his faith in eternal verities, and his trust in Thee. May the spirit which guided him guide us through the promising and perilous days of the future.

We pray in the Master's name. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 9, 1972.

To the Senate:

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

ALLEN J. ELLENDER,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 8, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

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

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The second assistant legislative clerk read the nomination of Harold C. Crotty, of Michigan, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1972.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL LABOR RELATIONS BOARD

The second assistant legislative clerk read the nomination of John A. Penello, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years, expiring August 27, 1976.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

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

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

LEGISLATIVE SESSION

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

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

SLOPPING OVER

Mr. SCOTT. Mr. President, it was Artemus Ward who once said "the weakness of most public men is to slop over."

In war, George Washington never "slopt over."

That might be a good thing for us to remember.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Chair now recognizes the distinguished Senator from Mississippi (Mr. STENNIS) for not to exceed 15 minutes.

THE MILITARY BUDGET

Mr. STENNIS. Mr. President, I wish to thank the distinguished Senator from West Virginia (Mr. BYRD) for making this time available to me this morning.

Last Wednesday, Mr. President, I introduced, for myself and the distinguished Senator from Maine, Senator SMITH, the administration's military authorization bill. It has been numbered S. 3108. The bill requests about $22 billion for military procurement and for research and development programs. I ask unanimous consent that a table, outlining these requests, be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. STENNIS. Mr. President, in addition, the bill would authorize the strength levels for the armed services, Active and Reserve. In sum, it provides the legislative underpinning for the $83.4 billion defense budget which President Nixon has submitted to us.

The Armed Services Committee, and its subcommittees, are beginning their annual consideration of this procurement bill. It goes without saying that each item will be, as we lawyers say, "put to proof." We will fully and carefully examine whether each program is needed—and whether it is needed now.

Of course, such an examination is what the Senate expects of our committee, and I would not rise to discuss the matter now if it were not for a number of disquieting circumstances which give our review a special urgency this year. We must weigh these programs this time as we have never weighed them before.

One of the unsettling aspects of this year's defense budget is the general economic framework of which it is a part. The $83.4 billion budget authority is up $6.3 billion over the current fiscal year. Yet, this year's overall budget deficit is already estimated to be $38.8 billion.

At this juncture the new budget contemplates a further deficit of $25.5 billion. However, the Director of the Office of Management and Budget, Mr. George P. Shultz, has testified that the real deficit for Federal programs—trust funds excluded—is estimated by the administration to be $36.2 billion. Moreover, that estimate is probably low. For practical reasons, I do not think we can consider the budget, as outlined, as being anything less than a $36.2 billion deficit even though we hope for a better showing as the fiscal year 1973 goes on. Over the years such forecasts have been invariably on the low side.

Mr. President, the overall budget for fiscal year 1973 is larger than the Federal Government can pay for. About $37 billion will have to be borrowed for the fiscal year 1972 budget. Next year, in fiscal year 1973, the American people are faced with a substantial tax increase to meet the Federal deficit. In addition, we now hear talk of enacting a value-added tax—that is, the long discredited national sales tax—to help State and local governments meet their own growing obligations, especially for schools. I say that

has not been recommended yet, but we hear strong talk about it.

So the $83.4 billion defense budget contributes to what is already an awesome display of red ink. And, may I say that I take no satisfaction from the fact that the actual outlays in the new budget year are to be only $76.5 billion of the $83.4 billion total, because the other amount will have to come later.

As far as the taxpayer is concerned, the rest of the total is just a big IOU to be paid in future years with revenues not now available and not now foreseen.

This budget picture is certainly cause for concern as our committee begins its consideration of the authorization bill.

I emphasize these points not only because they are important but also because we hear so little emphasis these days on this part of our governmental picture.

I would be less than frank, however, if I did not say that there are two specifics—two concerns about Pentagon operations—which add to the general apprehensions as we begin this year's defense budget review.

In the first place, Senators are aware, I know, of our committee's continuing interest in procurement of major weapon systems. Even at last year's prices, weapon systems now in development or procurement are expected to cost more than $100 billion when eventually delivered.

At these stratospheric price levels, there has been a tendency in the Pentagon to cut back on costly weapon orders—to reduce the number of planes to be bought, for example—when costs under a given contract begin to escalate. Our committee has suggested that this sort of backing and filling could leave us with forces inadequate to perform their assigned missions.

I might add that, under some contracts already let, there does not seem to be much left to do except to back up on those numbers. I am not criticizing necessarily for what they have done in backing up on the numbers. What we want to get at is to avoid conditions and circumstances where that will have to be done in the future.

We have been trying to address this problem. In hearings just before the holidays, our committee tried to highlight the need for simplicity—simplicity in weapon design and in procurement procedures. We focused on a wider use of prototypes in the acquisition of major weapons, and we heard testimony on the dangers of concurrency, the practice under which weapons are purchased while they are still being developed. And those two items are the basis for a great deal of the disappointment with reference to weapons, their functions, and their extra cost, so that we have to take fewer weapons finally for the same or even more money.

Frankly, Mr. President, I do not know whether we have really gotten through to the Pentagon on all of this. The verdict is still out, but our committee will be learning it soon as we begin to review the programs included in the new procurement bill and see whether procedures are being revised.

If we are again asked to buy overly complex weapons, if we are asked to fund purchases which involve gross concurrency, we may have to step in forthrightly and delay some programs until we can get the R. & D. bugs worked out.

Second, it is important for each Senator to understand that rising weapons costs are only one of the factors which have concerned the Armed Services Committee. Equally disturbing, but less publicized, is the rising cost—the rocketing cost—of military manpower.

Manpower costs, defined rather narrowly as pay, allowances, and closely related items, were 43.5 percent of the defense budget in the 1964 fiscal year. They amount to 56.8 percent of the budget now before us—that means that military budget—and, if housing, recruiting, and similar items are added, the figure approaches 67 percent—two of every three defense dollars.

We are told that it is generally estimated that the Russians spend about 25 percent of the military budget on manpower—one defense dollar in every four.

Retirement costs are an important part of the manpower picture. The ranks of the retired military are increasing at a rate of more than 50,000 a year and costs since 1964 have more than tripled—from $1.2 to $4.6 billion for the new budget year. Costs for the year 2000 A.D. are estimated at $16.4 billion for this item alone and, as things stand, the sky is the limit.

Mr. President, better management of the entire problem is essential and firm steps must be taken to bring this problem under some sort of reasonable control. We cannot continue indefinitely retiring men in their middle and late forties at the prime of their experience and hope to have any retirement system within reasonable cost bounds.

To make myself clear, I look upon retirement pay as part of what the man has earned under our system. In a technical sense this is what has become "vested." I am not trying to wreck anything that has already been earned. But I am pointing out now the seriousness of this matter, the proportion to which it has grown, and the fact that it is now reaching a level where it is not manageable and where something will have to be done.

We in Congress are, in large part, responsible for some of these increasing manpower costs. Each year since 1963 there has been an increase in active duty military pay, and the costs of pay and related items have increased by 131 percent since 1964.

I have heard rumors, which I hope are wrong, that they will come in and ask for more pay this year—that the administration will recommend a further increase in military pay on top of what was done last year. However, that is in the rumor stage only. I certainly hope that it is an erroneous rumor.

In any case, it seems to me that we in Congress must insist that the armed services get the full measure of value out of this better paid manpower. To put it another way, better management of military manpower is essential, given the escalating manpower costs.

We already have a special Armed Services Subcommittee to exercise a broad oversight of the draft law's operations and also the cost of manpower incident to preparing for the volunteer army and recruiting such a force in all of the services.

So it is incumbent on our committee to ask hard questions. Why, for example, do we put only 13 Army divisions in the field with an active Army strength which will total 841,000 by July 1973? This question of excessive support forces has been raised before, but it becomes critical in present circumstances.

At present costs, can the armed services afford to assign more than a million men and women to general support duties?

We are anxious for the services to make whatever practical showing they can. However, we are going to demand the detailed support for this showing and try to make a judgment and a measurement of the essential need.

Beyond these major continuing concerns, I expect the consideration of S. 3108 will raise other questions, both new and old. The budget puts a new emphasis, for example, on new weapons for the Navy. and new weapons are needed.

Our committee will have to weigh the usefulness of another nuclear-powered aircraft carrier. We will have to give careful consideration to the urgent, billion-dollar request for speeding the procurement of a new generation of missile-firing submarines.

Many of these decisions could be influenced by future events—especially the future results of international conferences. The SALT deliberations could have a bearing on new missile-firing submarines. Force levels could be influenced when and if discussions are held on mutually balanced force reductions in Europe.

Finally, results at the Paris peace talks could have a bearing on committee discussions and decisions with respect to the Vietnam war. The war and its aftermath have always figured prominently in the day-to-day consideration of this bill, and I expect that will be the case this time around.

Mr. President, I want to make it clear that I am not weakening my position one bit. I fully support the weaponry and the manpower that are essential, but I am not interested in supporting weaponry and manpower that are not reasonably essential to our security.

As I said at the outset, Mr. President, the committe's consideration of the procurement bill is already underway. Secretary Laird and Admiral Moorer have been invited to testify next week.

Our Tactical Air Power Subcommittee and the Subcommittee on Research and Development are each planning an ambitious schedule of hearings, and examination of R. & D. projects has already started. Yesterday, even in advance of the Secretary's testimony, we began our close look at manpower problems with testimony from Assistant Secretary Roger T. Kelley and Pentagon personnel experts, and the examination of these men will go on through today.

As I have said, we expect to subject each program to the closest sort of

scrutiny. I think the times demand it, and I know the Senate expects it of us.

That is what we want to assure the membership, the press, and the country at large that we are going to try to do. Whatever bill is presented here in time, and as early as possible, the committee will have given it the scrutiny that I have mentioned.

EXHIBIT 1

DEFENSE AUTHORIZATION PROGRAM

[In millions of dollars]

	Total program		Difference (fiscal year 1973–72)
	Fiscal year 1972	Fiscal year 1973	
Army:			
Aircraft	106.6	134.5	+27.9
Missiles	1,033.3	1,153.4	+120.1
Tracked vehicles	103.3	189.1	+85.8
Other weapons	42.2	70.4	+28.2
R.D.T. & E	1,867.6	2,051.1	+183.5
Subtotal	3,153.0	3,598.5	+445.5
Navy and Marine Corps:			
Aircraft	3,265.4	3,101.6	−163.8
Missiles, Navy	699.6	769.6	+70.0
Missiles, Marine Corps	1.1	22.1	+21.0
Shipbuilding and conversion	3,010.2	3,564.3	+554.1
Tracked vehicles, Marine Corps	66.6	62.2	−4.4
Torpedoes	188.8	194.2	+5.4
Other weapons, Navy	1.3	25.7	+24.4
Other weapons, Marine Corps	1.0	.9	−.1
R.D.T. & E	2,436.1	2,713.9	+227.8
Subtotal	9,670.1	10,454.5	+784.4
Air Force:			
Aircraft	3,196.5	2,612.7	−583.8
Missiles	1,683.7	1,772.3	+88.6
R.D.T. & E	2,951.9	3,178.6	+226.7
Subtotal	7,832.1	7,563.6	−268.5
Defense agencies (R. & D.)	456.3	507.2	+50.9
Emergency fund (R. & D.)	50.0	50.0	
Total	21,161.5	22,173.8	+1,012.3

Note: Includes $3,000,000 for special foreign currency program in Navy R.D.T. & E. Excludes fiscal year 1973 budget amendment of $54 million for R.D.T. & E. civilian pay raise. Includes pending supplemental request in 1972 column.

Mr. MANSFIELD. Mr. President, I want to take this opportunity to commend the distinguished Senator from Mississippi for the speech which he has just made and for the outstanding direction that he has given to his committee and to the Senate in the years he has served as the chairman of the Committee on Armed Services.

I think it is an all too little known fact that over the past 3 years during which the distinguished Senator from Mississippi has been the chairman of the Committee on Armed Services he has been responsible, if my memory serves me correctly, for an least a $5 billion reduction in the requests of the Department of Defense, and very likely a little more.

May I say also that I was very much impressed with the questioning of the new Under Secretary of Defense, Mr. Rush, during the course of hearings on his nomination, because at that time questions and comments were put forward and made by the distinguished Senator from Arizona (Mr. GOLDWATER) and others, as well, relative to waste in the Pentagon.

I noted that the distinguished chairman of the committee indicated some concern about the troop strength which we maintain in Western Europe under the NATO agreement at the present time. That strength, I might say, approximates 535,000 military personnel and dependents.

I think the record should be clear that when we talk of cuts in the defense budget, and I certainly am in favor of them, the committee, under the chairmanship of the distinguished Senator from Mississippi has done its job thoroughly and has accomplished substantial savings over the past 3 years.

Furthermore, the Senator must be commended for creating subcommittees that could look into particular areas within the Department of Defense, such as research and development, and the like. I think they have proven their worth up to this time.

I was pleased with the Senator's emphasis on the simplicity of weapons, because I think we have spent a great deal of money on exotic systems, missiles, and the like, and I think that a good deal of that money—my estimate is between $20 and $30 billion—has gone down the drain because the exoticism has not panned out.

May I express to the distinguished chairman of the Committee on Armed Services that a "look-see" might be in order concerning the number of overseas bases which we have, which I understand despite a reduction of 400 or 500 by the present administration still number in excess of 2,000. They are located in every continent in the world. Their cost is tremendous and it is my belief that the military has a penchant for once getting something and never wanting to let go. But the world has changed; we have to change with it. We have to recognize this, and this is something I think the distinguished chairman of the committee indicated indirectly or at least implicitly.

We have only so many people, wtih a population of perhaps 209 million at the present time; we have only so much in the way of resources; we have a debt somewhere between $450 and $500 billion, or will have when the debt ceiling is raised, as it will be, because it must be; and we also face a deficit variously estimated as from $30 to $50 billion in the coming fiscal year. So we have to tighten our britches. We have to face up to the reality as to what we can and cannot do. We have to get away from the idea that we are the world's policeman. I think that in doing so, along the lines of the recommendations of the distinguished chairman over the years, while we may have a smaller force, I believe it will be leaner, more effective, more efficient, and very likely we will get more in return for the value expended in the matter of defense expenditures.

I want the distinguished chairman of the committee to know I not only appreciate his leadership in this area of chief concern, but also insofar as legislation, which is in process of being considered, seeking to face up to the real world picture as it exists.

I think the Senator from Mississippi has shown magnificent leadership. I think he is entitled to a great deal of credit and I want especially to emphasize the fact that under his chairmanship this highly complex matter of defense has been gone into more thoroughly and that tremendous savings have been made considering the original budget requests during the period in which he has been chairman of the Committee on Armed Services. I commend him very highly.

Mr. STENNIS. I thank the Senator very much. I appreciate the remarks of the distinguished majority leader, the Senator from Montana.

What little I have done has been with a great deal of help that came from other members of the committee and Members on the floor of the Senate—with their counsel and guidance, including that of the Senator from Montana and others. I thank the Senator.

Mr. MANSFIELD. I wish to add one further comment. I notice in the course of the Senator's speech he refers to the manpower picture and the retirement situation.

Mr. STENNIS. Yes.

Mr. MANSFIELD. Is it a fact that in the military, with certain exceptions, retirement can be achieved after 20 years of service?

Mr. STENNIS. Yes, that is the general rule.

Mr. MANSFIELD. Is it not a fact that after these retirements come into existence those retirees have access to service hospitals, PX's, and that there are a good many other fringe benefits attached?

Mr. STENNIS. Yes. That is correct. It is on a space available basis, but in actuality it takes care of a great number of them.

Mr. MANSFIELD. In some respects does that not apply to space available on transportation, planes going to different parts of the world?

Mr. STENNIS. Frankly, I do not believe that is very extensive.

Mr. MANSFIELD. At least it is so for higher ranking officers.

Mr. STENNIS. Yes, but I think it is rather limited. I believe the priority of retired travelers is so low that space is infrequently available to them.

Mr. MANSFIELD. So it is not just the monetary benefits after 20 years of service, because other benefits become available with retirement after 20 years. There are a great many other fringe benefits that could be taken into consideration in the retirement picture as a whole. Is that correct?

Mr. STENNIS. The Senator is correct.

Mr. MANSFIELD. I thank the Senator.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 3122) to extend sections 5(n) and 7(a) of the Federal Water Pollution Control Act, as amended, until the end of fiscal year 1972, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. JONES of Alabama, Mr. JOHNSON of California, Mr. DORN, Mr. HARSHA, and Mr.

GROVER were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 9756) to amend the Merchant Marine Act, 1936, as amended, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 9756) to amend the Merchant Marine Act, 1936, as amended, was read twice by its title and referred to the Committee on Commerce.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

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

The Senator from Colorado is recognized.

(The remarks Mr. DOMINICK made when he introduced S. 3150 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

VIETNAM PEACE PLAN DEBATE

Mr. GOLDWATER. Mr. President, in the past several days I have watched, heard, and read an enormous outpouring of opinions and suggestions in what is rapidly becoming known as the "Vietnam Peace Plan Debate." And I am wondering whether, in the heat of honest differences of opinion, we might not be losing sight of the main objective in this whole discussion.

Perhaps it is appropriate that one who has been smeared from head to foot as a super hawk and a warmongerer should be the one to remind the Senate that the deep-down, yearning desire of the American people where Vietnam is concerned is for an end to the fighting, an end to the killing, an end to the waste, and an end to the heartache, and the return of all Americans held prisoner of war.

And this is my objective, too. I want to see this thing over and done with and I want to see it over and done with as quickly as possible.

Now this brings me to an important consideration which I believe many of the participants in this debate have overlooked, and that is that there is only one man in the United States of America who is empowered to make the kind of commitments necessary to fulfill our part of any kind of settlement which would halt the fighting. The name of that man is President Richard M. Nixon. Mr. Nixon's administration is the only agency available for arranging the proper conditions. The U.S. Senate certainly cannot do the job, for all the opinions that we Members express in such authoritative tones. And it cannot be done by the Democratic National Committee, the Muskie for President Committee, or the McGovern for President Committee. Nor can it be done by Brookings Institution or the Rand Corp. or the United Nations. The only chance this country has of seeing a quick peace is through the efficient, fair, and reasonable offices of the President.

This cardinal fact, Mr. President, seems to be lost on some of my Democrat colleagues in the Senate because they nitpick and criticize and run down every reasonable offer Mr. Nixon has ever made to end this war—even though some of the points in his latest program are almost word for word what these complainers were asking for 6 months ago. I don't have to remind you people it was not long ago that the American people were convinced that if a date certain were set for the withdrawal of American troops, our prisoners of war would be returned and conditions made favorable for a fair election which would represent all political elements in South Vietnam.

The American people believed this was one formula that would work because our Democrat friends kept running back from Paris insisting that such was the case. But of course, we discovered sometime later that the Nixon administration had made that exact proposal to the Communists in secret negotiations and been turned down flat. We also learned that no offer short of abject surrender would satisfy the North Vietnamese and the Vietcong so long as opinions remained divided in this country.

Mr. President, I would not like to take the responsibility—after hearing Mr. Nixon's surprisingly realistic eight-point peace proposal for creating that division of opinion in this country. Why a man would welcome the President's initiative when it was first announced and try to shoot it down a week later is a little hard to understand. Only my esteemed colleague, Senator MUSKIE, can answer that question and up until now the explanations I have heard are worse than no explanation at all.

It becomes increasingly clear, Mr. President, that no peace proposal—no matter what it says or offers to do—will receive the bipartisan support from the Democrats so long as it bears the imprint of Richard M. Nixon. More and more it becomes apparent that the opposition is not so much to the plan but to the man who offered it.

So I believe it is time to ask my democratic colleagues whether they want to put off all possibility of ending this war, of stopping this bloodshed and of returning our prisoners to their home until January 1973, at which time Richard M. Nixon may be replaced in the White House.

Mr. President, I am not being facetious in asking this question. It is a serious matter of great concern to millions of Americans and to the world at large. If it is going to be unacceptable for the duly elected President of these United States ever to come up with a peace plan that will satisfy the principal Democrat complainers we ought to know about it right now. What is more, if it is going to be impossible for the President to devise a peace offering acceptable to the Democrats which is short of abject surrender of our own national interests and of our allies in Southeast Vietnam, we should know that also.

What strikes me as especially ironic in this situation is that before the inauguration of Richard Nixon there could not be anything called a "peace plan debate." The reason was simple. The whole idea was so far removed from the policies of the Johnson and Kennedy administration that it could not happen. It was not until Mr. Nixon came to office, and developed his program of withdrawal based on Vietnamization that the idea of plans for settlement ever became viable. What I am talking about, Mr. President, might be termed "Democrat Intransigence in American Foreign Policy At a Time When Bipartisanship Is an Almost Desperate Need."

Ironic too, is the fact that when Democrat Presidents have asked for support transcending political lines, it has always been in a situation that would take us to war. Is it not strange that a Republican President can get nothing but carping, nitpicking, and criticism from Democrat leaders when he makes a solid offer involving peace?

Many people here probably never heard of or have forgotten a political situation that was involved in 1944 when the incumbent Democratic President Franklin D. Roosevelt was being opposed to reelection by former New York Governor Thomas E. Dewey. In the middle of that campaign Candidate Dewey received a secret visit from military intelligence officers, acting on the orders of Army Chief of Staff George C. Marshall the officers asked him to voluntarily soft-pedal certain aspects of World War II which the military and the White House felt were too sensitive for debate. Reluctantly but with commendable patriotism and statesmanship, Governor Dewey acceeded to the unusual request and thereby sacrificed some arguments he felt might have a telling effect in the Presidential election of that year.

And 20 years later, in 1964, when I had the honor to be the Republican nominee for President, I received a request for an extraordinary display of bipartisanship. As I recall it, I was on the west coast when I received an urgent call from the White House in Washington. The call was from President Lyndon B. Johnson, the man I had been chosen to oppose in the fall election, and he was calling to urge me to join with him in supporting firm action by his administration in a crisis in the Gulf of Tonkin. Of course, I was told that the situation was grave, that America's strategic interests were deeply involved, and that it was important for the United States to present a unified attitude to the rest of the world. Without a moment's hesitation, I told the President he could count on me to support whatever actions his information indicated were needed. It was a situation where the assumption had to be made that those in power in Washington had the fullest amount of information it was possible to obtain, and I did not feel I had a right to challenge a conclusion reached at the Presidential level on the basis of intelligence and information not available to me.

What I am saying, Mr. President, is that Republican candidates have never failed to close ranks and support their

Government when a question of vital importance to the American people was involved. I had no reason to believe that Mr. Johnson's account of the gravity existing in the Gulf of Tonkin was not legitimate. Therefore, I agreed to cooperate in what it turns out was a long prepared script for escalating the war in Vietnam. Today, I think it ill behooves candidates, who supported each and every move President Johnson made to enlarge the war and increase our casualties, to today fail to support a Republican President in an honorable, reasonable, worthwhile effort to end the killing and return the prisoners.

One of the interesting aspects of this whole situation seems to be that the bitterest opposition to President Nixon's peace proposal, outside of Hanoi itself, comes from the United States. In France according to U.S. News & World Report, even the bitterest critics of President Nixon applauded his peace initiative. The daily French newspaper Lemmoden, a chronic critic of Nixon policies, said Mr. Nixon was trying to get out of war "with a perseverance which deserves at least a small echo from the opposing side." From London, the same magazine reported that the British Government views the Nixon peace plan as "constructive and positive." The Japanese were described in Tokyo as being "encouraged and impressed."

Mr. President, I hate to say this, but I am beginning to suspect that it will be easier for Richard M. Nixon to come to terms with Hanoi and the Vietcong than with some of my Democrat counterparts in the Senate. I do not care what you want to call it, whether it be "aiding and abetting the enemy" or "undercutting American peace initiatives" or just plain unreasonable, carping criticism, the reception with which Mr. Nixon's honorable offer to end the war was received by some important persons in this country could only bring cheers in the streets of Hanoi and joy to the hearts of the Vietcong.

And, while I am at it, I would like to say that I put absolutely no credence in the argument that what leading candidates for the presidency and leading committee chairmen in Congress have to say has no effect on Hanoi. I am convinced, and with good reason, that the Communists in Southeast Asia are tuned in on every utterance of criticism that is made directed at President Nixon.

We already know that Hanoi's negotiators in Paris communicate with and encourage some leftwing "peace" groups in this country to demonstrate and object to official U.S. policy. We also know that many critics of the President have not only been to Vietnam but have conferred with its leaders in Paris and other parts of the world.

By now, any man who steps up and tries to torpedo a reasonable offer of peace from a man whose whole policy since taking office has been to wind down the war and extricate its country from a mess he did not create, certainly should know that he is providing life blood for Hanoi's anti-American propaganda machine. I have my opinion. I think every other American should decide for himself whether this is the time to engage in political opportunism which would prolong the war and delay return of the POW's until January 1973 at the very earliest.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended for an additional 10 minutes.

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

The Senator from Kansas is recognized.

(The remarks Mr. DOLE made when he introduced Senate Joint Resolution 201 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ESTABLISHMENT OF BUFFALO NATIONAL RIVER, ARK.

The ACTING PRESIDENT pro tempore. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 7.

The ACTING PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 7) to provide for the establishment of the Buffalo National River in the State of Arkansas, and for other purposes, which was to strike out all after the enacting clause, and insert:

That for the purposes of conserving and interpreting an area containing unique scenic and scientific features, and preserving as a free-flowing stream an important segment of the Buffalo River in Arkansas for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the "Secretary") may establish and administer the Buffalo National River. The boundaries of the national river shall be as generally depicted on the drawing entitled "Proposed Buffalo National River" numbered NR-BUF-7103 and dated December 1967, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary is authorized to make minor revisions of the boundaries of the national river when necessary, after advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, but the total acreage within such boundaries shall not exceed ninety-five thousand seven hundred and thirty acres.

SEC. 2. (a) Within the boundaries of the Buffalo National River, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the State of Arkansas or a political subdivision thereof may be acquired only by donation: *Provided*, That the Secretary may, with funds appropriated for development of the area, reimburse such State for its share of the cost of facilities developed on State park lands if such facilities were developed in a manner approved by the Secretary and if the development of such facilities commenced subsequent to the enactment of this Act: *Provided further*, That such remibursement shall not exceed a total of $375,000. When an individual tract of land is only partly within the boundaries of the national river, the Secretary may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the national river may be exchanged by the Secretary for non-Federal lands within the national river boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; 40 U.S.C. 471 et seq.), as amended. With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the national river may be transferred without consideration to the administrative jurisdiction of the Secretary for administration as part of the national river.

(b) Except for property which the Secretary determines to be necessary for the purposes of administration, development, access or public use, an owner or owners (hereafter referred to as "owner") of any improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary or any owner of lands used solely for agricultural purposes (including, but not limited to, grazing) may retain, as a condition of the acquisition of such property or lands, a right of use and occupancy of such property for such residential or agricultural purposes. The term of the right retained shall expire upon the death of the owner or the death of his spouse, whichever occurs later, or in lieu thereof, after a definite term which shall not exceed twenty-five years after the date of acquisition. The owner shall elect, at the time of conveyance, the term of the right reserved. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner. Such right may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act. Upon a determination that the property, or any portion thereof, has ceased to be used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(c) As used in this section the term "improved property" means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before September 3, 1969, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use.

SEC. 3. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the Buffalo National River in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Arkansas Fish and Game Commission.

SEC. 4. The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting the Buffalo National River and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river is established, as determined by

the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the Buffalo National River or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of approval of this Act. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction on any such project, whether heretofore or hereafter authorized, without, at least sixty days in advance, (i) advising the Secretary, in writing, of its intention so to do and (ii) reporting to the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate, respectively, the nature of the project involved and the manner in which such project would conflict with the purposes of this Act or would affect the national river and the values to be protected by it under this Act.

SEC. 5 The Secretary shall administer, protect, and develop the Buffalo National River in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented; except that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

SEC. 6. Within three years from the date of enactment of this Act, the Secretary shall review the area within the boundaries of the national river and shall report to the President, in accordance with subsection 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendation as to the suitability or nonsuitability of any area within the national river for preservation as a wilderness, and any designation of any such area as a wilderness, shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 7. For the acquisition of lands and interests in lands, there are authorized to be appropriated not more than $16,115,000. For development of the national river, there are authorized to be appropriated not more than $283,000 in fiscal year 1974; $2,923,000 in fiscal year 1975; $3,643,000 in fiscal year 1976; $1,262,000 in fiscal year 1977; and $1,260,000 in fiscal year 1978. The sums appropriated each year shall remain available until expended.

Mr. BIBLE. Mr. President, the House has made several amendments to the bill which the Senate passed last May. However, none of them are inconsistent with the action taken by the Senate on this and other legislation to authorize units of the national park system. The most significant action of the House was an amendment limiting acquisition cost to $16,115,000. This figure represents the most current estimate available to the National Park Service.

In addition, the development costs for the next 5 years are spelled out in each fiscal year.

The Committee on Interior and Insular Affairs interposes no objection to the House amendments, and I have been advised that both Senators from the State of Arkansas have endorsed the bill as amended by the House of Representatives.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House, and that the bill be sent to the President for signature.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

TRIBUTE TO THE LATE SENATOR CARL HAYDEN OF ARIZONA

Mr. BIBLE. Mr. President, a longtime administrative assistant to the late Senator Carl Hayden was Roy Elson, presently the vice president of the National Association of Broadcasters, who has paid a wonderful tribute to Senator Hayden. It is short, and I should like to read it. He writes as follows:

Now an age has ended. The great heart of Carl Hayden at last is still—after more than three billion beats, or one for everyone on earth. He was a strange man from a world now gone, believing in actions above words, principle above politics. He was as old-fashioned as the frontier from which he came; and as modern as the national highway system he fathered. He was one of the first activists, and one of the last practical men in government. He was, in every fiber, a servant of the people—never believing it ought to be the other way around.

As he was for so many others, he was my teacher, my example and my friend. If there is anything Beyond this life, we may be sure that Carl Hayden is sitting under the trees with old friends—with Presidents and cowboys—swapping stories about the Arizona he loved and worked for, and the West he came from so very long ago.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON FEDERAL CONTRIBUTIONS PROGRAM EQUIPMENT AND FACILITIES

A letter from the Director of Civil Defense, Office of the Secretary of the Army, reporting, pursuant to law, on Federal Contributions Program Equipment and Facilities, for the quarter ended December 31, 1971; to the Committee on Armed Services.

REPORT OF DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report of Department of Defense Procurement From Small and Other Business Firms, for the period July–October 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED PAR VALUE MODIFICATION ACT

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to provide for a modification in the par value of the dollar and for other purposes (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED ENDANGERED SPECIES CONSERVATION ACT OF 1972

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction; and for other purposes (with an accompanying paper); to the Committee on Commerce.

PROPOSED FEDERAL ANIMAL DAMAGE CONTROL ACT OF 1972

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to assist the States in controlling damage caused by predatory animals; to establish a program of research concerning the control and conservation of predatory animals; to restrict the use of toxic chemicals as a method of predator control; and for other purposes (with an accompanying paper); to the Committee on Commerce.

REPORT ON FAIR PACKAGING AND LABELING ACT

A letter from the Chairman, Federal Trade Commission, transmitting, pursuant to law, a report on the Fair Packaging and Labeling Act, for fiscal year 1971 (with an accompanying report); to the Committee on Commerce.

REPORT UNDER AIRPORT AND AIRWAY DEVELOPMENT ACT

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on administration of the Airport and Airway Development Act of 1970 (with an accompanying report); to the Committee on Commerce.

PROPOSED DISTRICT OF COLUMBIA IMPLIED CONSENT ACT

A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation to provide that any person operating a motor vehicle within the District of Columbia shall be deemed to have given his consent, under certain circumstances, to give a specimen of his blood, breath, or urine for chemical testing to determine its alcoholic content, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

PROPOSED PURE AIR TAX ACT OF 1972

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to promote the abatement of atmospheric sulphur pollution by the imposition of a tax on the emission of sulphur into the atmosphere, and for other purposes (with accompanying papers); to the Committee on Finance.

PROPOSED ESTABLISHMENT OF JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

RESOLUTION OF 1971 CONVENTION OF THE AMERICAN LEGION

A letter from the Director, National Legislative Commission, The American Legion, Washington, D.C., transmitting, for the information of the Senate, a resolution adopted by the 1971 National Convention of The American Legion (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED APPOINTMENT OF LEGAL ASSISTANTS IN THE U.S. COURTS OF APPEALS

A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the appointment of legal assistants in the Courts of Appeals of the United States (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED VOCATIONAL REHABILITATION AMENDMENTS OF 1972

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for the continuation of programs authorized under the Vocational Rehabilitation Act, and for other

purposes (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT ON 5-YEAR PLAN FOR FAMILY PLANNING SERVICES AND POPULATION RESEARCH PROGRAMS

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the 5-year plan for family planning services and population research programs, submitted on October 12, 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT ON DELAY OF REPORT ON DEPARTMENT OF TRANSPORTATION'S 1972 HIGHWAY NEEDS STUDY

A letter from the Secretary of Transportation, reporting, for the information of the Senate, that the submission of the Department of Transportation's 1972 Highway Needs Study will be delayed; to the Committee on Public Works.

PROPOSED FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act, as amended, and for other purposes (with an accompanying paper); to the Committee on Public Works.

ERRATA SHEET FOR THE SEMIANNUAL REPORT BY THE COMMITTEE ON MOTOR VEHICLE EMISSIONS

A letter from the Executive Director, National Academy of Sciences, National Academy of Engineering, National Research Council, transmitting, pursuant to law, the Errata sheet for the Semiannual Report by the Committee on Motor Vehicle Emissions of the National Academy of Sciences, dated January 1, 1972 (which an accompanying paper); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution of the Senate of the State of Washington; to the Committee on Agriculture and Forestry:

"SENATE RESOLUTION 22

"Whereas, Sediment eroding from the croplands of Eastern Washington, North Central Oregon, and parts of Idaho is one of the largest single sources of water pollution in the tri-state area; and

"Whereas, This sediment is discharging into the storage areas of 15 multi-purpose dams on the Columbia and Snake rivers, destroying water based recreational sites at each side-stream estuary, damaging fisheries, and shortening the longevity of the useful life of the various dams; and

"Whereas, The eroding croplands themselves, are being damaged to the extent of losing productive potential for food and fiber production at an alarming rate; and

"Whereas, Land treatment measures can be installed that can adequately reduce erosion and sedimentation damage at a comparatively low cost in relation to the value of the resources they would protect; and

"Whereas, The cost of needed conservation measures to the owners and operators of these croplands would seriously disrupt the economic stability of their enterprises, even while making use of existing programs; and

"Whereas, House Bill No. 12694 provides authority to the Secretary of Agriculture to enter into agreements with landowners and operators of sediment producing lands and share the cost of permanent conservation practices and needed land use changes;

"Now, therefore, be it resolved, By the Senate of the state of Washington, that the Soil Conservation and Domestic Allotment Act, as amended, be amended to provide for a Columbia-Snake-Palouse Conservation Program by passage of House Bill No. 12694; and

"Be it further resolved, That copies of this resolution be directed immediately to President Richard M. Nixon, to the President of the Senate, the Speaker of the House of Representatives, and to the members of the Congressional delegation from Washington State."

A concurrent resolution of the Legislature of the State of South Dakota; to the Committee on Banking, Housing and Urban Affairs:

"HOUSE CONCURRENT RESOLUTION No. 502

"A concurrent resolution memorializing the Congress of the United States to instruct and direct the Treasury Department of the United States to issue, in conjunction with the celebration of the bicentennial anniversary of the United States, a two dollar bill or some other denomination of the currency of the United States depicting the Mount Rushmore National Memorial, "The Shrine of Democracy", thereon

"Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

"Whereas, Mount Rushmore National Memorial, located in the scenic Black Hills area of the State of South Dakota, has been officially proclaimed as "The Shrine of Democracy" and is recognized as a national monument; and

"Whereas, the federal government has played a vital role in the recognition and financing of the Mount Rushmore National Memorial; and

"Whereas, Mount Rushmore National Memorial has been acclaimed a national and international reputation and is visited annually by hundreds of thousands of people from throughout the country and from many foreign nations; and

"Whereas, the portrayal of the Mount Rushmore National Memorial envisaged our national heritage and the religious, social and economic freedoms for which it stands; and

"Whereas, the great Americans enshrined by this Memorial, Presidents George Washington, Thomas Jefferson, Abraham Lincoln and Theodore Roosevelt, have come to be known as the founding fathers of some of the most meaningful traditions incumbent to our way of life; as inspirations to all who are concerned with the preservation and safeguarding of a democratic society, and, as courageous and faithful defenders of the basic principles underlying our form of government by having dedicated themselves to overcoming what during their respective times were considered and are now recognized as some of the greatest trials which our system of free democracy has confronted; and

"Whereas, as was true in the past and is now true during present times of national and international strife and conflict, it is necessary and proper that the symbols of freedom and democracy be emphasized and brought before the people by their governmental representatives; and

"Whereas, it has been the custom and policy of the Treasury Department of the United States to utilize the likenesses of the outstanding and immortal leaders of this country of various series and denominations of our currency; and

"Whereas, the use of a representation of the Mount Rushmore National Memorial, "The Shrine of Democracy", on a two dollar bill or some other denomination of our currency by the Treasury Department of the United States would serve as a daily reminder of the spirit and ideals of all Americans; and

"Whereas, in 1976, the United States will be celebrating the bicentennial anniversary of its founding; and

"Whereas, the Mount Rushmore National Monument will play a significant role in the nation's observance of its 200th anniversary:

"Now, therefore, be it resolved, by the House of Representatives of the Forty-seventh Legislature of the State of South Dakota, the Senate concurring therein, that the Congress of the United States be memorialized to take whatever action might be necessary and appropriate to the instruction and direction of the Treasury Department of the United States to issue, in conjunction with the celebration of the bicentennial anniversary of the United States, a two dollar bill or some other denomination of the currency of the United States depicting the Mount Rushmore National Memorial, 'The Shrine of Democracy,' thereon; and

"Be it further resolved, that if it be determined by the Treasury Department of the United States that it need no instruction or direction by the Congress of the United States to accomplish the purpose and intent of this Resolution, that it initiate and implement whatever action it might take to accomplish its objective; and

"Be it further resolved, that copies of this concurrent resolution be transmitted by the Chief Clerk of the House of Representatives of the State of South Dakota to the offices of the President and Vice President of the United States, the Speaker of the House of Representatives of the United States, the members of the congressional delegation of the State of South Dakota, the Secretary of the Treasury Department of the United States and the Governor of the State of South Dakota.

"Adopted by the House January 12, 1972.

"Concurred in by the Senate January 28, 1972."

A resolution of the Commonwealth of Puerto Rico; to the Committee on Commerce:

"RESOLUTION 382

"Resolution to request from Congress and from the Administration of the United States to take the necessary action so as to assure the expansion and revitalization of the merchant marine of the United States.

"Whereas: The economic progress and safety of Puerto Rico is in need at all times of fast and adequate means of maritime transportation.

"Whereas: In the case of an emergency the island would mainly depend on ships sailing under the flag of the United States, operated by a crew of loyal citizens.

"Whereas: At present the United States Merchant Marine only handles a small fraction of the foreign commerce of the nation and it might be insufficient to assume the tremendous responsibilities which it would have to attend in the case of an emergency.

"Whereas. The United States Merchant Marine is an important factor in the economy of Puerto Rico as a source of employment and as a provider of essential services to our industries. The fleet of passenger ships which has practically disappeared provided a great number of employments to Puerto Ricans.

"Therefore: Be it resolved by the Senate of Puerto Rico:

"Section 1. To request from Congress and from the Administration of the United States to take the necessary action to assure the expansion and revitalization of the Merchant Marine of the United States, for the purpose that it be at all times in the position of providing maritime transportation so vital to the safety and progress of Puerto Rico.

"Section 2. That as a part of these efforts there be included the reactivation of the fleet of passenger and tourist ships in our waters, because of their great importance as a source of employment and economic activity for the island.

"Section 3. In accordance with the abovementioned and in solidarity with the Puerto

Rican labor movement, we request from the Congress of the United States that no legislation be approved which would permit the sale of passenger ships sailing under the American flag, which ships are at present inactive, so that same be put into operation thereby becoming additional sources of employment.

"Section 4. This resolution shall take effect as soon as it is approved."

A joint resolution of the Legislature of the State of Colorado; to the Committee on Foreign Relations:

"HOUSE JOINT RESOLUTION No. 1013

"Whereas, In the Soviet Union men and women are denied freedom recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

"Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

"Whereas, The government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discriminating against Jews in cultural activities and access to higher education; and

"Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

"Whereas, The persecution of Jews recalls horrors that stymie the imagination and besmirch the dignity of all mankind; and

"Whereas, This nation shall not again remain silent until the time is too late; and

"Whereas, The President's forthcoming visit to the capital of the Soviet Union should not be interpreted as tacit approval of the Soviet Union's policy toward Jews, but rather it should be used as a means of affirmatively expressing this country's deep concern for the freedom and dignity of these persecuted Jews; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union; now, therefore,

"Be It Resolved by the House of Representatives of the Forty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"That the General Assembly hereby requests the President of the United States to call upon the Soviet government to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution, to end discrimination against religious minorities, and to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights.

"Be It Further Resolved, That copies of this Resolution be transmitted to the President of the United States, the President of the Senate of the Congress of the United States, the Speaker of the House of Representatives of the Congress of the United States, and to each member of Congress from the State of Colorado."

A resolution adopted by the town council of Steilacoom, Wash., praying for the enactment of legislation relating to tax-sharing; to the Committee on Finance.

A resolution adopted by the city council of Spokane, Wash., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the town council of Bingen, Wash., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the city council of Longview, Wash., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the city commissioners of Raymond, Wash., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the council of the Morning Hour Chapel Church, East Berlin, Pa., praying for an end of American involvement in Indochina; to the Committee on Foreign Relations.

A resolution adopted by the American Legion at its national convention, commending the Honorable J. Edgar Hoover, Director of the Federal Bureau of Investigation; to the Committee on the Judiciary.

Resolutions adopted by the Board of Harbor Commissioners of the city of Los Angeles, Calif., praying for the enactment of legislation concerning the Pacific coast dock strike; to the Committee on Labor and Public Welfare.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with an amendment, together with additional and individual views:

S. 2956. A bill to make rules governing the use of Armed Forces of the United States in the absence of a declaration of war by the Congress (Rept. No. 92–606).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Willis C. Armstrong, of New Jersey, to be an Assistant Secretary of State;

Kenneth Franzheim II, of Texas, now Ambassador Extraordinary and Plenipotentiary to New Zealand and to Western Samoa, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to Fiji;

John I. Getz, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Malta;

Albert W. Sherer, Jr., of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Czeschoslovak Socialist Republic;

Matthew J. Looram, Jr., of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Somali Democratic Republic;

Robert Anderson, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Dahomey;

Anthony D. Marshall, of New York, to be Ambassador Extraordinary and Plenipotentiary to Trinidad and Tobago; and

Robert Strausz-Hupé, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary to Belgium.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, February 9, 1972, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 959. An act to designate the Pine Mountain Wilderness, Prescott and Tonto National Forests, in the State of Arizona;

S. 1838. An act to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities;

S. 2672. An act to permanently exempt potatoes for processing from marketing orders; and

S.J. Res. 196. Joint resolution extending the date for transmission to the Congress of the report of the Joint Economic Committee.

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. DOMINICK (for himself and Mr. ALLOTT):

S. 3150. A bill to provide Federal financial assistance to limit radiation exposure resulting from the use of uranium mill tailings in the area of Grand Junction, Colo. Referred to the Joint Committee on Atomic Energy.

By Mr. BUCKLEY:

S. 3151. A bill relating to the commission of certain offenses in the District of Columbia while armed with a firearm. Referred to the Committee on the District of Columbia.

By Mr. CHILES:

S. 3152. A bill to amend the Internal Revenue Code of 1954 to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer or employee of the United States. Referred to the Committee on Finance.

By Mr. EASTLAND (for himself and Mr. STENNIS):

S. 3153. A bill to amend the act of January 8, 1971 (Public Law 91–660; 84 Stat. 1967), an act to provide for the establishment of the Gulf Islands National Seashore, in the States of Florida and Mississippi, for the recognition of certain historic values at Fort San Carlos, Fort Redoubt, Fort Barrancas, and Fort Pickens in Florida, and Fort Massachusetts in Mississippi, and for other purposes; and

S. 3154. A bill to provide for the addition of certain lands to the Natchez Trace Parkway in Mississippi, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JAVITS:

S. 3155. A bill for the relief of Marc Stanley L. Koch. Referred to the Committee on the Judiciary.

By Mr. McCLELLAN (for himself and Mr. PERCY):

S. 3156. A bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government. Referred to the Committee on Government Operations.

By Mr. MANSFIELD (for Mr. JACKSON) (for himself and Mr. ALLOTT):

S. 3157. A bill to promote maximum Indian participation in the government of the Indian people by providing for the full participation of Indian tribes in certain programs and services conducted by the Federal Government for Indians and by encouraging the development of the human resources of the Indian people, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. STEVENSON, Mr. JAVITS, Mr. SCHWEIKER, Mr. PACKWOOD, and Mr. STAFFORD):

S. 3158. A bill to establish in the Department of Health, Education, and Welfare and

Office for the Handicapped to coordinate programs for the handicapped, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HANSEN:

S. 3159. A bill to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN (for himself, Mr. TOWER, Mr. PROXMIRE, and Mr. BENNETT):

S. 3160. A bill to provide for a modification in the par value of the dollar, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SCOTT:

S.J. Res. 199. A joint resolution to recognize Thomas Jefferson University, Philadelphia, Pa., as the first university in the United States to bear the full name of the third President of the United States. Referred to the Committee on Labor and Public Welfare.

By Mrs. SMITH (for herself, Mr. ANDERSON, Mr. BENNETT, Mr. COOK, Mr. HATFIELD, Mr. Moss, Mr. RANDOLPH, Mr. STAFFORD, and Mr. THURMOND):

S.J. Res. 200. A joint resolution proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress. Referred to the Committee on the Judiciary.

By Mr. DOLE (for himself and Mr. TAFT):

S.J. Res. 201. A joint resolution to establish a joint congressional committee to investigate the causes and origins of U.S. involvement in the hostilities in Vietnam. Referred to the Committee on Foreign Relations.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. STEVENSON, Mr. JAVITS, Mr. SCHWEIKER, Mr. PACKWOOD, Mr. BEALL, and Mr. STAFFORD):

S.J. Res. 202. A joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND RESOLUTIONS

By Mr. DOMINICK (for himself and Mr. ALLOTT):

S. 3150. A bill to provide Federal financial assistance to limit radiation exposure resulting from the use of uranium mill tailings in the area of Grand Junction, Colo. Referred to the Joint Committee on Atomic Energy.

Mr. DOMINICK. Mr. President, on behalf of myself and the distinguished senior Senator from Colorado (Mr. ALLOTT) I send to the desk for appropriate reference a bill designed to provide the fiscal framework for correcting a situation which has developed in our State for which existing law appears to afford no remedy. I am referring to the use of uranium mill tailings as a construction material in the 1950's and early 1960's which were later found to be the source, through contained, naturally occurring radium, of low level radiation in some homes and public buildings. There has been considerable coverage of this subject by the media during the past year—a large portion having little or no foundation in fact—and the result has been the creation of uncertainty and doubt surrounding the town of Grand Junction. Real estate values and the ease of transfers of property have suffered, but not so much as the peace of mind of the people in that area.

In October of last year, the Subcommittee on Raw Materials of the Joint Committee on Atomic Energy, chaired by Representative WAYNE ASPINALL of Colorado and on which I serve, held comprehensive hearings to develop the facts on this issue. While the subcommittee did not seek to affix either legal liability or responsibility, it became obvious that there was no clear course of action by which the radiation exposure problem could be resolved without a disproportionate burden on the homeowners. The Federal and State agencies involved—the AEC and the Colorado Department of Public Health—each asserted lack of authority and control of events leading to the use of the tailings and a similar lack of authority to effectuate a remedy.

The bill being introduced today will remove that obstacle as to the AEC. It recognizes the fact that these tailings were the residue of a significant Federal program designed to enhance our national defense and security—to provide nuclear materials for our stockpile. It authorizes the AEC to financially assist the State in a program of remedial action to limit future radiation exposure which could result from the unfortunate use of these mill tailings.

Under the bill, the AEC will be authorized to provide up to 75 percent of the cost for necessary remedial action. The State must establish and administer an appropriate program to undertake the necessary action which must be approved by the Commission. The standards to be applied in evaluating the appropriate action will be those promulgated by the Surgeon General of the United States. Much study and data collection has been conducted and is being continued with the assistance of the Environmental Protection Agency.

Mr. President, this bill is in the highest tradition of Federal-State cooperation to assure the health and safety of our people. It reflects recognition of the fact that there are times when adverse consequences can result without the fault or blame of anyone, yet something must be done by someone. This is not a new concept. Perhaps the best known example is the Texas City disaster in 1947, to which the Congress addressed itself with basically similar legislation in 1955.

An identical measure is being introduced today in the other body by Mr. ASPINALL. I earnestly hope that this body will give this legislation the compassionate consideration it deserves when it comes before us.

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

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

S. 3150

A bill to provide Federal financial assistance to limit radiation exposure resulting from the use of uranium mill tailings in the area of Grand Junction, Colorado

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes and assumes the compassionate responsibility of the United States to provide to the State of Colorado financial assistance to undertake remedial action to limit the exposure of individuals to radiation emanating from uranium mill tailings which have been used as a construction related material in the area of Grand Junction, Colorado.

SEC. 2. The Atomic Energy Commission is hereby authorized to enter into a cooperative arrangement with the State of Colorado under which the Commission will provide not in excess of 75 per centum of the costs of a State program, in the area of Grand Junction, Colorado, of assessment of and appropriate remedial action to limit the exposure of individuals to radiation emanating from uranium mill tailings which have been used as a construction related material. Such arrangement shall include, but need not be limited to, provisions that require:

(a) That the basis for undertaking remedial action shall be applicable guidelines published by the Surgeon General of the United States;

(b) That the need for and selection of appropriate remedial action to be undertaken in any instance shall be determined by the Commission upon application by the property owner to the State of Colorado and recommendation by and consultation with the State and others as deemed appropriate;

(c) That any remedial action shall be performed by the State of Colorado or its authorized contractor and shall be paid for by the State of Colorado;

(d) That the United States shall be released from any mill tailings relating liability or claim thereof upon completion of remedial action or waiver thereof by the fee simple title owner on behalf of himself, his heirs, and assigns; and further, the United States shall be held harmless against any claim arising out of the performance of any remedial action;

(e) That the State of Colorado shall retain custody and control of and responsibility for any uranium mill tailings removed from any site as part of remedial action;

(f) That the law of the State of Colorado shall be applied to determine all questions of title, right of heirs, trespass, etc.; and

(g) That the Atomic Energy Commission shall be provided such reports, accounting, and rights of inspction as the Commission deems appropriate:

Provided, That before such arrangement or amendment thereto shall become effective, it shall be submitted to the Joint Committee on Atomic Energy and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Joint Committee on Atomic Energy, after having received the arrangement or amendment thereto, may by resolution in writing waive the conditions of, or all or any portion of, such thirty day period.

SEC. 3. The Atomic Energy Commission shall prescribe such rules and regulations as it deems necessary and appropriate to carry out the provisions of this Act. Notwithstanding the provisions of subsection (a)(2) of section 553 of Title 5, United States Code, such rules and regulations shall be subject to the notice and public participation requirements of that section.

SEC. 4. For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated the sum of $5,000,000.

By Mr. BUCKLEY:

S. 3151. A bill relating to the commission of certain offenses in the District of Columbia while armed with a firearm. Referred to the Committee on the District of Columbia.

Mr. BUCKLEY. Mr. President, last year in the District of Columbia, there were 1,613 shootings other than by officers of the law in the performance of their duty. These resulted in 167 deaths. I am advised that in most instances. the shootings were committed by persons who had firearms in their possession while engaging in other criminal activities.

This increasing resort to the use of firearms in the District of Columbia and elsewhere in the Nation has led to persistent cries for still more stringent gun control laws. But while such legislation has an enormous surface appeal, experience tells us that such measures have not and will not curb the criminal use of these weapons. On the record, gun control laws simply have not worked. While they may drastically curtail the ability of honest citizens to protect themselves, it has yet to be demonstrated that such laws have proven other than a minor inconvenience to criminals intent on acquiring the tools of their trade.

The ineffectiveness of this kind of legislation is nowhere better demonstrated than in New York City. The Sullivan law, which has been in effect since 1911 and which is generally regarded as the strictest gun control legislation in the Nation, makes it virtually impossible for the average law-abiding New Yorker to acquire a handgun. Yet in an article which appeared in the New York Daily News last year, a police detective is quoted as stating that New York City is the easiest place in the Nation for anyone to purchase a gun. He said:

> It's as easy for a criminal to buy a piece as it is for a straight citizen to to get a pack of cigarettes, he said. Nor is the problem traceable to the fact that adjacent jurisdictions do not have comparable laws. No such laws, for example, can control the distribution of the large numbers of firearms which have been hijacked from piers in New York City or stolen at the Kennedy Airport. Nor is there any way to force the voluntary registration of the hundreds of thousands of guns already in private hands within the City. While the City has issued licenses for about twenty-five thousand pistols, Lieutenant Charles Rorke, of the New York City Police Academy Ballistics Laboratory has estimated that "there are probably millions of guns—literally—floating around illegally."

It is argued, nevertheless, that the extension of strict gun control and gun registration laws will vastly increase the ability of the police to halt crimes involving the use of firearms. Again, experience has not justified these hopes. In an article which appeared in the New York Times last August, it was reported that:

> According to local and federal law enforcement agents, the firearms problem is not with . . . legally registered weapons—there has not been a single intentional slaying with a duly registered long gun, and only a small number with registered pistols, officials said—but with the non-registered hand guns.

At least as of a year or so ago, not a single crime was solved in New York City by virtue of the gun registration laws which have been in effect for over half a century.

The experience in the District of Columbia confirms the ineffectiveness of gun control legislation. During the 3-month period from May 1 through July 31, 1971, for example, a total of 522 guns were confiscated during the course of arrests made within the District. Of these, only 23, or 4.4 percent, were legally registered.

These observations have led me to conclude that the most effective way to discourage the illegal use of firearms, or the possession of firearms under circumstances where they might be used unlawfully, is to impose mandatory penalties of a severity designed to induce the criminal to leave his gun at home. Specifically, I propose that the Federal Government adopt a policy of mandatory prison sentences for anyone who is found in the possession of a firearm during the commission of a crime.

We know from experience that we cannot prevent a criminal from acquiring a gun; but we can certainly devise penalties which will cause him to think twice before he carries that gun with him when he sets out to burglarize the corner drugstore.

Mandatory sentences are required in order to make the penalties credible. The simple fact is that our courts have become entirely too lenient with firearms offenders, with the result that the penalties now in effect no longer can be counted upon to deter violators. We need look no further than the District of Columbia for the need for a more effective approach. During the 3-month period of July, August, and September, 1970, for example, a total of 361 gun cases were handled by the Metropolitan Police Department. Of these, only 54 persons, or 15 percent, received jail sentences. Put another way, the chances that a gun offender would be imprisoned were less than 1 in 6. In more than 50 percent of the cases, the offender was never even tried.

Of the 169 cases which did go to trial, 157 resulted in convictions. Yet 103, or 66 percent, of these convictions resulted merely in a monetary fine or a suspended sentence or probation. It is little wonder, therefore, that criminals in the District of Columbia appear to pay such little attention to the gun control legislation now in effect.

The imposition of mandatory prison sentences for the possession of firearms during the commission of crimes in the District of Columbia will not, of course, have any direct effect on the illicit use of guns elsewhere in the United States. The District of Columbia, however, is the one jurisdiction in the continental United States which is under Federal control, and it thus offers the Federal Government an opportunity to implement new approaches to problems which are common to the Nation as a whole. If, as I believe, the imposition of such penalties will result in a meaningful reduction in the use of firearms by criminals, then other jurisdictions will be able to follow suit. As there can be no excuse for the illicit possession of a firearm, I see no reason why strict penalties ought not to be imposed; and if their imposition here in the District of Columbia demonstrates the utility of this approach, then the enactment of such penalties by the Congress will not only enhance the safety of the citizens of the District of Columbia, but will enhance that of the citizens of all the States, because we will have demonstrated the utility of this approach.

Mr. President, I send to the desk a bill which would require such mandatory prison sentences in the District of Columbia and ask that it be appropriately referred.

By Mr. CHILES:

S. 3152. A bill to amend the Internal Revenue Code of 1954 to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer or employee of the United States. Referred to the Committee on Finance.

Mr. CHILES. Mr. President, it recently came to my attention that section 66.02 of the Internal Revenue Code provides that any erroneous overpayment of an income tax refund bears interest at the rate of 6 percent per year. That means if a taxpayer receives a check for more than the amount to which he is entitled as a refund, he must pay interest on this overpayment. In these cases it is the Government which makes the error by overpaying—not the taxpayer. And yet the taxpayer must pay the interest on the error. Outright injustice comes into play when you consider that the Internal Revenue Service does not pay one penny of interest if the taxpayer overpays his tax.

As an example of this injustice, I had a constituent who was due a refund of $80. The IRS sent her a check for $500, accompanied with a letter which told her though this was a different amount from what she expected to receive, she would receive an explanation within the next 10 days if she had not already received it. The letter told her not to hesitate to cash the check. And yet the explanation was not actually sent to her for several weeks, by which time she already owed interest.

I am introducing a bill to try to correct this kind of situation. It would amend the Internal Revenue Code of 1954 to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer or employee of the United States.

It makes no sense to me to require a taxpayer to pay for a mistake the Government has made. My bill would apply to erroneous refunds made on or after the date of the enactment of this act and to erroneous refunds made before that date if repayment has not yet been made.

Mr. MANSFIELD (for Mr. JACKSON) (for himself and Mr. ALLOTT):

S. 3157. A bill to promote maximum Indian participation in the government of the Indian people by providing for the full participation of Indian tribes in certain programs and services conducted by the Federal Government for Indians

and by encouraging the development of human resources of the Indian people, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I introduce a bill, and I ask unanimous consent that the bill and a statement in connection therewith by Senator JACKSON be printed in the RECORD at this point.

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

STATEMENT BY SENATOR JACKSON

Mr. President: I introduce for appropriate reference the "Indian Self-Determination Act of 1972."

This measure would permit the Indian people to realize their long-standing desire to assume increasing responsibility in the control and management of Federal Indian service programs of the Bureau of Indian Affairs and the Indian Health Service. In providing these opportunities for self-determination to the Indian people, this measure would lend reality for Indians to the concept that "government derives its just powers from the consent of the governed."

The bill I introduce today would authorize the Secretaries of the Interior and of Health, Education and Welfare, upon the requests of Indian tribes, to enter into contracts with tribal organizations so that these organizations may plan, conduct, and administer projects under a number of Federal Indian service programs which are within the respective Department's jurisdiction. In addition, it would provide for grants to Indian tribal organizations for planning, training, evaluation, and other activities specifically desiged to make it possible for such organizations to enter into these self-determination contracts.

Authorized, as well, would be the detail of personnel (including Commissioned Officers of the Public Health Service) from the two Departments to assist the tribal organizations to fulfill their contract or grant responsibilities. Finally, certain Federal contracting requirements which have, in the past, proven to be particularly onerous to Indians attempting to enter into contracts with the government could be waived by the respective Secretaries at their discretion.

Mr. President, I believe it is important to recall that for centuries before the European discovery of America, Indian tribes enjoyed the full freedom of self-government. With this freedom, the Indian people possessed all the power and authority required to maintain control over their internal and external affairs. No sooner had we won our own right to self-government in the Revolutionary War than we began a process of limiting the governmental freedoms of our predecessors on this land. As our nation grew from thirteen young colonies clinging to the Eastern seaboard to fifty mature states stretched across the continent and beyond, the freedom of self-determination for Indians was curtailed. The Federal government came to have a disproportionate impact upon the daily lives of tribal members. Today, in the Bureau of Indian Affairs and the Indian Health Service there are numerous programs devoted exclusively to the benefit of Indians. Yet, authority for the planning and conduct of these programs is vested entirely in Federal officials.

The prolonged Federal domination of Indian service programs has had a two-fold negative impact upon the Indian people and their communities. First, it has deprived Indians of perhaps the best opportunity to develop administrative, business, and community leadership skills absolutely crucial to the realization of self-government. Secondly, it has denied to the Indian people an effective voice in the planning and tailoring of Indian programs to be truly responsive to the real, felt needs of their communities.

Despite the increasing Federal domination of Indian Affairs, the Indian people have never surrendered their desire to control their relationships both amongst themselves and with outside forces. This desire has been as eloquently stated by spokesmen for numerous Indian tribes and organizations as it was once expressed in our Declaration of Independence. In short, the Indian people want to become involved in a meaningful manner in the forces, decisions, and activities which affect their individual, family, and community well-being.

I believe it is timely for the Congress to respond to such desires by "restoring" certain rights and prerogatives to the Indian people which will afford them greater opportunities for meaningful self-determination. The Federal government shall not surrender its responsibilities to the Indian people; but it can and must invite them to share with it the task of directing how those responsibilities shall be fulfilled.

Mr. President, the "Indian Self-determination Act of 1972" would go far toward providing significant opportunities for self-determination to the Indian people. It would signal a new era for the fulfillment of Indian hopes and aspirations. I am hopeful that members of the Senate from both sides of the aisle will join with me and the distinguished senior Senator from Colorado and ranking minority Member of the Senate Interior Committee, Mr. Allott, in co-sponsoring this important measure.

S. 3157

A bill to promote maximum Indian participation in the government of the Indian people by providing for the full participation of Indian tribes in certain programs and services conducted by the Federal Government for Indians and by encouraging the development of the human resources of the Indian people, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Indian Self-Determination Act of 1972".

FINDINGS AND PURPOSES

SECTION 1. (a) The Congress finds and declares that—

(1) inasmuch as all government derives its just powers from the consent of the governed, maximum Indian participation in the government of the Indian people shall be a national goal;

(2) maximum Indian participation in the government of Indian people would be enhanced by increased participation of Indians in the planning, conduct, and administration of programs and services of the Federal Government for the Indian people;

(3) the administration of such Federal programs and services is frequently not fully responsive to the needs and desires of the Indian people to whom such programs and services are provided; and

(4) increased participation of the Indian people in the planning, conduct, and administration of Federal programs and services designed to serve them will make such programs more responsive to the needs and desires of the Indian people, enhance the effectiveness of such programs, and encourage the development of essential administrative, managerial, business, and community leadership skills in the Indian people.

(b) The purpose of this Act is to promote maximum Indian participation in the government of the Indian people by—

(1) providing increased opportunities for effective and meaningful participation of the Indian people in the planning, conduct, and administration of Federal programs and services for Indians;

(2) authorizing technical and financial assistance to Indian tribes and tribal organizations to enable them to achieve such participation; and

(3) encouraging and assisting in the development of the administrative, managerial, business, and community leadership skills, and the formation of tribal organizations necessary to assure effective participation of the Indian people in Federal programs and services.

DEFINITIONS

SEC. 2. For the purposes of this Act:

(a) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native community, for which the Federal Government provides special programs and services because of its Indian identity; and

(b) "tribal organization" includes the elected governing body of any Indian tribe and any legally established organization of Indians which is controlled by one or more such bodies or which is controlled by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization). Such organization shall include the maximum participation of Indians in all phases of its activities.

CONTRACTS BY THE SECRETARY OF THE INTERIOR FOR PROGRAMS AND SERVICES

SEC. 3. The Secretary of the Interior is authorized, in his discretion and upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, of education, agricultural assistance, and social welfare, including relief of distress, of Indians provided for in the Act of April 16, 1934 (48 Stat. 596) as amended and for any other program which the Secretary of the Interior is authorized to administer for the benefit of Indians under the Act of November 2, 1921 (42 Stat. 208) and any Act subsequent thereto.

CONTRACTS BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE FOR HEALTH AND SANITATION FACILITIES PROGRAMS

SEC. 4. The Secretary of Health, Education, and Welfare is authorized, in his discretion and upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of any such Indian tribe to carry out any or all of his functions, authorities, and responsibilities under the Act of August 5, 1954 (68 Stat. 674), as amended.

GRANTS TO INDIAN TRIBAL ORGANIZATIONS

SEC. 5. The Secretaries of the Interior and Health, Education, and Welfare are each authorized, upon the request of any Indian tribe, to make a grant or grants to any tribal organization of any such Indian tribe for planning, training, evaluation, and other activities specifically designed to make it possible for such tribal organization to enter into contracts pursuant to sections 3 and 4 of this Act.

DETAIL OF PERSONNEL

SEC. 6. (a) The Secretaries of the Interior and of Health, Education, and Welfare are each authorized, upon the request of any tribal organization, to detail any civil service employee serving under a career or career-conditional appointment for a period of up to one hundred and eighty days to such tribal organization for the purpose of assisting such tribal organization in the planning, conduct or administration of programs under contracts or grants made pursuant to this Act. The appropriate Secretary may, upon a showing by a tribal organization of a need for an

employee detailed pursuant to this section, extend such detail for a period not to exceed ninety days.

(b) The Act of August 5, 1954 (68 Stat. 674), as amended, is amended by adding a new section 8 after section 7 of the Act, as follows:

"SEC. 8. In accordance with subsection (d) of section 214 of the Public Health Service Act (58 Stat. 690), as amended, upon the request of any Indian tribe, band, group, or community, personnel of the Service may be detailed by the Secretary for the purpose of assisting such Indian tribe, group, band, or community in carrying out the provisions of contracts with, or grants to, tribal organizations pursuant to the Indian Self-Determination Act of 1972: *Provided*, That the cost of detailing such personnel is taken into account in determining the amount to be paid to such tribal organization under such contract or grant, and that the Secretary of Health, Education, and Welfare shall modify such contract or grant pursuant to subsection (c) of section 7 of such Act to effect the provisions of this section."

(c) Paragraph (2) of subsection (a) of section 6 of the Military Selective Service Act of 1967 (81 Stat. 100), as amended, is amended by inserting after the words "Environmental Science Services Administration" the words "or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended,".

ADMINISTRATIVE PROVISIONS

SEC. 7. (a) Contracts with tribal organizations pursuant to this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the appropriate Secretary, such contracts may be negotiated without advertising and need not conform with the provisions of the Act of August 24, 1935 (49 Stat. 793), as amended.

(b) Payments of any grants or under any contracts pursuant to this Act may be made in advance or by way of reimbursement and in such installments and on such conditions as the appropriate Secretary deems necessary to carry out the purposes of this Act.

(c) Notwithstanding any provision of law to the contrary, the appropriate Secretary may, at the request or consent of a tribal organization, revise or amend any contract or grant made by him under this Act with such organization as he finds necessary to carry out the purposes of this Act.

(d) The appropriate Secretary may, in his discretion, enter into contracts for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items with tribal organizations by negotiation, without advertising.

(e) In connection with any contract or grant made pursuant to this Act, the appropriate Secretary may permit a tribal organization to utilize, in carrying out such contract or grant, existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

SEC. 8. The Secretaries of the Interior and of Health, Education, and Welfare are each authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying out the provisions of this Act.

SEC. 9. Nothing in this Act shall be construed as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. STEVENSON, Mr. JAVITS, Mr. SCHWEIKER, Mr. PACKWOOD, and Mr. STAFFORD):

S. 3158. A bill to establish in the Department of Health, Education, and Welfare an Office for the Handicapped to coordinate programs for the handicapped, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. STEVENSON, Mr. JAVITS, Mr. SCHWEIKER, Mr. PACKWOOD, Mr. BEALL, and Mr. STAFFORD):

S.J. Res. 202. A joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States. Referred to the Committee on Labor and Public Welfare.

Mr. WILLIAMS. Mr. President, I am today introducing several proposals—which I first announced 2 weeks ago—which will change this Nation's commitment to the handicapped, and will help us achieve the tragically overdue goal of full integration of the handicapped into normal community living, working, and service patterns.

First, I am proposing the creation of an Office of the Handicapped in the Office of the Secretary of Health, Education, and Welfare to coordinate that Department's many programs for the handicapped. Second, I am proposing the authorization of funds for a White House Conference on the Handicapped to bring visibility to the very real problems of these citizens. Finally, last week, as chairman of the Labor and Public Welfare Committee, I created a Subcommittee on the Handicapped to make very clear the Senate's and the committee's commitment to the handicapped.

These are wide-ranging proposals. They call upon every aspect of Federal, State, and local government to reexamine and reevaluate its commitment to the physically and mentally disabled. They come at a time when many of the programs existing for the handicapped are fulfilling their piecemeal goals. They come at a time when we can say that we have made some progress in dealing with the awesome and myriad problems that this group faces in our advancing society. And they come out of sad recognition that many of the problems are not being dealt with in a satisfactory way.

The neglect of the handicapped is a stain on our collective conscience; an affront to what this great Nation is supposed to stand for. I think that we have not yet come to realize what it means to be handicapped in this society.

The handicapped live among us. They have the same hopes, the same fears, and the same ambitions as the rest of us. They are children and adults, black and white, men and women, rich and poor. They have problems as varied as their individual personalities. Yet, they are today a hidden population because their problems are different from most of ours. Only the bravest risk the dangers and suffer the discomforts and humiliations they encounter when they try to live what we consider to be normal, productive lives. In their quest to achieve the benefits of our society they ask no more than equality of opportunity. But they are faced with continuing discrimination. Discrimination in access to public transportation and public communication facilities because they cannot make use of more normal modes. Discrimination in pursuing advanced education because they are often excluded from education altogether. Discrimination because they do not have the simplest forms of special educational and rehabilitation services they need to develop to their fullest capacity.

Today, there are 7 million handicapped children in this Nation. Sixty percent of these children are denied the special educational assistance that they need to have full equality of opportunity. A full 1 million of these children are excluded entirely from public schools and do not go through the learning process with their peers. Only 40 percent of America's handicapped children receive compensatory education and these services vary widely within the 50 States. In most cases, special programs are provided only if the local community is able to support such services entirely by themselves; we are least likely to find special services in areas of population growth. More tragically, special services and education for the handicapped are the first programs to be done away with during times of economic adversity. In a very real sense, whether a handicapped person receives this kind of attention depends on where he lives—not on his particular disability.

In the 1968–69 school year, there were 19 States where less than 31 percent of the handicapped population was served by special classes. In 11 States, less than 20 percent of the population was served. Only seven States out of the 50 provide for more than 51 percent of the handicapped population. And we find greater disparities as we look at particular kinds of disabilities. For instance, in 30 States less than 11 percent of the emotionally disturbed population is served.

Let us, for a moment, look further into the problems in educating the handicapped. How many of these children will grow up with no compensatory services? How many of those who are now adults grew up with little or no access to formal education? How many were unable to secure the special services which are their basic birthright? How many as a result of our ignorance and our procrastination are left with wasted potential and unfulfilled lives because we have not been willing to provide basic services that they could have used when they were young?

The answers to these questions are appalling.

According to the best figures I can find, there are more than 22 million adults in the United States with physical handicaps severe enough to limit in some way their ability to work. There are more than 5.6 million persons of all ages who are mentally retarded, some proportion of which are adults. Of the 22 million with physical disabilities, an estimated 14 million could work if given the opportunity. And of the 5.6 million who

are mentally retarded, 9 out of 10 could work if given proper training and rehabilitation.

Actual employment figures are not so positive. Again, according to the best estimates I could find:

There are about 150,000 blind persons of working age in this country. About 50,000 of them are employed.

Of the 60,000 paraplegics of working age, 47 percent are employed.

Of the 400,000 epileptics of working age, the employment rate, according to best estimates, is between 15 percent and 25 percent.

And of the 200,000 persons of working age with cerebral palsy, only a handful are employed.

These figures only account for a little over 800,000 of the 22 million adults with physical handicaps. Other sources that I have examined have wildly differing statistics, including in some cases percentages for employment that are completely the reverse of those noted above. Even HEW cannot fully enumerate or locate the handicapped.

The fact that this population is not accounted for accurately or consistently is shocking. I think I know some of the reasons for this. The data is collected for diverse purposes. Some figures include those with chronic diseases; some do not. Some figures only reflect those who are handicapped and are served by Federal Government programs. Some figures originate from an estimated number of handicapping conditions—not handicapped individuals, handicapping conditions.

The individuality of the people with these conditions has been lost somewhere in the process. We have lost track of them, lost the reality of their lives, and the pain and suffering of their disabilities.

In 1966, there were 51 programs for the handicapped in the Department of Health, Education, and Welfare, which included some aspect of assistance in meeting the problems of the handicapped. There were seven programs in the Office of Education, 14 in Vocational Rehabilitation Administration, 15 in the Public Health Service, one in the Social Security Administration, 10 in the Welfare Administration and four in other agencies. Both funding and programs have increased since that point in time.

I do not question the need for the services that these programs provide, nor the quality of programs that are being operated. I question, however, whether these initiatives are adequately responding to the needs and wants of handicapped persons in our society. The sheer diversity and separateness of the programs, the unreliability of the statistics and the lack of information on accomplishments for the adult handicapped population suggests in a very crude way that we are not. And if the situation of handicapped adults in our society at all parallels that information that we have on the handicapped among our children, we know that they are not. All the children that we excluded from education years ago are the adult handicapped population today. Their problems have not gone although we have lost sight of them.

It cannot be a question of the costs.

It would save us money to save the lives that we are wasting. According to data for 1966, $3.5 billion was obligated for the handicapped by the Federal Government. Of this money, $2.65 billion was for income maintenance. Furthermore, it is estimated that the annual cost of foster care for children is about one-eighth of what it costs for institutionalization. The lifetime cost of educating an educable handicapped or retarded child is about $20,000. The lifetime cost of institutionalization will cost well over $200,000. These figures do not even take into consideration the potential earning power of these individuals, if they receive the special education and other services necessary for them to realize their personal and economic potential.

Yet, in 1970 out of a total of $38.5 billion in Federal, State, and local dollars spent on public elementary and secondary education, approximately $1.4 billion of that money was spent on the handicapped. This figure is well under their fair share which would be 10 percent to 12 percent of total moneys. It does not even come close to the kind of investment we should be making.

The paradox of our national behavior is that we, simultaneously, do too much and too little. Too many of our handicapped population are misdiagnosed, mislabeled, and hustled out of schools, jobs, and other institutions of society. They are tested with instruments that are either not relevant or sensitive to their varied backgrounds. They are left with little if any compensatory services, and little followup; an unfortunate label within a rigid tracking system. And we come to a point, as we have just seen with the adult handicapped population, where we cannot even identify the individuals we have swept out of our society. They are invisible, but for the families and friends who know them. Their spirits are irreparably damaged.

To a great extent, this paradox is based on a failure to recognize the intrinsic rights of the handicapped. For too long, we have been dealing with them out of charity, something that we can do when we have enough time, and enough extra money. This approach has long outlasted its usefulness. The mere fact that services for those who are handicapped are considered frills of governmental budgets that are cut in times of economic adversity underlines a tragedy of our society. This is medieval treatment for a very current problem.

Today, many people fail to understand that educational programing and training for the handicapped works; that the deaf, the blind and the retarded can learn and can, in fact, become productive members of society. Most of us see the handicapped only in terms of stereotypes that are relevant for extreme cases. This ancient attitude is in part the result of the historical separation of our handicapped population. We have isolated them so that they have become unknown to the communities and individuals around them.

Clearly, we need to reevaluate our national policy and national programing toward the handicapped. In order to alleviate many of their problems we need an increased national commitment, and we need it now. Some of the ingredients of this new commitment will have to include strengthened national leadership, greatly increased visibility for the problems of the handicapped, and integrated and consistent programing. Foremost in this commitment should be immediate reexamination of educational policies, and continuing training and education of adults.

It is for these reasons that I make these proposals today. As chairman of the Labor and Public Welfare Committee, I believe it is time that we revise the way that the Congress looks at problems of the handicapped. For many years, we have been doing this in a piecemeal fashion through separate Subcommittees on Labor, on Education, on Health, and on Handicapped Workers. And we have seen many fine accomplishments during this time period.

Senator PELL, as chairman of the Education Subcommittee, has shown deep devotion to solving the problems of providing vitally needed special educational services for handicapped children. Indeed, he has been a leader in this effort. Senator RANDOLPH has shown his firm commitment to assuring that handicapped workers are given new and meaningful opportunities to secure the kinds of jobs which they are best suited for. Senator KENNEDY has through the years demonstrated his real concern for the mentally retarded. He has consistently supported all congressional efforts to provide greater opportunities for the handicapped.

But with all of this fine work, it is my view that we have come to a point in time when we must revise this piecemeal method of separate subcommittees and individual efforts in order to deal with the problems of the handicapped in a way that is comprehensive. We must look for the full integration of all the handicapped into all aspects of our society.

For this reason, I last week established a permanent subcommittee of the Labor and Public Welfare Committee to be known as the Subcommittee on the Handicapped. To do this, I have reconstituted the Subcommittee on Handicapped Workers.

Senator RANDOLPH has agreed to serve as the chairman of this subcommittee and Senators PELL and KENNEDY will also bring their expertise to this body. This will provide a congressional channel that will act as a full-time oversight and legislative panel to deal with all of the problems that the handicapped must face, including the myriad Federal programs in HEW.

There are alternate ways within a legislative body that we might consider for dealing with the problems of the handicapped. I have established a permanent subcommittee within the committee of which I am chairman because I want to make very clear that I believe that something must be done, and it must be done now before more lives are

wasted; more dreams shattered; more hopes destroyed. This is a commitment that I am making to the Congress and to the entire Nation. But most important, it is a commitment that I am making to the handicapped.

Second, I am introducing a bill which will create within the Office of the Secretary of Health, Education, and Welfare an Office of the Handicapped. This Office will be charged with coordinating all programs for the handicapped within the Department. It will advise the Secretary on policy and administration related to these programs, and will serve as a focal point for information related to the Department's programs for the handicapped. While I recognize many programs outside of the Department provide services to the handicapped, this Office will be a beginning.

The effective coordination of Federal programs serving the handicapped has critical significance in attaining the objectives of many legislative proposals enacted by Congress.

In recent years Congress has authorized many new statutes designed to improve the educational services available to handicapped children; assist local communities to construct facilities for service programs directed at the needs of the handicapped; support research to uncover the causes of handicapping conditions; and provide medical, educational and behavioral diagnoses so that effective life planning for the handicapped might be undertaken. None of these programs attain their full objectives as long as they remain isolated, single efforts. Only when they are coordinated can they focus on the total needs of the handicapped.

Of course, organizational structures are not ends in themselves—they are not panaceas for all our bureaucratic problems. And, they certainly do not take the place of innovative programs and ideas which will bring the handicapped into full participation in this Nation. But a coordinating structure such as the one I shall propose is a vital first step in the development of a total Federal program with the necessary range, comprehensiveness and impact demanded by the handicapped.

As a third step, I am introducing a resolution calling upon the President to convene a White House Conference on the Handicapped. This Conference will concentrate the attention of all concerned organizations, governmental and private, on the handicapped and their place in our society. It will provide a forum in which all concerned persons can together plan a set of goals and establish a realistic timetable for achieving them. It will also offer an opportunity for a critical review and reexamination of where we stand. Only through such a national endeavor can the necessary resources be marshaled to attack the problems which the handicapped face every day.

The call for a White House Conference on the Handicapped is a response to the call of the handicapped themselves. They ask for recognition, for their rightful place in our Nation's life, and for a fair share of our resources. It is time that we provide them with that recognition and a forum with sufficient visibility and national prominence so they are no longer a minority lost within this Nation.

In addition to these actions, I will be introducing in the next few weeks a number of substantive programs which will begin to deal immediately with specific areas where we know that special programing is needed.

We cannot sit back any longer knowing that 1 million children in this country are excluded from the educational system and receive no education at all—knowing that 60 percent of all the handicapped children are denied the special services they need to have an equal chance to live freely in this Nation—and knowing that these children will grow up to be handicapped adults lost somewhere within this Nation. We cannot and must not look upon these individual tragedies with an attitude of business as usual.

I wish it to be said of America in the 1970's that when its attention at last returned to domestic needs, it made a strong and new commitment to equal opportunity and equal justice under law; a commitment, in fact, to compassion. The handicapped are one part of our Nation that have been denied these fundamental rights for too long. It is time for the Congress and the Nation to assure that these rights are no longer denied.

Mr. President, I ask unanimous consent that certain letters responding to a speech I made outlining these new initiatives before the New Jersey School Board Association on January 29, 1972, be printed in the RECORD together with the bill and joint resolution I have introduced.

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

S. 3158

A bill to establish in the Department of Health, Education, and Welfare an Office for the Handicapped to coordinate programs for the handicapped, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established within the Department of Health, Education, and Welfare an Office for the Handicapped (hereinafter in this Act referred to as the "Office"). The Office shall be headed by a Director who shall serve as a Special Assistant to the Secretary of Health, Education, and Welfare and shall report directly to him.

SEC. 2. It shall be the function of the Office to—

(1) provide for assistance (including staff assistance) to the Committee on Mental Retardation of the Secretary, the National Advisory Committee on Education of the Deaf, and such other advisory committees dealing with programs for handicapped persons as serve the Secretary;

(2) provide a central clearinghouse for inquiries from the public concerning Federal programs serving handicapped persons;

(3) provide general information regarding Federal programs for the handicapped as well as referring detailed requests to the appropriate agency;

(4) provide stimulus to cooperative planning for comprehensive services for handicapped persons by all programs under the jurisdiction of the Secretary of Health, Education, and Welfare by convening meetings of planning, management and program operation, personnel for such purposes; and

(5) coordinate program and budget review by the Office of Education for Federal programs with Gallaudet College, the Model Secondary School for the Deaf, the Kendall Demonstration School, the National Institute for the Deaf and the American Printing House for the Blind, to assure proper integration of programs referred to in this section with other Federal programs for education of the handicapped.

SEC. 3. There are authorized to be appropriated for the purposes of this Act $500,000 for the fiscal year ending June 30, 1973; $1,000,000 for the fiscal year ending June 30, 1974; and $1,000,000 for the fiscal year ending June 30, 1975.

S.J. RES. 202

Joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States

Whereas this Nation has achieved great and satisfying success in making possible a better quality of life for a large and increasing percentage of our population; and

Whereas the great benefits and fundamental rights of our society are often denied those who are mentally and physically handicapped; and

Whereas there are 7 million handicapped children and countless numbers of handicapped adults; and

Whereas equality of opportunity, equal access to all aspects of society and equal rights of the handicapped is of critical importance to this Nation; and

Whereas the primary responsibility for meeting the challenge and problems of the handicapped has been that of the States and communities; and

Whereas all levels of government must necessarily share responsibility for developing opportunities for the handicapped; and it is therefore the policy of the Congress that the Federal Government shall work jointly with the States and their citizens, to develop recommendations and plans for action, consistent with the objectives of this resolution, which will serve the purpose of—

(1) providing educational, health and diagnostic services for all children early in life so that handicapped conditions may be discovered and treated early;

(2) assuring that every handicapped person receives appropriately designed benefits of our educational system;

(3) assuring that the handicapped have available to them all special services and assistance they need to live a full and productive life;

(4) enabling handicapped persons to have equal and adequate access to all forms of communication and transportation services and devices, especially in time of emergency;

(5) examining changes that technological innovation will make in the problems facing the handicapped;

(6) assuring handicapped persons equal opportunity with others to engage in gainful employment;

(7) enabling handicapped persons to have incomes sufficient for health and for participation in family and community life as self-respecting citizens;

(8) increasing research relating to all aspects of handicapping conditions;

(9) assuring close attention and evaluation to all aspects of diagnosis, evaluation and classification of handicapped persons;

(10) assuring review and evaluation of all Federal programs in the area of the handicapped, and a close examination of the Federal role in order to plan for the future;

(11) promoting other related matters for the handicapped; and

Whereas, it is essential that recommendations be made to assure that all handicapped persons are able to live their lives in a manner as independent and self-reliant as pos-

sible, and that the complete integration of all the handicapped into normal community living, working, and service patterns be held as the final objective: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized and requested to call a White House Conference on the Handicapped within two years of the date of enactment of this joint resolution in order to develop recommendations for further research and action in the field of the handicapped, and to further the policies set forth in the preamble of this joint resolution. Such conference shall be planned and conducted under the direction of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") with the cooperation and assistance of such other Federal departments and agencies, including the assignment of personnel, as may be appropriate.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of the conditions of the handicapped, the conference shall bring together representatives of Federal, State, and local governments, professional and lay people who are working in the fields of the handicapped, and of the general public, including handicapped persons and parents of handicapped persons.

(c) A final report of the White House Conference on the Handicapped shall be submitted to the President not later than one hundred and twenty days following the date on which the Conference is called and the findings and recommendations included therein shall be immediately made available to the public. The Secretary shall, within ninety days after the submission of such final report, transmit to the President and the Congress his recommendations for the administrative action and the legislation necessary to implement the recommendations contained in such report.

SEC. 2. In administering this joint resolution, the Secretary shall—

(a) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(b) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on the handicapped prior to the White House Conference on the Handicapped;

(c) prepare and make available background materials for the use of delegates to the White House Conference on the Handicapped as he may deem necessary;

(d) prepare and distribute interim reports of the White House Conference on the Handicapped as may be exigent; and

(e) engage such additional personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter 111 of chapter 53 of such title relating to classification and General Schedule pay rates.

Sec. 3. For the purpose of this joint resolution the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Sec. 4. (a) The Secretary is authorized and directed to establish an Advisory Committee to the White House Conference on the Handicapped composed of 28 members of whom not less than 10 shall be handicapped or parents of handicapped persons.

(b) (1) Any member of the Advisory Committee who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties.

(2) Members of the Advisory Committee, other than those referred to in paragraph (1), shall receive compensation at rates not to exceed $75 per day, for each day they are engaged in the performance of their duties as members of the Advisory Committee including travel time and, while so engaged away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) Such Advisory Committee shall cease to exist ninety days after the submission of the final report required by section 1(c).

SEC. 5. There is authorized to be appropriated to carry out this joint resolution $2,000,000.

JANUARY 31, 1972.

Senator HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: I was delighted to read in yesterday's Star-Ledger of your plan to focus attention upon the plight of the handicapped. Both as a citizen and as a professional, I applaud and support your leadership in this direction. By profession, I am an Associate Professor of Social Policy at the School of Social Service, Fordham University, New York, where my chief area of interest is Social Policy Toward the Handicapped.

I would appreciate it greatly if I could receive a copy of your speech to the New Jersey School Boards Association in Trenton. Furthermore, I would also appreciate it if I could be placed on your mailing list to receive material regarding the handicapped and the aged, as well as the mailing list of Senator Randolph who will be chairman of the subcommittee.

If I can be of any assistance to you in this area of concern, I would be delighted to help.

With best wishes.

Sincerely yours,

MEYER SCHREIBER.

LYNDHURST, N.J., *February 2, 1972.*

Senator HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SIR: I was very happy to read about what you are trying to accomplish for the handicapped. I am with you 100%. I am the mother of a mentally retarded child. I don't know whether or not your program includes these children or not, but if it does, I would like to explain the frustrations of having a mentally retarded child and not being able to get help for him anywhere.

When the Doctor first tells you your child is retarded, naturally, you don't want to believe him, but eventually, you do, and when you do, you say "but, where can I get help for him.", but all the doctors can say is "institutionalize"—A very harsh word for parents! My son is 9 yrs. of age. He can neither walk nor talk, but given some kind of therapy, I believe he can learn something. So, after 9 yrs. of searching around for something for him, I have just learned that there are State operated Day Care Centers in Bergen County that take care of and teach these children from 9 to 3 each day. Unfortunately, since my son is non-ambulatory, he cannot attend immediately because facilities for such children are, for instance, in the "basement of a Church", and, in case of fire, my son might not get out. So, he is placed on a waiting list for about 1 or 2 yrs, who knows how long. In the meantime I care for him at home along with my 2 other children.

It seems a crime that when we can spend millions of dollars to send men to the moon, too many times for me, that we can't even get enough money to build a badly needed Day Care Center in Bergen County.

I sincerely hope your plan to help the handicapped children, even if the retarded are not included, succeeds. You are the kind of man us parents of handicapped children need, because so little is being done for them.

I belong to a small organized group of parents of mentally retarded children in Lyndhurst, and I am sure they, too, are also with you 100%.

Sincerely,

Mrs. ALBERT T. SYLVESTER.

THE BANCROFT SCHOOL,
Haddonfield, N.J., January 31, 1972.

Sen. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: On behalf of the members of the South Jersey Chapter, New Jersey Rehabilitation Association, I would like to express our sincere appreciation of your efforts to increase federal attention to problems of the handicapped. To know that you are backing us in our endeavors is a source of real encouragement to all rehabilitation workers.

On a local level, South Jersey has been seeking an expansion of comprehensive rehabilitation services for many years. I served as chairman of a tri-county (Burlington, Camden and Gloucester) regional planning committee in 1967–68, named by Governor Hughes and charged with the responsibility of surveying current rehabilitation services and projecting needs for services in the '70's. We are still seeking, with Governor Cahill's endorsement, the rehabilitation centers we urged in 1968.

Our chapter stands ready to help you, Senator Randolph and the sub-committee members in any way we can be of service.

Again, my gratitude for your continued interest in national programming for handicapped individuals.

Respectfully yours,

Mrs. CLAIRE B. GRIESE,
President, South Jersey Chapter N.J. Rehabilitation Association.

DATA—DISABLED AMERICAN TAXPAYERS ASSOCIATION OF NEW JERSEY,
Trenton, N.J., January 31, 1972.

Senator HARRISON A. WILLIAMS, Jr.,
State of New Jersey,
Senate Office Building,
Washington, D.C.

DEAR MR. WILLIAMS: We want to congratulate you and endorse without reservations your comments in your address before the New Jersey School Boards Association Annual Legislative Conference at Trenton's Holiday Inn on Saturday, January 29.

The story on your address appeared in our local Sunday Times Advertiser under the heading "Williams Decries Neglect Of Nation's Handicapped."

A copy of this news story has been forwarded to Miss Susan Chittenden, Secretary N.J. Chapter D.I.A. Disabled in Action, 781 Ross Lane, Bound Brook, N.J. 08805.

Their organization will have anti-discrimination legislation pertaining to the handicapped, introduced in this session of the State Legislature.

With best wishes and with many thanks for your efforts on behalf of the handicapped and totally disabled.

Sincerely,

HARRY B. MILLER,
President.

ARCHBISHOP BOLAND REHABILITATION TRAINING CENTER,
Newark, N.J., January 31, 1972.

Senator HARRISON A. WILLIAMS,
Chairman, Committee on Labor and Public Welfare, Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: Your recent speech before the New Jersey School Boards

Association's annual legislative conference in Trenton, was read with great interest and enthusiasm.

I have had the pleasure of meeting you at the Mount Carmel Guild during your visit to our Preschool Program for the Hearing Impaired Children. Thus, I am aware of your keen concern for the welfare of our handicapped citizens.

Senator Williams, the Mount Carmel Guild, in general and Monsignor John P. Hourihan, in particular, have initiated a Rehabilitation Program for the Hearing Impaired of Newark and environs. This program provides educational services, vocational evaluation services, marital and family counseling and social counseling to the hearing handicapped. I have been appointed as the counselor to the auditory impaired clients.

Your speech and the legislation you are going to introduce, draws attention to the inadequate programs for the handicapped, especially for the hearing handicapped. Insufficient funds are primarily responsible for the inadequacy of the programs for the handicapped.

Mount Carmel Guild is striving to improve the existing programs for the handicapped as well as to implement new ones. Financial assistance is constantly sought for the improvement of the programs.

Senator Williams, I for one, and others at Mount Carmel Guild, are well aware of your efforts to help the handicapped and we are most fortunate in having you in the Senate as our "special spokesman."

Sincerely yours,

HAROLD STEINMAN, M.A.,
Counselor to the Hearing Impaired.

SHORT HILLS, N.J., *January 31, 1972.*

DEAR SENATOR WILLIAMS: Your three point program "designed to focus federal attention on" the sad state of our aid to handicapped children and adults is an admirable one.

New Jersey and the entire United States is sadly behind other portions of the world in this regard.

Sincerely yours,

MARIE HICKEY.

ASBURY PARK, N.J.,
January 30, 1972.

Senator HARRISON WILLIAMS,
Senate Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I heard your talk concerning the practice of Discrimination against the Handicapped, and I would like to bring to your attention some instances of discrimination against the Blind both in the Country and in New Jersey.

The American Foundation for the Blind issues travel Books to the Blind which makes it possible for a Blind person and his guide to travel for the price of one. You can see that the purpose of such books is to be sure that a Blind person can travel at the same rate as a sighted person. After all, he needs that guide in order to travel and should not be unduly penalized for having a guide. However Amtrak and possibly the other railroads have decided that they will no longer honor those travel books. When you consider that the percentage of Blind travel in proportion to the total passenger travel, is very very small, there does not even exist any worthwhile financial justification for such discrimination. With all their alleged economy moves, you never see any cut in the sixty and seventy thousand dollar a year salaries paid their top officials even when the line is supposed to be in bankruptcy.

Here in New Jersey, about nine years ago, all state help of any kind, was handled exclusively by the Blind Commission of New Jersey. Governor Hughes decided to put Blind Assistance under the Welfare. As you know, not only is this a disgrace to be classed with the Bums, unwed mothers etc. but the Blind Commission handled Blind assistance in such a way as to make it possible for the Blind person to get himself in such a position as to no longer need Blind Assistance. The Hon. Gov. Hughes thus took all these advantages away from the Blind in spite of the fact that he has eye trouble in his own family. This too constitutes discrimination against the Blind. For the past nine years, we have been fighting for the return of the Blind Commission so that it really will be the Blind Commission and not just a sham.

All the Blind will appreciate your consideration of this letter. After all, Governor Meyner had a good set up but Hughes spoiled it for the Blind.

Sincerely,

CLIFFORD S. HAWKINS.

P.S.—My wife is totally blind and I am partially sighted, and through no fault of our own, we find it necessary to let the state treat us if we were bums.

JERSEY CITY, N.J.,
January 31, 1972.

Senator H. WILLIAMS,
The Capitol Building,
Washington, D.C.

SIR: I read an article in the Sunday Star Ledger, January 30, 1972 about legislation you intend to introduce to help the handicapped, and I congratulate you on your stand. Most handicapped people are capable of handling jobs and thereby being self-sufficient. Quite possibly the greatest handicap a handicapped person has is being disqualified for work solely because he is somewhat different.

This practice is not only limited to private enterprise, but extends itself to jobs within the governmental services. For example the Postal Service, formally the U.S. Post Office refuses to hire known epileptics citing phony regulations as to why the Post Office cannot hire epileptics, refute all such allegations and has the gall to put a sticker on one of my out of State letters that read "Employ Epileptics".

As you may have guessed I am an epileptic who was refused employment by the Post Office. Of course the postal service is not the only place where epileptics and other handicapped people are refused employment, but private enterprise can not be expected to do more than the government and the various agencies thereof.

Currently I have filed an application with the State of New Jersey to become a Cottage Planning Technician, that is to say a person who assists the mentally retarded at one of the State schools. Although I have not yet heard anything about this position I realize I will probably not be accepted for this position. Do not think that I have a defeatist attitude, I just try not to let my hopes get up too high as not to be let down hard from a high distance. Nor am I filing applications without any hope as I intend to, if rejected, make every appeal possible.

I wish you luck with your legislation and I also hope the time will come when it will no longer be necessary, for I along with hundreds of thousands of other "handicapped" people do not consider myself handicapped.

Sincerely,

ROBERT L. BENNETT.

EDISON, N.J.,
February 2, 1972.

Senator HARRISON A. WILLIAMS, Jr.,
Senate Building,
Washington, D.C.

DEAR SENATOR: It pleased me greatly when I read the article in the Star Ledger of January 30, 1972 regarding your interest in helping the handicapped.

I am a paraplegic and this article is very heart warming to me as I am at present fighting a one man battle to better the conditions for the handicapped. It is very important that the many handicapped people be given the proper training and be employed in the capacity that they can be best suited. However, they should also be given the opportunity to enjoy the pursuit of happiness that all people are entitled to.

I am talking about the pleasures in life that are available to all such as sport events, theatres, restaurants, libraries, museums, public buildings, etc. As I have experiences in the eight years that I have been confined to a wheelchair these pleasures have been limited to me due to the architectural barriers which confronted me in my attempts to take advantage of these enjoyments. In many cases and on numerous occasions there were no provisions made to accommodate me in a wheelchair and I could not enjoy these events and it also prohibited my family from enjoying them with me.

I have written to the people in charge of ball parks, airlines, theatres, etc. in which I had this experience but to no avail, they didn't even have the decency to answer my letters. I know that the federal government and the states have drawn up guide lines to help in this respect but they are not mandatory and are disregarded completely.

I hope that you will include this in your aim to better the conditions of the handicapped. As it is stated in the Constitution in regard to the pursuit of happiness, I hope that this will include all the people who are afflicted with some handicap that they may enjoy whatever happiness that they seek without a closed door.

If there is anything that you want clarified or if I may be of any help to you in this respect please call on me.

Sincerely yours,

BENJAMIN B. ASNIN.

EDISON, N.J.,
January 31, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: Your interest and plans for the handicapped have come to my attention. As a clinical psychologist and human being concerned with the physically disabled, I can only encourage you in your venture. Thank you ever so much for your efforts!

As you are aware, facilities, employment, educational opportunities, etc., are limited along with personnel. Psychotherapy and counselling opportunities to help cope with the emotional aspects of disability for the handicapped and parents on an individual basis are, in most areas, non-existent. Day care centers for disabled adults and children to free their parents for gainful employment is another neglected area which requires attention.

In addition to my full-time employment as a clinical psychologist and former vocational rehabilitation counsellor, I am active in my profession including organizational activities, and as a citizen toward doing whatever I can in the area of the handicapped. My husband, who is employed as a social worker, joins me in this effort.

If I may be of any assistance to you, please feel free to contact me. I may be reached by phone during the day at the New Jersey State Diagnostic Center, 201–548–2500 ext. 213 or evenings at home, 201–572–1047 (unlisted).

I hope that something constructive can be done.

Most cordially,

LOUISE MEAD RISCALLA.

DOVER, N.J.,
January 31, 1972.

HARRISON A. WILLIAMS,
Senator.

DEAR SIR: I see that you are planning to help the handicapped. I am Mrs. Anna L.

Wiest. I am 90 percent blind and need some help. I also have arthritis of the joints. Also have a vitamin deficiency that costs more. I have to have five different prescriptions to be taken every day. I did receive $11 a month from welfare but was taken away. This was for meat. I would be thankful if I could get a little help. Work record. I get social security. The amount is $147.10 per month. Out of that I pay mortgage on the house, $115 a month. That leaves me with $32.10 to live on and help pay the bills.

I'm 54 years old—I can't go out to work on account of sight—all the other ailments. I'm a widow, and I thank you.

ANNA L. WIEST.

JANUARY 30, 1972.

DEAR SIR: Read in the Sunday news where you was trying to help the handicapped. I hope the bill is passed. I have a boy of 17 years of age that is in his last year of high school. His foot is off at the ankle; they will send him to college next year, but what will he do all summer making no money at all even for movies or any other things such as going to baseball games which cost money. I don't think they do enough for these people because he will never work with his feet, only his hands.

He hasn't received a nickle for the accident because he wasn't supposed to be at the car wash. He was there helping a friend out with no one older there. I know with them you have done a lot for the older people, maybe a job would help out this summer. My husband and I are over 65 years old, we live on Social Security checks so if there is any way you can help I would thank you. I live at 150 Stephen St., Belleville, N.J., 07109. My name is Lydia Wilson. I hope they will have some kind of work in this town that can help these people. God bless you.

LYDIA WILSON.

STOUT STATE UNIVERSITY, DEPARTMENT OF REHABILITATION AND MANPOWER SERVICES, SCHOOL OF EDUCATION

MENOMONIE, WIS., *January 31, 1972.*

HARRISON WILLIAMS, Jr.,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR HONORABLE SENATOR WILLIAMS: I have just heard on the news broadcast of your concern for the handicapped in the United States and proposal of establishing an office in the Department of Health, Education, and Welfare for service to them.

I could not be more delighted than to hear of this concern. It has been my grave concern, one shared by many professional workers in the field of rehabilitation, that in light of all the emphasis today upon the disadvantaged and poor (which is very definitely needed) and with the reorganization in Health, Education, and Welfare that changed the status of the Rehabilitation Services Administration, that handicapped were not being adequately served. I have had a growing fear that with each passing year we were losing sight for a very severe need in this country and that we were actually going backwards in relation to a program that has been very effective in serving them.

I have had considerable experience in working in the field of rehabilitation as an educator, as an active member in the National Rehabilitation Association, as a President of a National Rehabilitation Association, and in assisting the Rehabilitation Services Administration and the Social and Rehabilitation Service in helping with the development of guidelines and as a consultant. If there is anything at all that I can do to be of assistance to you in this, please call upon me as I do get to Washington often.

If you have any more detailed information on your proposal or a copy of the bill that you would be submitting, I would appreciate receiving the information.

Sincerely yours,

PAUL R. HOFFMAN, Ed. D.,
Chairman.

WINSTON-SALEM, N.C.,
February 3, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I read with much interest the enclosed article about your Three-Point Plan for the handicapped. There are many, like myself, who laud your efforts and hope it hasn't come too late for many, like myself. In 1921 I had Polio which paralyzed me from the waist down. From about 10 to age 16 I spent in various hospitals and had a series of 14 operations. Today, with the use of a brace on my right leg and a cane, I do quite well. But there is another "handicap" all of us must face and that is "Age," and when you are faced with both situations at the same time, it's hard to take.

I have a reasonable amount of education, not as extensive as some but more then others. But education is not so much what we get from books as it is how we relate our every day experience to every day living. I've made my share of mistakes, used bad judgment at times, but have always tried not to make the same mistake twice, and benefit by the mistakes I did make.

For the past twenty plus years I've been in the Insurance business as well as Radio and TV broadcasting, writing and directing. When we moved to Winston-Salem I found myself with an almost insurmountable problem—that of finding a job, being handicapped and 52. There are Laws against discrimination of all sorts of situations, but it does not work out as the Law was intended. I have had more doors closed in my face, because I was 52 and handicapped then I care to remember. No less then five Employment Agencies have admitted to me that although my qualifications were perfect for the position, the door closed when the employer found out I was 52, not to mention being handicapped. And I'm sure I am but one of many thousands who are faced with the very same situation.

For over a year now I've been working as a Debit Insurance Agent which requires me to see from 30 to 40 people a day. Needless to say that is enough to tire a man with two good legs. I am also doing Public Relations work at night in an effort to make ends meet. But it seems that whenever one begins to make ends meet, somebody moves the ends. All of my efforts have failed in locating a job less strenuous because of the two reasons mentioned above and have wondered just how many more people like me are faced with the same problems? There is not one step that I take that is without pain, but when one has lived with with pain all his life, he conditions himself to it for the most part. There is, however, another kind of pain that cuts deeper and hurts much more and that is the pain of rejection—rejection because of age and physical condition. While the youth of today will be the wealth of tomorrow, still the youth of yesterday is the wealth of today and should not be regarded as adding to the pollution problem.

I sincerely hope and pray that you will get the support you need to put your plan into effect, for it will serve a great cause and will do so many people so much good and help restore them to their rightful place in the world. Handicapped people know that it is up to them to make a place for themselves if they are only given a chance to prove their work I am enclosing my Résumé and Form No. 171 for your purpose with the thought in mind that my background, training and experience can be of value. I would be most greatful if there could be a place for me on your program and if experience of being handicapped is one of the qualifications, then I've had over 50 years of it.

Yours sincerely,

CHARLES A. BRIGHT.

FAYETTEVILLE, N.C.,
January 30, 1972.

SENATOR WILLIAMS: I was glad to read that you have proposed a program so that more attention may be given to the nation's handicapped and their unique problem of fitting into a society which hardly welcomes them, let alone helps them in.

As a physical therapist I am interested in doing anything I can to help you implement your proposal for a subcommittee on the handicapped. I would like to know more about what you have planned, and what needs to be done to help.

Thank you,

MARILYN F. KING.

LITTLE ROCK, ARK.,
February 1, 1972.

Senator HARRISON A. WILLIAMS, Jr.,
Chairman, Senate Labor and Public Welfare Committee, Washington, D.C.

DEAR SENATOR WILLIAMS: I saw an article in the paper regarding your efforts to increase attention to the problems of the handicapped.

I am an employed handicapped person.

My letter is not to gripe about problems of the handicapped, but to wish you well in the creation of a Subcommittee. I hope that handicapped people will be able to serve on some of the planning committees.

I would appreciate it if you would place my name on a mailing list so I can be kept informed of the above activities.

Thank you.

Sincerely,

Miss ANNICE SMITH.

SAUGUS, MASS., *February 1, 1972.*

DEAR SENATOR WILLIAMS: Upon reading in our Boston newspaper Sunday of a three point plan to increase federal attention to the problems of the handicapped, I had to stop and wonder how the word increase entered the subject. I have a son that attended "Essex Agricultural School," in Danvers, Mass. He wanted to become a Veterinarian, that was in 1964. While working on the farm he got in an accident with a "corn chopping," machine, and as a result lost his right hand above the wrist, and the first half of his first joint of the other hand.

Well after a few months of medical attention and rehabilitation work, he went back to school and he also returned to the farm the following summer. He wanted of course to prove to himself, and to others, that he could do almost everything as good as he did before. The following two years after school he worked in veternarians shops, but had to give it up because like he said, you need two good hands to be a good vet. Two years ago he took an eighteen week course in the field of broadcasting, with a nationally known co. called Career Academy. The charge was $1,000 and could be paid by the month. Since he graduated he has gone to 157 radio and TV stations in six states, has already made three trips to them up until now, and still no job.

Now he's pretty disgusted with this field and so are almost 56 of the 58 students that graduated with him. Now they have all that money from these kids, and no jobs to give them. We have even paid the $15.00 for a classified ad in the "Billboard" magazine for a job, stating he'd take a job anywhere, anytime and for any amount of pay but still no work. This is not fair by any means, and on top of all this my son makes his payments

on the loan. My son is twenty two years old today and is only an occasional work in a boat yard.

Please Senator, help these poor handicapped people to the very best of your ability. You can tell that I've had very little education by my letter, but I'm concerned.

HENRY T. SOUZA.

NORTH WALES, PA.,
January 31, 1972.

Sen. HARRISON A. WILLIAMS, Jr.,
Senate Labor and Public Welfare Committee, Washington, D.C.

DEAR SENATOR: You care, how tremendous! We have two sons, one second year college, the second son a senior in high school, both are visually handicapped. These boys really work at staying on top. They are President of their school, announcer for senior teams, Centennial Committee representative in the Community, student editor of high school newsletter, etc., and I'm extremely proud of them.

However—as far as help for studies they are left in a lurch. The oldest boy has a reader service starting this past September—so far he has not been reimbursed one cent. It's now 5 months of his paying without the service being forthcoming—such red tape, and invoices to fill, is mountainous. The second son has nothing to aid him.

We have purchased large print typewriters (2)—tape recorders (2)—earphones—dubbing deck—payed $66 for 1 textbook alone plus all other tapes for both boys and the only real success we have had in helping with their school reading problem is volunteer recording by one local group.

Our second son will need assistance for reading to survive in college from his first day on. Who can tell me how to have the reader service become more effective—for instance the money is only $1 per hour allowed. Why can't it be available without waiting almost ¾ year for reimbursement. if it comes then.

We are not eligible for equipment supplied to our sons nor are we eligible for money towards their board or tuition—we pay for every step of the way and to know that we aren't even eligible for state scholarship in Penna. rangles me!

Our added expenses for schooling with *seven* children plus supplies for the boys—when somewhere, somehow, aid for the handicapped is allotting funds leaves me baffled as to why we can't seem to find any help with Reader Service (which is not based on economic need).

These boys are independent, bright, achieve, and are putting up a great battle to compete—please don't wait until marks begin to fail (due to not having aids to see properly) before someone else besides their parents care to see them reach their potential.

Also, I hope your organization looks into council for teachers. There is prejudice, believe me—to mark a student on a curve along with his class—when examinations are handed out in poor print and the student is told *I forgot you couldn't see the print*—do your best!! How great this generation is to stay in there and keep trying—when odds are stacked high against them—I don't think we were given or acquired the determination these children have.

I'm delighted you are involved in helping with some of these stumbling blocks—even tho I don't know your complete program.

Please advise us if you have any such involvement with the Visually Handicapped.

Thank you, Senator.

Sincerely,

KAY D. QUOIN
Mr. W. J. QUOIN.

PHILADELPHIA, PA., *January 31, 1972.*

DEAR SENATOR WILLIAMS: I am writing to you because of your interest in the handicapped.

As a disabled person I would like to bring to your attention the need of a *New* amendment in the Social Security Law to cover *all* disabled persons.

I worked over 3 years (starting at 18 yrs) under Social Security but find that I don't fit in under any of the categories. I don't think it is fair that certain groups can benefit while others are left out. We need a new law that is fair to all.

I have been disabled from Polio for twenty-six years and feel that there are others in the same position who could also benefit.

Thank you for listening.

Sincerely,

MRS. SHIRLEY E. ALKINS.

VANDERBURGH COUNTY
REPUBLICAN CENTRAL COMMITTEE,
Evansville, Ind., January 29, 1972.

Hon. HARRISON A. WILLIAMS, Jr.,
Washington, D.C.

DEAR SENATOR: A short comment of approval for your plan to have a White House Conference on the problems of the handicapped.

As Chairman of the Indiana Vocational Rehabilitation Commission this would of course be of great interest to us.

If we can assist in any way to bring this to fruition, please call on yours truly.

SIDNEY KRAMER.

PARKERSBURG, W. VA., *January 31, 1972.*

Re Rev. Brent Lowther.

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

DEAR SIR: You are to be congratulated for your speech prepared for delivery at Trenton, New Jersey. You spoke of the neglect of many of our handicapped people. You say you have plans to create a new committee on the subject of the handicapped. Good!

Speaking from my own personal experience, having been in a number of Veterans Hospitals, State, and private, I say there is a critical need to also enforce existing laws, especially laws that affect all our veterans. Currently, many of these laws are not being carried out. This is especially true of mental hospitals, and mental patients. In fact, no mental patient has any rights, period. He is at the total mercy of his peers. All his mail is censored, he cannot drive a car, and has other serious restrictions. He is totally under duress.

In most mental hospitals, there is an atmosphere of hopelessness. There appears to be total despair. No hope. Sure, they usually get enough to eat, usually have fair sleeping quarters, and they do have some therapy pass-time programs, but nothing really constructive. They have the usual craftsman shops, where they make simple things, have minor assignments, do work details, and other assorted jobs. Most patients do very well indeed. My opinion is, that most mental patients are looked upon more or less, as prisoners. This attitude of hopelessness is created especially when the patient has no family, no relations, or real friends. He has worse problems if he and his wife are having domestic problems, separated, or divorced. His wife sure does cause him an awful lot of trouble then. And other veterans who have a rough time, are those who have suffered ills at the hands of their family, employer, or irregular courts. In this case, the veteran has little or no help at all. He is at the mercy totally of his peers.

In closing out this letter, it is my strong suggestion that you also consider passing a bill, or introducing one, a new bill that would Guarantee the rights of all mental patients, especially for all veterans. Sure!! I'm fully aware we are supposed to have such bills on the books. But they are not enforced or carried out, especially when the individual concerned, is under confinement or under total duress. I would say we have literally thousands and thousands of mental patients that do not belong in any mental hospital. But at present, they have no way of letting this be known. A new law would help them. Please consider this. Thank you, and God bless you.

Respectfully yours,

Rev. BRENT LOWTHER.

PHILADELPHIA, PA.,
January 30, 1972.

Senator HARRISON WILLIAMS,
Senate Office Bldg.,
Washington, D.C.

DEAR SENATOR WILLIAMS: I support your recent statement on the problems of the Handicapped "A stain on our collective conscience, an affront to what this great nation is suppose to stand for." A Senate Committee on the problems of the Handicapped is long overdue, along with the establishment of the Office of the Handicapped in H.E.W. A White House Conference on the problems of the Handicapped has long been overdue. The Handicapped have rights which have long been denied them in some cases even the right to vote as citizens of these United States, because they are Handicapped or suffer some physical disability. I have a great interest in helping the Handicapped and would be most grateful if you would put me on the mailing list of the Committee and copies of their reports.

Very respectfully,

WALTER VITAS.

CATHOLIC CHARITIES,
Brooklyn, N.Y., February 1, 1972.

Hon. HARRISON A. WILLIAMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: We read with great interest of your speech, given at Trenton, New Jersey, in which you voiced a desire to increase federal attention to the various problems of the handicapped citizens of the United States.

Just publicizing the plight of these minority members of society would have been a tremendous service. We are pleased to note, however, that you are calling for a White House conference; the establishment of a subcommittee on the handicapped; and the establishment of an office for the handicapped within the Department of Health, Education and Welfare.

You are to be commended, Senator, for championing the cause of the handicapped. Please accept the gratitude not only of our staff but also of those handicapped persons we are privileged to serve.

Sincerely yours,

WILLIAM T. JOHNSON,
Administrator.

MILWAUKEE, WIS.,
January 31, 1972.

Senator HARRISON WILLIAMS, Jr.,
Chairman of Senate Labor and Public Welfare Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: I read your "3 point program to increase federal attention to the problems of handicapped" in the Jan. 30th, "Milwaukee Journal". It sounds great! But, I'm afraid it will wind up like every other program for the handicapped—no results. How many times have new programs for public awareness begun and how many times have hearts of handicapped to be jolted to new hope only to find that things have not changed? I don't mean to sound bitter, just realistic.

As a high school student, I was told that a speech impediment (I sound like I have a cold) was the worst handicap. I thought the instructor was being foolish. I found out she was right. People ARE willing to accept a foreign accent but are not willing to accept a speech handicap.

In 1964, I graduated from college with high hopes. After 1½ years of searching, I found employment with Goodwill Industries of Wis., Inc., Milwaukee. Five years later, I

was laid off.—with the first group to be laid off. You see, our executive vice president didn't believe in having handicapped people on his staff. Generally, though, handicapped people are the last hired and the first fired. Why?

My major in college was speech: my best courses were public speaking. I am not afraid to speak. But when I see the jaws of personnel men set as I begin to speak, I become nervous. I know the results of that interview. I have had close to 300 such interviews since I was laid off Sept. 9th, 1970.

My husband, a paraplegic, has had similar experiences. He's been told "you can't do it" for so long that if it weren't for his tremendous belief in himself and his ability, he would have been beaten long ago. If a counselor says, "But you can not do that." A red faced counselor reads favorable reports then decides that there are not enough funds to complete a promised program. As long as the handicapped fit into neat little packages, they can receive enough help to get by. If they do not fit the neat little mold, there are no funds to help. Why? Similar stories can be told by practically every handicapped person we know.

My best wishes for your program. Hopefully, you will hire some handicapped people to be involved in various stages of your program.

We have far to go to rid America of all—well, at least, most—of her prejudices.

Very truly yours,

Mrs. JoANN MARSHALL.

WAUWATOSA, WIS.,
February 1, 1972.

Sen. HARRISON WILLIAMS, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: While looking through the Milwaukee Journal, I noticed an article stating that you unveiled a three point program to increase federal attention to the problems of the handicapped. Because of my personal experience, I'm glad someone is finally going to give some consideration to handicapped people.

I graduated from the Milwaukee Area Technical College with a degree in business administration. I had a 3.5 average, a good record, and excellent recommendations from my teachers. Nevertheless, I've been having a difficult time finding employment because of my poor vision.

Upon the advice of a friend, I took the Federal Service Entrance Exam and got what personnel men tell me is a good score. However, after contacting various federal agencies during the past year, I've still been unable to secure employment.

Handouts, subsidies, and special privileges are things I never asked for. All I ever wanted was a chance to use my abilities.

The federal government has done a tremendous job of helping minority groups. There are many programs to make sure businessmen, labor unions, and government agencies take affirmative action to give minorities equal opportunities.

Very little has been done to help the handicapped, especially those with a vision problem. I hope your program will bring about an awareness of the problems handicapped people have. I also hope it will result in programs to help the handicapped overcome their biggest barrier—discrimination—and become a part of the American society.

Thank you, Senator Williams, for the concern and consideration you've given handicapped people.

Sincerely yours,

DAVID ZEISE.

BRONX, N.Y.,
January 31, 1972.

Senator HARRISON A. WILLIAMS, Jr.,
Senate Office Building
Washington, D.C.

DEAR MR. SENATOR: As an individual who is confined to a wheelchair, I thank you very much for showing concern about the problems of the handicapped. There are so many hurdles that we must jump in order to get through in life, such as employment, transportation, etc. But the problem does not stop right there unfortunately. We must also remember the handicapped people who are in institutions which have the problem of overcrowding and insufficient help to care for these people. I am confident though, that with your help, the ball will finally begin to roll and many of the handicapped people will benefit from this. Again, thank you very much.

Sincerely,

JOHN DOWLING.

FLUSHING, N.Y.,
January 30, 1972.

DEAR SENATOR WILLIAMS, Jr.: May I, as a working wife with a disabled husband for the last 6½ years give my views—Disabled S.S. recipients need more money and medicare, as, they have more expense for therapy, taxies, special shoes and braces, etc. they cannot take advantage of the things able body S.S. recipients have like, making $1,680.00 income, half fare even pleasure trips.

I cannot see why a woman when her husband dies is supposed to live on 82% of her husband's S.S.. She needs all as her rent, and expenses go right on, I'd like to see the day when projects could be built for the senior citizen like in Massachusetts where a nurse and doctor are on the premises at all times also included in the project should be dining room delivery of meals for disabled or ill. Menu should include well balanced meals which many old people do not get.

Grateful for your dedication.

Sincerely yours,

Mrs. SUSAN GOSMAN.

FLUSHING, N.Y.,
January 30, 1972.

Hon. HARRISON A. WILLIAMS, Jr.

DEAR SIR: I would like to see more S.S. benefits for the handicapped, S.S. Recipients, abled bodied recipients can go out and earn 1,680.00 extra, where disabled cannot, disabled need more as their needs are greater, when I need new shoes it cost me $15.00 to have the brace transferred plus extra sole and heel to raise the one side, It also costs more when I have to go to the doctor, barber, or foot doctor, as I need a taxi for transportation.

These I could not afford if my wife was not working. When she is in retirement age I hope these things will be taken care of by more S.S. benefits to the disabled. I think all S.S. recipients should have medicare benefits.

Sincerely yours,

Mr. GEORGE GOSMAN.

JACKSON HEIGHTS, N.Y.,
January 30, 1972.

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

HONORABLE SIR: I am prompted to write this letter to you by a newspaper article about your plans for aid to the handicapped. There have been many such programs, and putting it on a national level is indeed a great step forward. All of these programs are naturely aimed at helping as many individuals as possible. There is, however, one fault in all these worthwhile endeavors, which I want to point out to you and your committee. Unless the individual is totally and incurably helpless, he is completely excluded from all aid.

I bring to case my son Gerald, age 29, married, and partly paraplegic as result of spinal surgery at the age of 12 in an effort to correct a case of progressive scoliosis. Here is a man who has managed to stay out of poverty, who has had the initiative and perseverence to go to college and earn his BA and MA degrees in music, specializing in symphonic and operatic conducting. Now here is a man who is as qualified as any to fill a great need for a top skilled conductor, but every path in the pursuit of his career is shut. He has studied under the greatest teachers of conducting, including Dr. Albert Lert at the Orkney Music Festival at Virginia, Leonard Bernstein and Barzan at the Tanglewood Music Festival in Massachusetts, and Igor Markiewicz in Monaco . . . In all of these highly recognized music festivals he has made fine impressions, and completed with honors, including a cash award from Prince Ranier of Monaco for excellence in conducting.

Why shall a man who has achieved so much knowledge and skill in one of the most sophisticated of artistic activities find it impossible to make a living at the profession or which he has been training all his life? He asks no favors, no financial aid, no special compensations. All he wants is a chance to prove what he can do, to show that he is a great conductor, and to fill such a position. One of the places for a conductor to prove himself is in the Metropolis competition in New York, but in his several efforts to enter the competition, he was never admitted. How does a man gain recognition when he isn't given a chance to show what he can do? Vacancies for conductors appear in colleges and universities, and in many State and City sponsored orchestral and operatic societies. His physical condition always stands in the way of an appointment despite his superior skills and qualifications.

The aid he has been unable to obtain all these years and the aid he is seeking now is the chance to prove that he is a better conductor than his competition, and deserving of a position in the field—despite his handicap.

Can your committee help a handicapped man in a high level skill—or must he be completely destitute and helpless? Can he pursue his art, or must he re-educate to learn a craft usually taught the handicapped so that they may eke out a meager living?

The more advanced handicapped is also entitled to help—don't you think?

Respectfully yours,

MAX FEINTUCH.

P.S.—My son's name is Gerald S. Feintuch, Flushing, New York.

P.P.S.—He may even be helpful in assisting you to set up a program of aid to the handicapped with high-level achievement. While studying for his graduate degree he was teaching at Queens College on a Fellowship.

By Mr. HANSEN:

S. 3159. A bill to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HANSEN. Mr. President, I am today introducing legislation to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway in Wyoming, and I ask that it be referred to the appropriate committee for consideration.

I believe this to be significant legislation which I call to the attention of my colleagues. This measure would provide that an 82-mile segment of country from West Thumb in Yellowstone National Park to the south entrance of Grand Teton National Park just outside of Jackson, Wyo., be set aside in recognition of a great American. The memorial parkway area would provide both a symbolic and desirable physical connection between the world's first national park—

Yellowstone—and the Grand Teton National Park, a large part of which was made possible through the generosity and foresight of Mr. Rockefeller. It is also fitting that existing roadways, not only within the memorial parkway, but within the two national parks, be identified with Mr. Rockefeller.

Currently, visitors in transit between these two national parks are aware that a 6-mile segment of road which joins Grand Teton and Yellowstone National Parks is under Forest Service jurisdiction, rather than Park Service jurisdiction. This legislation would transfer 23,700 acres of the Teton National Forest to Park Service jurisdiction, thus enabling the Department of the Interior to coordinate and standardize administration of the area, management and development of facilities, and protection of the aesthetic and unique natural aspects of this beautiful country.

One of the major threats to this area, from an esthetic standpoint, has been a growing interest in minerals prospecting. As my colleagues know, there are with the exceptions contained in wilderness areas, no restrictions on minerals explorations in the national forests.

In May of last year, I became aware that 33 placer mining claims had been filed affecting this area between Yellowstone and Grand Teton National Parks. I immediately asked the Secretary of Agriculture to withdraw this area from location under the 1872 mining law, and to protect it from other exploration in connection with the Mineral Leasing Act of 1920. My concern was that some type of mining operation might be established, thus desecrating the truly unique and esthetic value of this fine area, as well as the beauty of the free-flowing Snake River.

The Secretary of Agriculture responded by withdrawing this area from minerals exploration.

Mr. President, I think it is important that the National Park Service assume jurisdiction over this corridor, in order that it may be protected from any future activity that would detract from its natural beauty.

Also important is the fact that this year, Grand Teton and Yellowstone Parks will be the center for commemoration of the 100th anniversary of the national parks system, which began with the establishment in 1872 of Yellowstone Park. The role played by John D. Rockefeller, Jr., philanthropist and public benefactor is known the world over. Not as well known here at home is the fact that this man did more than anyone has ever done to add to, build, and encourage the setting aside of public parks for the enjoyment of all the people.

The designation of this area as the John D. Rockefeller National Memorial Parkway would offer the kind of protection necessary to preserve this magnificent area.

Mr. President, it is important to note that the significant hunting and fishing use of this section of the Teton National Forest would not, in any way, be restricted as a result of approval of this legislation. Further, the use of the road through Grand Teton and Yellowstone National Parks would not be restricted under this legislation.

And, I want, too, to address a concern expressed by some that this legislation would permit development in the corridor that would detract from the area. This concern has been the subject of considerable discussion between myself and officials of the Forest Service and the National Park Service. I ask unanimous consent to have printed in the RECORD at this point a letter which I received on October 29 relating to the proposed development of the area to be designated the John D. Rockefeller, Jr., Memorial Parkway.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 29, 1971.

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: Thank you for your letter concerning the corridor between Yellowstone and Grand Teton National Parks. We are pleased to have the opportunity to outline our thinking on development in this area if it should be established as part of a proposed John D. Rockefeller, Jr., Memorial Parkway. This also acknowledges your letter to the National Park Service.

The portion of the corridor offered for transfer by the Forest Service, Department of Agriculture, to the National Park Service totals about 23,700 acres. The remaining corridor lands, amounting to about 29,000 acres, will be proposed by the Forest Service for wilderness status. Less than half of the corridor then would be subject to facilities development of any sort.

The section which might be administered by the National Park Service contains two active concessioner establishments with motel, trailer, and camping accommodations, as well as a Forest Service campground. In addition to the Highway 89 access, this section is traversed by the Ashton, Idaho, road link which is increasingly used both in summer and winter. The present situation is one of heavy public demand and use, which the Forest Service has recognized by encouragement of concessioner investment and improvement of roads and campgrounds. The recent Forest Service study report contains this statement:

"Present use exceeds the developed capacity of resorts and the Forest Service developed campground, which is 1,935 persons at one time."

In view of the central location which the corridor occupies between the parks, its popularity with visitors is not surprising. In addition, the corridor has its own attractions in the form of hunting, fishing, Snake River float trips, wilderness pack trips, and snowmobiling opportunities. Because of this history of recreation use, should this area come under National Park Service administration, it would be managed under policies for national recreation areas. This policy would entail the least degree of change from previous administration by the Forest Service.

We do not believe that the careful development of visitor facilities to serve this public need would destroy the natural environment of the corridor. Throughout the National Park System, National Park Service master plans, prepared in consultation with interested local bodies and individuals, have been successful in protecting natural values while accommodating the needs of recreationists. The present threat of uncontrolled overuse, as indicated in the Forest Service report, must be countered by prompt planning action to accommodate visitor use in ways compatible with the natural scene.

If the memorial parkway is authorized by the Congress for administration by the National Park Service, you may be sure that a program of development will be planned with due recognition for the problem which your letter brings out. At some time in the development process if it becomes apparent that no more visitor-resource facilities can be provided without disruption to the environment, we would discontinue development within the Federal boundaries with the expectation that adjacent private enterprise, some possibly located in Jackson as suggested, would then fill the demand.

Thank you very much for bringing this matter to our attention and for your concern with the problem.

Sincerely yours,

NATHANIEL P. REED,
Assistant Secretary of the Interior.

Mr. HANSEN. Mr. President, during the course of development of this legislation, I have had occasion to work closely with National Park Service and Forest Service officials, and we have reviewed the positions of the various interested parties. We will be interested in the views of others concerned with protection of this fine area when hearings are scheduled.

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

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

S. 3159

A bill to authorize the Secretary of the Interior to establish the John D. Rockefeller, Jr., Memorial Parkway, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) That for the purpose of commemorating the many signficant contributions to the cause of conservation in the United States, which have been made by John D. Rockefeller, Jr., and to provide both a symbolic and desirable physical connection between the World's first national park, Yellowstone, and the Grand Teton National Park, which was made possible through the efforts and generosity of this distinguished citizen, the Secretary of the Interior (hereinafter referred to as the Secretary) is authorized to establish the John D. Rockefeller, Jr., Memorial Parkway (hereinafter referred to as the "Parkway") to consist of those lands and interests in lands, in Teton County, Wyoming, as generally depicted on a drawing entitled "Boundary Map, John D. Rockefeller, Jr., Memorial Parkway, Wyoming", numbered PKY–JDRM–20,000, and dated August 1971, a copy of which shall be on file and available for inspection in the Offices of the National Park Service, Department of the Interior. The Secretary shall establish the Parkway by publication of a notice to that effect in the *Federal Register,* at such time as he deems advisable. The Secretary may make minor revisions in the boundary of the Parkway from time to time, with the concurrence of the Secretary of Agriculture where Natonal Forest lands are involved, by publication of a revised drawing or other boundary description in the Federal Register.

(b) The Secretary shall also take such action as he may deem necessary and appropriate to designate and identify as "Rockefeller Parkway" the existing and future connecting roadways within the Parkway, and between West Thumb in Yellowstone National Park, and the South Entrance of Grand Teton National Park: *Provided,* That notwithstanding such designation, such roads within the Yellowstone and Grand Teton National Parks shall continue to be

managed in accordance with the statutes and policies applicable to these parks.

SEC. 2. Within the boundaries of the Parkway, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency. Lands and interests in lands owned by the State of Wyoming or a political subdivision thereof may be acquired only by donation. Lands under the jurisdiction of another Federal agency shall, upon request of the Secretary, be transferred without consideration to the jurisdiction of the Secretary for the purposes of the Parkway.

SEC. 3. (a) The Secretary shall administer the Parkway as a unit of the National Park System in accordance with the authority contained in the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented.

(b) The lands within the Parkway, subject to valid existing rights, are hereby withdrawn from location, entry and patent under the United States mining laws.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. SPARKMAN (for himself, Mr. TOWER, Mr. PROXMIRE, and Mr. BENNETT):

S. 3160. A bill to provide for a modification in the par value of the dollar, and for other purposes. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. SPARKMAN. Mr. President, I introduce a bill which may be cited as the Par Value Modification Act. I ask unanimous consent that the bill and a technical explanation of its provisions be printed in the RECORD at this point.

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

S. 3160

A bill to provide for a modification in the par value of the dollar, and for other purposes

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

SECTION 1. This Act may be cited as the "Par Value Modification Act."

SEC. 2. The Secretary of the Treasury is hereby auhorized and directed to take the steps necessary to establish a new par value of the dollar of one dollar equals one-thirty-eighth (1/38) of a fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).

SEC. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association and the Asian Development Bank to the extent provided in the Articles of Agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

SEC. 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates) resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt.

TECHNICAL EXPLANATION OF DRAFT PAR VALUE MODIFICATION BILL

SECTION 1.—SHORT TITLE

This section provides that the bill may be cited as the "Par Value Modification Act."

SECTION 2.—DEVALUATION AUTHORIZATION

Section 5(b) of the Bretton Woods Agreements Act requires that Congress must give prior approval to any change in the par value of the dollar in the International Monetary Fund. Section 2 would give this approval by authorizing and directing the Secretary of the Treasury to take the necessary steps to establish a new par value for the dollar of one dollar equals one thirty-eighth (1/38) of one fine troy ounce of gold or $38.00 per fine troy ounce of gold. The initial per value of the dollar of one dollar equals one thirty-fifth of a fine troy ounce of gold was communicated by the Secretary of the Treasury John W. Snyder to the Fund in 1946.

Once Congressional approval is obtained the Secretary will establish the new par value by communicating it to the Fund. Under Article IV, Section 5, of the Fund Articles of Agreement a change in par value may be made only to correct a fundamental disequilibrium and then only on the proposal of a member, after consultation with the Fund. While the Fund in certain circumstances has a right to object to a proposed change it may not do so if the proposed change does not exceed 10 percent of the member's initial par value. Since the proposed change in the U.S. par value is less than 10 percent of the initial U.S. par value, the Fund may not object to this par value change.

Section 2 would provide that the par value of the dollar in the Fund will establish the relationship of the dollar to gold for international purposes. It does not establish a gold dollar as defined in Section 15 of the Gold Reserve Act of 1934 (31 U.S.C. 444). The gold dollar which would be superseded by this Act was relevant before par values were established in the Fund. The gold dollar is equal to 15 and 5/21 grains of gold nine-tenths fine. This value for the dollar was established by Presidential Proclamation 2072 of January 31, 1934, pursuant to the Thomas Amendment of May 12, 1938 (48 Stat. 51, 52), as amended by Section 12 of the Gold Reserve Act of 1934 (48 Stat. 337, 342).

There is one domestic purpose for which it is necessary to define a fixed relationship between the dollar and gold. Section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b) provides that the amount of gold certificates issued and outstanding shall at no time exceed the value at the legal standard, of the gold so held against gold certificates. In order to set a legal standard for the issuance of gold certificates, Section 2 provides that the new par value shall define the relationship of the dollar to gold for the purpose of issuing gold certificates. Thus, after the new par value is established, gold certificates may be issued on the basis of $38 per fine troy ounce of gold instead of on the basis of the old par value of the dollar of $35 per fine troy ounce of gold.

SECTION 3.—MAINTENANCE OF VALUE

Section 3 of the bill would authorize the Secretary of the Treasury to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association and the Asian Development Bank to the extent provided in the Articles of Agreement of such institutions. Each of the Articles of Agreement in establishing the foregoing international financial institutions contains a provision for maintaining the value in terms of gold of a member's currency when there is a reduction in any member's par value. The provisions to differ in detail and apply to the institutions' holdings of the members' currency, to members' subscriptions or to undisbursed balances of members' subscriptions.

The details of the nature of the obligations and the amount to be paid in with respect to each institution are contained in a report to be submitted separately. Appropriations will be necessary to issue the letters of credit to fulfill the maintenance of value obligations. Section 3 would authorize the appropriation of such sums as may be necessary for this purpose, to remain available until expended. An exact sum cannot be specified since total obligations can only be definitively determined, in most cases, on the basis of dollar holdings as of the day on which the par value is changed.

SECTION 4.—INCREMENT IN VALUE OF GOLD

Section 4 of the bill would provide that the increase in value of gold held by the United States, including the gold held as security for gold certificates, resulting from the change in par value authorized by Section 2 of this bill would be covered into the Treasury as a miscellaneous receipt. Section 7 of the Gold Reserve Act of 1934 (31 U.S.C. 408b) also provides that in the case of any decrease in the weight of the gold dollar, the resulting increase in value of gold would be covered into the Treasury as a miscellaneous receipt. This statute is inapplicable since as a technical matter there would be no reduction in the weight of the gold dollar but, instead, this concept would be superseded by the creation of a new par value for the dollar. Thus, to be explicit about the disposition of the increment in value of gold, Section 4 provides for payment of this increment of approximately $828 million to miscellaneous receipts of the Treasury.

By Mr. SCOTT:

S.J. Res. 199. A joint resolution to recognize Thomas Jefferson University, Philadelphia, Pa., as the first university in the United States to bear the full name of the third President of the United States. Referred to the Committee on Labor and Public Welfare.

Mr. SCOTT. Mr. President, I introduce, for appropriate reference, a resolution recognizing Thomas Jefferson University in Philadelphia as the first university in the United States to bear the full name of our Nation's third President.

Mr. President, Thomas Jefferson advocated the creation of a national university near the Nation's Capital as early as 1786 and as late as 1807. Unfortunately, it never materialized. However, in 1824, the Jefferson Medical College of Philadelphia was founded and 4 years later was granted a university charter. On July 1, 1969, the college changed its name to Thomas Jefferson University.

The title, Thomas Jefferson University, was selected to honor one of the founders of our Nation and to specifically perpetuate his name. At the present time, it is the only university which bears his full name, and since it stands for the principles promoted by Thomas Jefferson, I feel that it is appropriate to offer my resolution today.

Jefferson University's president, Dr. Peter A. Herbut, rhetorically asked:

What could be more fitting for such a monument than—a school which bears Jefferson's name and was created two years before his death—a school which is located in the City of Brotherly Love, only a stone's throw from the Graff House where he wrote the

Declaration of Independence and another stone's throw from Independence Hall where the Declaration was signed, and—a school which is dedicated to the promotion of academic freedom advanced by Thomas Jefferson?

Mr. President, Dr. Herbut's eloquent remarks serve to support the resolution I am introducing today. I urge the Congress to grant it its favorable consideration.

By Mr. DOLE (for himself and Mr. TAFT):

S.J. Res. 201. A joint resolution to establish a joint congressional committee to investigate the causes and origins of U.S. involvement in the hostilities in Vietnam. Referred to the Committee on Foreign Relations.

JOINT COMMITTEE TO INVESTIGATE VIETNAM WAR

Mr. DOLE. Mr. President, the American people have endured more than a decade of combat involvement in the Vietnam conflict. Our participation in that war is being ended, but the question still remains. "Why?" How did we become entangled in the first place? What processes, what decisions, what policies lead us into this decade of death, destruction, and division?

FULL IMPARTIAL ANSWERS

It is with these thoughts in mind, therefore, that I offer a resolution to create a Joint Committee of the Congress for the purpose of investigating the causes and origins of U.S. involvement in the Vietnam hostilities.

A joint congressional committee, appointed by the Speaker of the House and the President of the Senate, will, I believe, provide the fairest, most impartial means of providing these answers with all due speed and with the greatest possible concern for serving the public interest.

At hand is a significant opportunity for the Congress to exercise its constitutional authority and fulfill its responsibility to the American people.

I extend an invitation to my colleagues to join in sponsoring this measure and contribute to furnishing the answers to these questions which are troubling concerned citizens throughout the Nation.

THE FIRST TO DIE

In Saigon, 3 days before Christmas in 1961, a specialist 4th class named James T. Davis left his billet on the street called Hai Ba Troung and boarded a truck for a mission into a province bordering on Saigon. Davis was a member of a highly secret intelligence-gathering organization called the Third Radio Research Unit. He was called Tom by the men of the unit and he was well-liked. He was 25 years old. He had a wife and a son whom he had never seen back in Tennessee. On December 23, Tom Davis was to be returned to the United States to be discharged.

But on that December 22, he was boarding a truck for one last mission. The unit commander, Col. William Cochran, passed the truck and told Davis he did not have to go out—that it was not worth the risk. But Davis did not like Saigon—he wanted to take a few more pictures before he went home. And besides, it was his job, and if he did not do it, somebody else would have to do it. So he stayed aboard the truck.

On a narrow track in Long An Province, Davis' convoy moved, strung out, around a curving road, and suddenly Davis' truck was blown off the road. The ARVN guards on the truck were all gunned down from ambush. Davis' body was found with his carbine. The clip was empty, so it was apparent he had been able to fight back. The stock was broken, which suggested he had fallen heavily when he was hit. And 3 days before Christmas they brought his body back to Saigon to send home to Tennessee.

Davis was the first man to die in the Vietnam conflict.

He was No. 1 of a figure which had reached 45,395 as of January 29.

It was said, among his buddies in the third RRU, that Colonel Cochran had put Davis' name in for a silver star, and that the Pentagon had replied saying it was not authorized, because the medal was only given in time of war. No one seemed to know if the story was true, and no one wanted to risk destroying the nice irony of the whole thing by inquiring.

TENTH ANNIVERSARY

Last December 22, just over a month ago, was the 10th anniversary of that event. Since that event, 56,183 men have died in Southeast Asia. If we had the time, it is probable that each single death could be told as I have told of Tom Davis, and each would show the same elements of chance, of irony, of devotion to duty and to America, of loss of loved ones and to this Nation's future.

We cannot know what we have lost in Vietnam, but as President Nixon said a year ago:

There would have been poets among them, and doctors and teachers and farmers. There would have been builders of this Nation.

We cannot know what was lost to America in the last 10 years. We cannot recount each single story, and know the pain of what was lost to each of these who paid the supreme sacrifice.

But it seems to me that we can know why.

For despite the motives which led to the loss of those lives, whether these motives be noble or base, despite the judgements which lead to such loss, whether those judgements be good or bad, regardless of all this, the loss of these American lives can be redeemed if we learn from these losses lessons that will help bring a lasting peace to this Nation and the world.

WE MUST SEEK LESSONS

We owe it to those who died to seek those lessons. We owe it to their loved ones. We owe it to those who have been crippled and maimed. And most of all we owe it to our chidren and to their children yet unborn to take from the ashes of death and destruction the flame of understanding which alone can insure that those dead have not died in vain.

World War I began because men refused to recognize the meaning of events, and they were mastered by events. When the war was finished, German Chancellor Bethmann-Hollweg was asked: "How did it all begin?" And he replied: "Ah, if one only knew."

In the years leading to World War II, America rejected the lessons it might have learned from World War I. From the seeds of ignorance, the world again reaped the whirlwind of war, and a petty tyrant was able to bully his way up to sit forever astride a legacy of horror that staggers the imagination.

In Korea, we acted on behalf of freedom to repel aggression. And to leave no doubt of the commitment of the free world to maintain its freedom. We had learned from World War II not to tempt tyranny with the appearance of weakness. Whether an alternative course might have been pursued is academic now. At least we know why we fought; we were not drawn by events and indecision into the war.

Today we are in Vietnam. Once having been committed, the rightness of our involvement became secondary to the problem of how to get out. Thus, both parties supported the national leadership in its efforts and in its stated goals.

THE LARGER QUESTION

But the larger question today, as the war draws to a close, must go to the beginning of our involvement—to the days of men like Tom Davis, when our men in Vietnam were called advisers and when their number was surreptitiously creeping up and up beyond limits that the American public knew. Our questions must go to such matters as the murders of Ngo Dinh Diem and his brother and how this period set us irrevocably on the road to the tragic loss, diminution, or disruption of so many lives, both American and Vietnamese.

When the battle flags are brought home, and America has recovered her sons, and the question is asked, "'How did it all begin?" a moral people simply cannot reply with weary indifference, "Ah, if one only knew."

We must know. We have paid bitterly for whatever wisdom there may be in this longest war. And if from that wisdom, we may get peace and reconciliation—and if by that wisdom we may prevent the loss of other, future lives, then should we not seek that wisdom?

I think we must.

Let us act not to condemn nor to condone the actions of the past. Let us rather seek simply to learn from those actions so that the seeds of sacrifice shall not have fallen on barren ground to be blown away in the winds of another war.

Mr. President, I ask unanimous consent to have the text of my joint resolution printed in the RECORD at this point.

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

S.J. RES. 201

Whereas Congress has in the past undertaken investigations to determine the causes of United States involvement in World War I, World War II, and the Korean Conflict;

Whereas complete and accurate information concerning United States involvement in the hostilities in Vietnam is not available because (A) the series "Foreign Relations of the United States", containing documents concerning the policy of the United States toward Vietnam, has been prepared only through 1946, and (B) the Department of Defense study "United States—Vietnam Relations, 1945–1967", known as the "Pentagon Papers" has not been fully disclosed and

does not represent a thorough or independent review of such involvement; and

Whereas the people of the United States have a right to full disclosure of all information concerning the background, origins, and causes of United States involvement in the hostilities in Vietnam: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established a joint congressional committee to be known as the Joint Committee on the Causes and Origins of United States Involvement in the Vietnam Hostilities (hereafter referred to as the "joint committee").

(b) The joint committee shall be composed of the following 14 members:

(1) 7 Members of the Senate appointed by the President of the Senate, 4 of whom shall be members of the majority party and 3 of whom shall be members of the minority party; and

(2) 7 Members of the House of Representatives appointed by the Speaker, 4 of whom shall be members of the majority party and 3 of whom shall be members of the minority party.

(c) The joint committee shall select a Chairman and a Vice Chairman from among its members. Eight members of the joint committee shall constitute a quorum, except that the joint committee may prescribe a lesser number of members to constitute a quorum for the purpose of conducting hearings. Any vacancy in the membership of the joint committee shall not affect its authority, and shall be filled in the same manner in which the original appointment was made.

DUTY OF THE JOINT COMMITTEE

SEC. 2. (a) It shall be the duty of the joint committee to conduct a thorough study and investigation of—

(1) the actions of each President and administration relating to Vietnam since 1945, and the effects of such actions on the committee of the United States to the Republic of Vietnam;

(2) the foreign policy assumptions of each such President and administration relating to Vietnam, with special emphasis on the United States view of the objectives of Communist China and the Soviet Union worldwide and in Southeast Asia and how this may have affected United States involvement in Vietnam;

(3) the diplomatic policy of the United States relating to Vietnam since 1945 and the influence of such policy on the United States commitment to the Republic of Vietnam;

(4) changes in United States military and strategic concepts and doctrines since 1945 and how military concepts and doctrines affected the United States military role in Vietnam; and

(5) Executive-Congressional relations in the context of United States involvement in Vietnam, and the manner in which the overall pattern of the Executive-Congressional relationship on foreign policy matters since 1945 affected Congressional and Executive actions with respect to Vietnam.

(b) Not later than September 6, 1972, the joint committee shall transmit to each House of the Congress a report which shall contain its findings and conclusions. Upon the transmittal of such report, the joint committee shall cease to exist.

ADMINISTRATIVE PROVISIONS

SEC. 3. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and bindings, (9) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under subsection (1) of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such Chairman or member. The Chairman of the joint committee or any member thereof may administer oaths to witnesses.

(c) Upon the request of the joint committee each department, agency, and instrumentality of the executive branch of the Government is authorized and directed to furnish to the joint committee such reports, documents, and information as the joint committee deems necessary to carry out its duty under this joint resolution.

(d) The expenses of the joint committee shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the joint committee or by any member of the joint committee duly authorized by the Chairman.

Mr. TAFT. Mr. President, I am pleased to join with the distinguished Senator from Kansas (Mr. DOLE) in cosponsoring his joint resolution to establish a joint committee to investigate the origins of U.S. involvement in Vietnam. I am particularly pleased that this joint resolution would call for a thorough investigation of "Executive-congressional relations in the context of the U.S. involvement in Vietnam, and the manner in which the overall pattern of the Executive-congressional relationship on foreign policy matters since 1945 affected congressional and Executive action with respect to Vietnam."

In my judgment we have seriously blurred and undermined the constitutional delineations of authority with respect to the war powers of the Congress and the President. It was for that reason that I introduced Senate Joint Resolution 18. This was the first resolution introduced in the Senate last year to limit the power of the President to make war without prior congressional authorization.

On March 25, 1971, I testified before the Foreign Relations Committee in behalf of that joint resolution and stated that—

The framers of our Constitution granted Congress the power to declare war and charged the President with the responsibility of conducting hostilities once they had been lawfully commenced.

I noted, however, that despite that constitutional command, there have been at least 165 instances during the history of this Nation when American Armed Forces have been committed abroad. On only five occasions, however, has war been declared by the United States; and as to one of those, the Mexican War, the declaration occurred after two battles had been fought and the Congress in 1848 adopted a resolution stating that the war was commenced "unnecessarily and unconstitutionally" by the President.

In 1951, my father wrote a book entitled, "A Foreign Policy for Americans." In chapter 2 of that book he said:

In the case of Korea, where a war was already under way, we had no right to send troops to a nation, with whom we had no treaty, to defend it against attack by another nation, no matter how unprincipled that aggression might be, *unless* the whole matter was submitted to Congress and a declaration of war or some other direct authority was obtained.

In that same chapter he also stated:

If in the great field of foreign policy the President has the arbitrary and unlimited powers he now claims, then there is an end to freedom in the United States not only in the foreign field but in the great realm of domestic activity which necessarily follows any foreign commitments. The area of freedom at home becomes very circumscribed indeed.

I believe that the framers of our Constitution showed great wisdom when they invested the Congress with the power to make war and charged the President with the responsibility for conducting that war once it had been lawfully commenced.

It is for that reason that I have consistently voted against congressional resolutions which have attempted to tell the President how the troops should be deployed and when they should be withdrawn from battle. Since the President is Commander in Chief, I do not believe that the Congress has a constitutional right to involve itself in these decisions. However, the Congress does have the right and the responsibility for determining when and under what circumstances American troops shall become involved militarily in other nations.

During the Civil War the Congress established a joint committee on the conduct of the war. It was a very unhappy experience. That committee was not a success because it attempted to involve itself in precisely those questions which are constitutionally reserved for the President.

The congressional committee which is contemplated by this resolution would be entirely different. It would not attempt to second-guess military decisions, but would go to the critical questions as to the way in which we became involved in Vietnam. These questions are of proper congressional concern and I hope that this committee can be established so that the lessons of history will be available to us in avoiding such chapters as this in the future.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2813

Mr. WILLIAMS. Mr. President, I ask unanimous consent that Senator HANSEN, Senator GURNEY, and Senator BAKER be added as additional cosponsors of S. 2813, a bill to amend the Vocational Rehabilitation Act to provide special services, artificial kidneys, and supplies necessary for the treatment of individuals suffering from end-stage renal disease.

I also request unanimous consent that at the next printing of the bill all cosponsors be included, to date, a total of

31 Senators have joined me in cosponsoring this legislation. They are Senators TOWER, BOGGS, RANDOLPH, BEALL, FANNIN, BENNETT, STEVENS, MCGEE, MCGOVERN, HARRIS, MOSS, HOLLINGS, TAFT, GRAVEL, PASTORE, HATFIELD, HUMPHREY, INOUYE, PELL, GOLDWATER, BENTSEN, EAGLETON, PERCY, SCHWEIKER, DOLE, BURDICK, BAYH, HANSEN, GURNEY, and BAKER.

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

S. 2994

At the request of Mr. MCCLELLAN, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

S. 3121

At the request of Mr. SCOTT, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 3121, a bill to extend the Commission on Civil Rights for 5 years.

SENATE JOINT RESOLUTION 180

At the request of Mr. ROTH, the Senator from Maine (Mr. MUSKIE) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of Senate Joint Resolution 180, to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month."

SENATE RESOLUTION 257 AND SENATE RESOLUTION 258—ORIGINAL RESOLUTIONS REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

(Referred to the Committee on Rules and Administration.)

Mr. MCCLELLAN, from the Committee on Government Operations, reported the following resolutions:

S. RES. 257

Resolved, That the Committee on Government Operations is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $40,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

S. RES. 258

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Government Operations, or any subcommittee thereof, is authorized from March 1, 1972, through February 28, 1973, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Government Operations is authorized from March 1, 1972, through February 28, 1973, to expend not to exceed $10,000 for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The Committee on Government Operations, or any subcommittee thereof, is authorized from March 1, 1972, through February 28, 1973, to expend not to exceed $1,785,310 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated ot the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

SEC. 4. (a) Not to exceed $970,000 shall be available for a study or investigation of—

(1) the efficiency and economy of operations of all branches of the Government, including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corrupt or unethical practices, waste extravagence, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government;

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are in violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed, and whether or not organized crime utilizes such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawful business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce, and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; and

(5) riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith the immediate and longstanding causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquillity within the United States.

(b) Nothing contained in this resolution shall affect or impair the exercise by any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this resolution the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1972, through February 28, 1973, is authorized, in its, his, or their discretion, (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents; (2) to hold hearings; (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate; (4) to administer oaths; and (5) take testimony, either orally or by sworn statement.

SEC. 5. Not to exceed $195,000 shall be available for a study or investigation of the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(1) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(2) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents, and skills;

(3) the adequacy of present intergovernmental relationships between the United States and international organizations of which the United States is a member; and

(4) legislative and other proposals to improve these methods, processes, and relationships; of which amount not to exceed $25,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

SEC. 6. Not to exceed $297,310 shall be available for a study or investigation of intergovernmental relationships between the United States and the States and municipalities, including an evaluation of studies, reports, and recommendations made thereon and submitted to the Congress by the Advisory Commission on Intergovernmental Relations pursuant to the provisions of Public Law 86–380, approved by the President on September 24, 1959, as amended by Public Law 89–733, approved by the President on November 2, 1966; of which amount not to exceed $10,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

SEC. 7. Not to exceed $323,000 shall be available for a study or investigation of the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(1) the effects of laws enacted to reorganize the executive branch of the Government, and to consider reorganizations proposed therein; and

(2) the operations of research and devel-

opment programs financed by the departments and agencies of the Federal Government, and the review of those programs now being carried out through contracts with higher educational institutions and private organizations, corporations, and individuals in order to bring about Government-wide coordination and elimination of overlapping and duplication of scientific and research activities;

of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

SEC. 8. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1973.

SEC. 9. Expenses of the committee under this resolution, which shall not exceed in the aggregate $1,795,310, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ADDITIONAL COSPONSORS OF A SENATE RESOLUTION

SENATE RESOLUTION 232

At the request of Mr. CHILES, the Senator from Alabama (Mr. SPARKMAN), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. ERVIN), the Senator from North Carolina (Mr. JORDAN), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal year 1972 be immediately released by the Office of Management and Budget.

SENATE CONCURRENT RESOLUTION 62—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE DOCUMENT NO. 56

(Referred to the Committee on Rules and Administration.)

Mr. MCCLELLAN submitted the following concurrent resolution:

S. CON. RES. 62

Resolved by the Senate (House of Representatives concurring), That there be printed for use of the Senate Committee on Government Operations, one thousand additional copies of Senate Document No. 56, 90th Congress, 1st session, entitled, "State Utility Commissions-Summary and Tabulation of Information submitted by the Commissions" (September 11, 1967).

NOTICE OF HEARING ON LAND ACQUISITION IN NEW MEXICO AND COLORADO BY THE NATIONAL FOREST SYSTEM

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished senior Senator from Mississippi (Mr. EASTLAND), I ask unanimous consent that a statement prepared by him to be printed in the RECORD.

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

STATEMENT BY SENATOR EASTLAND

Mr. President, I wish to announce the Subcommittee on Environment, Soil Conservation, and Forestry of the Committee on Agriculture and Forestry will hold a hearing February 29 on S. 2699, to authorize the acquisition of lands within the Vermejo Ranch, New Mexico and Colorado, for addition to the national forest system. The hearing will be in Room 324 Old Senate Office Building, beginning at 10:00 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

NOTICE OF HEARINGS CONCERNING U.S. TOBACCO EXPORTS

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished Senator from Florida (Mr. CHILES), I ask unanimous consent that a statement prepared by him be printed in the RECORD at this point.

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

STATEMENT BY SENATOR CHILES

Mr. President, I wish to announce the Subcommittee on Agricultural Exports of the Committee on Agriculture and Forestry will hold hearings February 22, 23, and 24 on the implications of the common agricultural policy of the European Community on U.S. tobacco exports. The hearings will be in Room 324 Old Senate Office Building, beginning at 10:00 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

NOTICE OF HEARINGS ON A NOMINATION

Mr. BYRD of West Virginia, for the distinguished Senator from Mississippi (Mr. EASTLAND). Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, February 16, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination.

Wilbur D. Owens, to be a U.S. district judge for the middle district of Georgia.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

ANNOUNCEMENT OF HEARINGS ON H. R. 10729

Mr. ALLEN. Mr. President, the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture and Forestry is having hearings on H.R. 10729, an act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes, on March 7 and 8 at 10 a.m. in room 324 of the Old Senate Office Building. The subcommittee has already held hearings on similar bills, S. 660 and S. 745, and consequently oral statements will be limited to 10 minutes and questioning to 10 minutes. Written statements of any appropriate length may, of course, be submitted. Anyone wishing to testify should contact the committee clerk as soon as possible. All statements should be directed to the House-passed bill.

H.R. 10729, as referred to the committee, contained a number of typographical and technical errors. Some of these were as minor as incorrect indentation or punctuation. Others had somewhat more substance. In order that witnesses might address themselves to a more correct bill the committee staff has prepared a committee print, which is available at the office of the committee, making the necessary corrections and clarifications. In addition, the staff has included in the print several minor amendments on matters which have been brought to the committee's attention, so that witnesses may express their views on these subjects.

Mr. President, I ask unanimous consent that an explanation of the committee print, which appears on the first two pages of the print, may be printed in the RECORD at this point.

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

EXPLANATION OF COMMITTEE PRINT OF H.R. 10729

This print has been prepared by the Committee staff to illustrate suggestions for—

(1) Typographical, technical, and clerical corrections.

(2) An amendment to section 2(n)(2) to require the ingredient statement provided for by alternative (1) to show the name of each inert ingredient rather than the percentage of all active ingredients. This would conform it to the similar provision of existing law. There is no need to show the percentage of all active ingredients, since that can easily be determined by deducting from 100 the percentage of inert ingredients, the latter figure being required to be shown.

(3) An amendment to section 3(c)(6) to give the Administrator discretion as to whether to refuse to register a pesticide at the end of the 30-day period therein mentioned or to allow the applicant additional time.

(4) An amendment to section 3(d)(1)(A) to provide that a pesticide for general use shall be packaged and labeled so that it can be clearly distinguished from the same pesticide packed and labeled for restricted use.

(5) Amendments to section 27 to extend the authority for appropriation to carry out the Act one additional year (to fiscal 1975) due to the lateness of enactment.

(6) Amendments to sections 4(a) and 22(b) to give recognition to the fact that some States, such as New Mexico, may divide responsibility under the Act between two or more State agencies.

(7) Amendments to section 6(d) to provide for referral of questions to the National Academy of Sciences (rather than to a committee thereof) and to provide for its report "within an agreed time" (rather than "within 60 days").

(8) Amendments throughout the bill to remove the word "pesticide" from the designation of certified, commercial, and private applicators, to alleviate the danger that certified or commercial applicators might be referred to as CPA's and confused with certified public accountants.

(9) An amendment to section 2(e) to make it clear that the certified applicator need not be physically present when the pesticide is applied, if it is applied by competent persons acting under his instructions and control.

(10) An amendment to section 24(c) to

make it clear that a State may provide registration to meet specific local needs.

NOTICE OF HEARINGS ON PAR VALUE OF THE DOLLAR

Mr. SPARKMAN. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold hearings on S. 3160, to provide for a modification in the par value of the dollar, and for other purposes.

The hearings will be held on Tuesday, Wednesday, and Thursday, February 22, 23, and 24 and will begin at 10 a.m. each day in room 5300 New Senate Office Building.

Persons wishing to testify or submit written statements for the record on this legislation should notify Mr. Dudley L. O'Neal, Jr., room 5300 New Senate Office Building, Washington, D.C. 20510; telephone 225–7391.

NOTICE OF HEARINGS ON NATURAL GAS POLICY ISSUES

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I ask unanimous consent that a statement prepared by him be printed at this point in the RECORD.

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

STATEMENT OF SENATOR JACKSON

Mr. President, on February 25, 29 and March 2, 1972, the Senate Interior and Insular Affairs Committee will hold hearings to review natural gas policy issues. The hearings are being conducted pursuant to S. Res. 45 which authorizes the Interior and Insular Affairs Committee, with ex-officio representation from the Commerce and Public Works Committees and the Joint Committee on Atomic Energy to undertake a study of National Fuels and Energy Policies. The hearings will be held in Room 3110 of the New Senate Office Building beginning at 10:00 a.m. each day.

The purpose of the hearings will be to review with selected Federal agencies and with selected witnesses the major policy issues related to natural gas supply and demand, exploration, production, distribution, and regulation.

Mr. President, I ask unanimous consent that a statement of the natural gas policy issues the Committee will be considering and asking witnesses to address at the hearings be printed in the record at the conclusion of my remarks.

Due to the limited time available for these hearings the Committee will not be able to take testimony from everyone wishing to testify. The Committee does, however, welcome any statements or recommendations on the policy issues the Committee has identified as important elements in the development of a coherent and comprehensive national energy policy. Any statements received will be carefully reviewed and made a part of the Committee's hearing record.

NATURAL GAS POLICY ISSUES

A. Adequacy of supplies

1. Is the anticipated natural gas supply crisis an actual physical shortage of gas, or is it the result of the structure and regulation of the industry—for example, long-term contracts, "rolled in" pipeline and utility pricing, and F.P.C. field price regulation?

2. How responsive are supplies of associated and non-associated gas, respectively, to changes in:

(a) Field prices of natural gas?

(b) Domestic prices of crude oil?

(c) The rate of percentage depletion, and other tax provisions?

(d) The public lands and OCS acreage offered for lease?

(e) The cost of capital and other aspects of the general economic situation?

3. What portion of present and projected natural gas consumption has an alternative fuel source that could be used without serious economic disruption? To what degree would substantially higher gas prices induce fuel substitution or otherwise reduce demand?

B. Adequacy of resource and reserve estimates

1. Are current Federal procedures for compiling natural gas reserve and supply estimates adequate and reliable (e.g., requiring additional technical data from holders of federal oil and gas leases)?

2. Should the Federal government compile its own periodic survey of natural gas reserves and potential supplies (in addition to those prepared by the American Gas Association and the Potential Supply Committee)?

C. Alternative gas sources

1. What are the anticipated costs (per MCF or per MMBTU in principal markets) for substantial new supplies of gas from each of the following sources? What policy or technological constraints limit the choice of any of these options? Which of these constraints should be dealt with by Federal action?

(a) Natural gas—dissolved and associated?

(b) Natural gas—non-associated?

(c) Natural gas requiring chemical, nuclear or other stimulation?

(d) Synthetic gas from crude oil or naphtha?

(e) Synthetic gas from coal?

(f) Pipeline shipments of natural gas from Alaska?

(g) Pipeline imports of natural gas from Canada?

(h) LNG from Alaska?

(i) LNG from Canada or Venezuela? and,

(j) LNG from the Eastern Hemisphere?

2. What should U.S. policy be with respect to the security of supply of:

(a) Natural gas and LNG from Alaska?

(b) Natural gas and LNG from Canada and other Western Hemisphere sources?

(c) LNG from Eastern Hemisphere sources (including Russia)?

(d) Gas manufactured from imported crude oil or naphtha?

3. Should the Federal Government take the lead in research and development concerning:

(a) Geological and exploration techniques regarding natural gas?

(b) Nuclear and other techniques for stimulating presently unrecoverable gas deposits?

(c) Gas manufacture from crude oil or naphtha?

(d) Gas manufacture from coal?

(e) Gas manufacture from other fossil fuels (oil shale, tar sands)?

(f) High pressure and liquified natural gas pipelines?

D. Federal and State regulatory jurisdiction

1. Is it desirable that regulatory jurisdiction and policy be consistent for inter- and intra-state natural gas sales, and for direct gas sales (e.g., to electric utilities) as well as sales for resale?

2. Assuming that field prices for natural gas continue to be regulated, is it desirable as a matter of national energy policy that F.P.C. jurisdiction extend to:

(a) Pipeline gas imports?

(b) LNG imports?

(c) Synthetic gas manufacture and/or sale?

3. Should Federal regulatory policy assure, or permit state regulation to assure, a preference for producing states in natural gas sales?

4. Should producing states be permitted or encouraged to establish minimum field prices for natural gas in the name of conservation?

E. Federal regulatory policy

1. What would be the impact upon natural gas supply, consumption and prices (for old gas, new gas, and the average) from:

(a) Deregulation of field prices of natural gas?

(b) Deregulation of field prices of natural gas for new sales only?

(c) Increases in field prices for new gas sales at the rate of inflation of the general price level plus 2 or 3 percent per year?

2. Is there any combination of regulatory policies (or decontrol) that would simultaneously realize all of the following objectives:

(a) Provide enhanced incentives to discover non-associated gas and to develop presently marginal gas fields?

(b) Allocate limited supplies of natural gas to the highest value users; and prevent the increasing consumption of gas in uneconomic uses, particularly within producing states?

(c) Prevent large windfalls at the expense of consumers, to owners of low cost reserves?

F. End-use controls

1. Is a national policy establishing end-use controls for natural gas desirable, using either pricing or direct controls? Specifically, what would be the impact upon anticipated natural gas deficiencies, and upon the affected users, of:

(a) a policy in natural gas sales by utilities or pipelines for boiler or industrial use, that prices be no less than the cost of the most expensive gas purchased by that distributor?

(b) a policy that natural gas prices for boiler or industrial use be no less than the price per unit of energy of the cheapest "clean" substitute, for example, low-sulfur residual oil?

(c) a policy prohibiting new sales of natural gas for boiler fuel or any other industrial use for which environmentally benign fuel substitutes are available at reasonable prices?

2. Should there be a federal policy limiting or prohibiting block and promotional rates and advertising for natural gas?

G. Contingency planning

1. What, if any, statutory guidelines are desirable for the Federal Power Commission and the Office of Emergency Planning in dealing with major gas curtailments and other gas contingencies?

H. Gas transportation and distribution

1. Does the adequacy of the natural gas transmission and distribution system depend upon tax treatment of pipeline investment, land use, safety and environmental standards, or other federal action?

2. Is it desirable and possible to plan, develop and, where necessary, modify the existing natural gas distribution system so that it can function as an inter-tied national grid and thereby permit gas exchanges and spot and short-term sales in order to eliminate local curtailments and to economize on reserves and transport capacity?

3. What changes in regulatory organization and policy, anti-trust policy, and in pipeline management and financing are desirable to increase the flexibility of the natural gas transportation and distribution system?

I. Federal leasing policy

1. Is it desirable to accelerate Federal leasing for oil and gas onshore, offshore, and/or in Alaska? If so, on what standards and pursuant to what criteria, should the Interior Department determine the rate, location, and timing of lease offers?

2. Are there changes in the present procedures and policy on bidding (e.g., royalty bidding, deferrable bonus payment) that would broaden interest and increase competition for Federal leases on the Outer Continental Shelf?

3. Are there other changes in Federal lease provisions and policy (e.g., regularity of sales, length of lease, size and configuration of tracts) that would encourage exploration and development of new gas reserves?

4. Are there special environmental risks associated with oil and gas exploration by independent operators not currently engaged in OCS development that call for special lease conditions (e.g., partial exemption from environmental standards, bonding, Federal liability insurance)?

ADDITIONAL STATEMENTS

BUSINESS WEEK ON THE ENERGY CRISIS

Mr. PROXMIRE. Mr. President, Business Week, which has over the years shown a remarkable sensitivity to our Nation's needs, recently published an editorial concerning the coming energy crisis. I think it presents an accurate, short analysis of the problems and would like to commend it to the Senate's attention. I ask unanimous consent that it be printed in the RECORD.

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

THE COMING ENERGY CRISIS

In oil and gas, as in other resources, the U.S. is becoming a have-not nation. Gas shortages have already appeared in parts of the country, and production is expected to decline in the years ahead. Oil output is leveling off. It will be about the same in 1985 as it is today, according to industry projections. In the same period, U.S. energy consumption will double.

The result, inescapably, will be a rising dependence on supplies of foreign oil. While nuclear power plants and increased coal output will fill part of the energy gap, the National Petroleum Council figures that oil imports will jump from 3.4-million bbl. a day in 1970 to nearly 15-million in 1985.

This shift toward dependence on foreign oil is occurring just at the time when the international oil business has switched from a buyers' to a sellers' market. And it will remain so, because worldwide energy demand is doubling every decade, creating an insatiable thirst for fuels. The circumstances give enormous bargaining power to Middle Eastern and North African countries that control 70% of the world's oil reserves. They are using it to extract the highest prices the traffic will bear and to gain a bigger role in international operations that were once the exclusive preserve of the big oil companies. In an emergency, they could threaten customers with a cut-off of oil supplies.

To avert a full-fledged energy crisis at some time in the future, the U.S. needs something it has never had: a national energy policy. The present system of ad hoc controls and contradictory objectives imposed by competing agencies on different fuels will no longer do.

The U.S. must consider for the first time how to limit its energy demands and allocate energy to the most essential uses. It must begin to think in terms of conserving its dwindling energy resources.

PUBLIC RELATIONS IN THE U.S. SENATE

Mr. SCOTT. Mr. President, most people are unaware of the immense interest which exists in the area of public relations. Not only do the businesses and industries and Government agencies have their own teams of public relations experts, but even individuals have public relations specialists.

Now one of my distinguished constituents in the Commonwealth of Pennsylvania, Bruce Butler, has turned to his own profession to examine its practices and has embodied his studies in a master's thesis entitled "Public Relations in the U.S. Senate."

In a professional Public Relations Journal published by the Public Relations Society of America, Mr. Butler's thesis in the December issue has been cited as one of three outstanding theses of some 535 theses written on government and politics.

I extend my warmest congratulations to Mr. Butler for his outstanding study of the public relations practices of the Senate of the United States. I ask unanimous consent that two news stories from the Scranton Tribune and the Scranton Times concerning this singular honor bestowed on Mr. Butler be printed in the RECORD.

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

BRUCE BUTLER RECOGNIZED BY JOURNAL

Bruce E. Butler, public relations director of the Pennsylvania State University's Wilkes-Barre and Scranton Campuses, has received academic recognition in the December issue of the "Public Relations Journal."

In an article published in the Journal, monthly publication of the Public Relations Society of America, Inc., Butler has been cited for his 1963 Master's Degree Thesis.

The article, entitled "Two Decades of Scholarly Research About Public Relations," lists Butler's Thesis on "Public Relations in the U.S. Senate" as one of 16 thesis of 661 unpublished manuscripts now on academic shelves completed during the 1950s and '60s.

Raymond Simon, author of the article, is chairman of the division of business administration and professor of public relations at Utica College of Syracuse University. Simon lists Butler's Thesis, which provides a partial listing of master's thesis and doctoral dissertations, and indicates there should be substantial interest in these manuscripts on the part of the practitioners.

ONE OF 16 MENTIONED—PUBLIC RELATIONS JOURNAL HONORS BUTLER FOR THESIS

High honors have been accorded a Scrantonian who is serving as public relations director for the Pennsylvania State University's Worthington Scranton and Wilkes-Barre Campuses.

Bruce E. Butler's thesis on "Public Relations in the U.S. Senate" is one of only 16 mentioned in an article appearing in the latest issue of the public relations journal "December," a professional PR journal published monthly by the Public Relations Society of America, Inc.

Son of Mr. and Mrs. Joseph M. Butler, 891 North Main Ave., Butler graduated Scranton Central High School and received a BS degree with a major in sociology and minor in philosophy from the University of Scranton. He received his MA degree in public relations from American University in 1968.

Of 535 masters' thesis published over the past two decades, 1950–60 and 1960–70, Butler's is one of three mentioned on the government and political areas.

Butler is married to the former Mary Gene McDade and is the father of five children, Ann Catherine, Bruce, Erin, Jeffrey and Mary Gene. The Butlers reside at 1701 Monsey Ave.

Butler holds professional memberships in Public Relations Society of America, PRSA Northeast Chapter, Wyoming Valley Public Relations Society and is PR cochairman of Scranton Chamber of Commerce. He has been with Penn State University since graduating from American University in 1968.

The article in which Butler is accorded honors for his masters' thesis, is entitled "Two Decades of Scholarly Research About Public Relations" and is written by Raymond Simon.

Butler's listing is in a table of masters' thesis and the author says there should be substantial interest in this and other manuscripts on the part of the practitioners.

In fact, thanks to a grant from the Public Relations Research and Education Foundation, a 35-page bibliography listing thesis and dissertations completed in the past decade has been compiled and is available for $3.

The bibliography is divided into major subject areas and includes the title of the thesis or dissertation, author, college or university where the work was completed and year of publication.

The author says "One would hope that this relatively untapped source of research about public relations will be used extensively by practitioners and future researchers!"

RURAL ELECTRIC SYSTEMS

Mr. ALLEN. Mr. President, last year, the Senate took a long step forward in recognizing the contributions which rural electric systems make to the local economy in the rural areas they serve. After hearing leaders of the rural electric cooperatives themselves, the Senate and the House agreed on an appropriation of $520 million plus $25 million as a contingency reserve, for a total of $545 million to be used as REA loans for improving rural electric service.

This was the largest amount ever appropriated by the Congress in any one fiscal year, from the modest beginnings of the rural electrification program 37 years ago.

The record will show that for several years prior to fiscal 1972, REA's loan program had leveled off in the neighborhood of $345 million or less. During these same years, however, the requirements of the rural electric systems for new capital continued to grow. Nearly a thousand of these locally owned rural systems, operating in the thinly populated areas, need additional loan funds to update and improve their lines and to construct facilities to serve new consumers moving into their service territories. As in other sectors of our economy, the extra costs of an inflated economy and environmental concerns in recent years have escalated the requirement for REA loan funds.

Both REA, as the Federal lending agency, and the National Rural Electric Cooperative Association agreed that the loan needs for fiscal 1972 were more than $800 million. It was realized that the National Rural Utilities Cooperative Finance Corp., newly created and owned by the rural electric systems themselves, could be expected to supply only a small portion of the financing in this first year of its lending operations. Yet the Office of Management and Budget, confronted with a variety of drawndown pressures on the U.S. Treasury balance, appeared through the first half of fiscal 1972 to be holding the line for the orig-

inal budget proposal of $3.29 million to be used in REA loans, instead of the $545 million appropriated by the Congress.

Happily, on January 6, 1972, OMB released an additional $109 million for the rural electrification program. This left $107 million in REA funds still impounded but we have been told that these moneys would be released next July. Secretary of Agriculture Earl Butz said at the time of the release that President Nixon is "intensely aware of the loan needs" of the nearly 1,000 rural electric systems financed by REA in 46 States.

In running for President of the United States, President Nixon once said, in a campaign statement:

These are my objectives for the REA program: (1) Assure that enough funds are made available to meet all loan needs of REA borrowers. (2) Maintain the present interest rates for activities clearly related to the needs of rural areas. (3) Help provide abundant electric power for REA borrowers, including the use of REA generation and transmission loans where needed and feasible. (4) Support the long-standing objective of REA to help its borrowers become even stronger local enterprises, recognizing their local nature and their desire not to have their board decisions dictated by Washington. (5) Oppose any action which might weaken the rural service organizations which have been built by REA operations in farm and rural areas.

I should like to respectfully remind the President that even with the release of the still-impounded $107 million, rural electric systems will face a money crisis. If President Nixon's five stated objectives for the REA program are to be reached, it is essential that sufficient funds be appropriated, and that those funds be made available to the REA Administrator for lending. The full amount which Congress appropriated after careful study of the programs needs should be released soon, certainly before the end of the current fiscal year, so that the REA staff can administer its lending program in an orderly and efficient manner as mandated by law.

ASSISTANCE IN SETTLEMENT OF SOVIET JEWS IN ISRAEL

Mr. JAVITS. Mr. President, I am pleased to join as a sponsor in the bill (S. 3142) introduced yesterday by the junior Senator from Maine (Mr. MUSKIE) to authorize the Secretary of State to furnish financial assistance for the resettlement in Israel of Jewish refugees from the Soviet Union.

The immigration of beleagured Jews from the U.S.S.R. to Israel was a trickle of 1,000 in 1970, a flow of 13,000 last year, and is expected to grow to a heavy stream of some 40,000 this year. Only last month 330 arrived on one El Al flight.

Israel, with its limited resources strained to the utmost in securing its defenses and in providing for other impoverished refugees from the Middle East and elsewhere who came in previous waves, is burdened almost beyond endurance in dealing with this new wave who come from the Soviet with almost nothing in the way of goods, enriched only by a desire to be free. This bill will help in carrying the new burden.

This legislation is in keeping with the statement of Secretary of State Rogers in October 1970 when he declared:

We believe that free movement is one of the basic human rights of all persons. We have expressed sympathy and support on many occasions for persons in the Soviet Union who wish to emigrate, often to rejoin their families elsewhere, but who are denied permission to do so. We shall continue to make these views known and to take every practical measure which could overcome the hardships suffered by such persons.

This legislation is one of those practical measures to overcome the hardships suffered by these refugees which can be undertaken by the United States. Since World War II, this Government has contributed $2.8 billion for refugee relief, about $500 million of which, for example, was for Arab refugees. The assistance contemplated by the measure being introduced today is another step forward in our national policy of aid to the homeless.

As a member of the Committee on Foreign Relations, I shall cooperate in the prompt consideration of this bill in order that the Jews of the Soviet Union who seek to be free might begin anew their lives in an atmosphere of freedom and tolerance.

U.S. HOME PORT IN GREECE

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Washington Post of February 8.

This agreement with Greece will not be submitted to the Senate for approval.

I predict that it will result in a very large expense to our country and that eventually we will be asked to leave when and if the Democratic forces in Greece are allowed to express themselves.

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

UNITED STATES TO GET HOME PORT IN GREECE

(By Stephen Klaidman)

The United States and Greece have reached agreement on the use of Piraeus as home port for a carrier task force of the Sixth Fleet, the State Department announced yesterday.

Details are now being worked out in Athens between U.S. Ambassador Henry J. Tasca and the Greek government.

Final agreement is expected in a matter of months. It is expected that about 3,500 dependents of Sixth Fleet personnel and their households will be installed in Greece by the U.S. government.

Piraeus the port of Athens, will become the main Mediterranean home port for the fleet, which also has a facility at Gaeta, Italy. The move will enable more Sixth Fleet ships to remain on station for two years at a time, rather than the present six months because of the need for sailors to return to the United States to see their dependents.

State Department spokesman Charles Bray in announcing the agreement in principle, cited reduced costs in a period of tight defense budgets and the Soviet naval buildup in the eastern Mediterranean as two of the major reasons for the agreement.

He did not say what form the arrangement with Greece would take, but he indicated that it would not be a treaty, which would require Senate approval.

Bray said, however, that key senators and members of the Senate Foreign Relations Committee and the House Foreign Affairs Committee had been consulted about the negotiations with Greece. He also said that NATO members had been informed and that he was not aware of any objections.

There is opposition in the United States and among the northern members of NATO to any action that could be construed as aiding the Greek military junta.

Asked whether the administration would try to circumvent such adverse opinion at home by seeking an agreement that did not require Congressional approval, Bray cited his earlier statement that individual members of Congress had been consulted, but he did not answer the question directly.

NATO approval is not necessary for such an agreement between Greece and the United States, both of which are alliance members.

Greece will benefit from the agreement to the extent that the 3,500 dependents will spend money there, facilities will probably be built for them and perhaps at some future date the United States will modernize and enlarge the Piraeus harbor.

When asked why the United States made the home port arrangement with a regime that is "repugnant" to many Greek and Americans, instead of elsewhere in the Mediterranean, Bray said:

"We have expressed disappointment at the slow pace at which democracy is returning to Greece," but we've also said that "when U.S. and NATO security is involved" we would do what was necessary, indicating that Piraeus was the best available location.

DISCOUNTS FOR WELFARE RECIPIENTS AT SKI RESORTS

Mr. CURTIS. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Mr. Larry Stammer, published in the February 2, 1972, edition of the San Jose, Calif., News. The article relates to the latest welfare folly—discounts for welfare recipients at ski resorts.

The article hardly needs comment, except to say that in any "can you top this" contest on welfare abuses, Mr. Stammer's revelation surely would deserve some kind of prize. Is it any wonder the American taxpayer is fed up with welfare? Twenty-five welfare recipients able to afford a weekend at Squaw Valley—even with a $3 discount on ski-lift tickets—are clearly 25 too many.

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

BARGAIN FOR SKIERS ON DOLE STIRS DISPUTE—WELFARE DISCOUNT OFFERED

(By Larry Stammer)

SACRAMENTO.—A flurry of controversy is developing in the High Sierra over whether to give welfare recipients a lift.

Squaw Valley ski resort says yes. But other resorts catering to super skiers say no.

Even county welfare departments are at odds.

DISCOUNT

Skiers returning to Santa Clara County after a fun-filled weekend at Squaw Valley reported that resort is offering welfare recipients a $3 discount on $9 ski lift tickets every Friday.

Employes at the former Winter Olympics Games site confirmed the reports. "But we really don't have that many (recipients) come up here," a sweet young voice said over the telephone.

So presumably, once the welfare recipients rented or purchased skis, bindings, poles, boots and ski clothes, drove to the high coun-

try and carried extra change for meals he could take advantage of the $3 bargain.

PROOF

How does one prove he's on welfare? "Oh, there's no set way, really," the voice said. "I guess you show your food stamps or something."

Squaw Valley's public relations man Hans Vonnolte said the program for welfare recipients started about a month ago and "not more than 25" welfare recipients take advantage of it each Friday.

"We have various group programs," Vonnolte said. "We have programs for local areas, for military personnel and on Thursday we have discounts for doctors, veterinarians and professional people. For Friday we thought we'd make it a day for welfare recipients."

He explained, "I'm not talking about the food stamp receivers, but about persons laid off in the Sunnyvale area, for example, who have been hurt by cutbacks in federal spending.

Word of the welfare discount caught other resort operators by surprise.

"Really?" a girl at another resort asked.

A woman working at Heavenly Valley Ski Resort who asked not to be named told the News, "I just heard about it at the hair dresser this morning. As a taxpayer, I would object to it myself."

Milton Lewis of Sugar Bowl resort added, "It seems to me skiing is something you do over and above other bills you have if you're on food stamps or AFDC (Aid to Families with Dependent Children.)

Bear Valley, Incline Vallage and Boreal Ridge said they, too, offered no special discount to welfare recipients.

But Bob Dunbacher at Bear Valley said, "We've never heard of it before but there is a possibility it might be arranged. The boss always tries to bend over backwards to accommodate such requests," he said Bear Valley, as do all resorts, offer special discount packages for groups, especially on weekdays.

Welfare department employees differ on the subject.

Helmuth Stobbe, assistant dirctor of income maintenance for the Santa Clara County Social Welfare Department, said he thought the department would inform its clients of the service if it knew about it.

OPPOSING VIEW

But Larry Coleman, deputy director of the Sacramento County Welfare Department, said his department would not.

Both agreed welfare recipients, unless they lived in Truckee, could ill afford a ski trip, especially when the recreation allowance in their monthly welfare check ranges from $1 to $3.

"Usually a family couldn't even begin to go," said Stobbe.

Coleman said Sacramento County would not inform its recipients of the $3 discount. "We would make a judgment offhand that a client couldn't use it because he couldn't afford the trip," said Coleman.

THREE DOLLARS FOR RECREATION

The average mother with three children and no husband in the house receives about $280 a month, Coleman said. Of that about $3 is earmarked for recreation.

However, there is little to stop a recipient from spending more of his welfare check on recreation than $3. Coleman explained that the federal government has insisted upon a "flat grant" approach under which recipients are given a prescribed total each month. It is left up to them how to spend it.

In cases where there has been obvious abuse, the welfare department can issue restrictive payments and, for example, pay the recipient's landlord directly.

But, otherwise, it is possible—although a mother on welfare interested in her children would probably not consider it—to spend a fun filled weekend in the snow.

DEATH OF FORMER SECRETARY OF COMMERCE SINCLAIR WEEKS

Mr. SCOTT. Mr. President, I note the passing of Sinclair Weeks, Secretary of Commerce in the Eisenhower administration from 1953 until 1958.

Mr. Weeks was an outstanding public servant and played important roles in the development of the administration of President Eisenhower. I offer the deep sympathy of the Senate to the family.

Mr. President, I ask unanimous consent that the New York Times article of February 8 be printed in the RECORD.

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

SINCLAIR WEEKS IS DEAD AT 78; SECRETARY OF COMMERCE 1953–58: EARLY BACKER OF EISENHOWER RAISED $6 MILLION IN 1952—PUSHED ECONOMY DRIVE

CONCORD, MASS.—February 7. Sinclair Weeks, Secretary of Commerce in the Eisenhower Administration from 1953 until he resigned in 1958, died today. He was 78 years old and made his home at Cat Bow Farm, Lancaster, N.H.

Mr. Weeks' first wife, the former Beatrice Dowse, died in 1945. He was also formerly married to Jane Tompkin Rankin of Nashville. That marriage ended in divorce.

He leaves his wife, the former Alice R. Low, whom he married in 1968; 3 sons, William D. Weeks of Cohasset, John W Weeks of Belmont and Sinclair Weeks Jr. of Dedham; 3 daughters, Mrs. Frances W. Hallowell of Westwood, Mrs. Martha W. Sherill of Boston and Mrs. Beatrice W. Bast of Ambler, Pa.; 4 stepchildren, 25 grandchildren and 7 great-grandchildren.

A memorial service will be held at 2 P.M. Thursday at the Harvard Memorial Church in Cambridge. Another service will be held at 2 P.M. Friday at the Lancaster Congregational Church

SKILLFUL MONEY-RAISER

When Dwight D. Eisenhower became President in 1953, it was virtually certain that Sinclair Weeks would not only obtain an important post in the new Administration, but would also play an important role in the President's political future.

As one of the most influential Republican leaders, Mr. Weeks, a skillful and persuasive money-raiser, was reported to have raised more than $6-million for General Eisenhower's campaign.

He was one of the first important Republicans to back the five-star general for the Presidency, an endorsement that was at first not overly popular in the upper echelons of the party.

In a dramatic announcement, he called upon Senator Robert A. Taft of Ohio, the leading contender for the nomination, to "perform a supreme act of self-denial that will electrify the nation" by withdrawing from the race.

Mr. Taft called the suggestion "ridiculous" and caustically commented that "Mr. Weeks does not have much ability as a politician as he has as a campaign fund-raiser."

But whether Mr. Weeks reflected or caused the change in Republican sentiment away from the Ohio Senator and toward the eventual victor, the tide of support had irrevocably shifted to General Eisenhower.

POLITICS A FAMILY TRADITION

The tradition of politics was strong in Mr. Weeks' family. His father, John W. Weeks, served five years in the House of Representatives and for more than 25 years in the Senate.

The senior Mr. Weeks also was Secretary of War in the Cabinets of Warren G. Harding and Calvin Coolidge. Two other members of the Weeks family has also served in the House.

Sinclair Weeks was born in West Newton, Mass., on June 15, 1893. His father, a graduate of the United States Naval Academy was an important figure in financial circles in Boston. In 1888, the elder Mr. Weeks was co-founder of the stockbrokerage firm of what is now Hornblower & Weeks, Hemphill, Noyes.

After attending public schools in Newton and graduating from Harvard College in 1914, Mr. Weeks worked for two years as a clerk in the First National Bank of Boston.

In World War I, he served as an artillery captain in New England's 26th (Yankee) Division. After the war, he returned to the bank, where he was made cashier. He later left to become a director of a metals manufacturing concern and, in 1928, was named a vice president of Reed & Barton, silversmiths.

LOST TO LODGE IN 1936

After having been alderman and Mayor of Newton, following in his father's footsteps, Mr. Weeks engaged in his first major political battle in 1936—for the United States Senate—against a member of another distinguished political family in Massachusetts, Henry Cabot Lodge Jr.

Mr. Lodge won the Republican nomination and later the election. When he resigned early in 1944 during his second term to join the Army, Mr. Weeks was named by Gov. Leverett Saltonstall to fill out the unexpired term.

When his 10-month Senate stint ended, Mr. Weeks returned to Massachusetts to resume his business connections.

Earlier he had continued his ties to the Republican State Committee and was named chairman of the committee on finance. He also held the post of chairman of the Republican National Committee for the Eastern United States.

In 1940, Mr. Weeks backed Wendell L. Willkie for the Republican Presidential nomination and assumed the powerful party post as chairman of the executive committee of the national committee. From 1941 to 1944 he was treasurer of the Republican National Committee.

Mr. Weeks became Secretary of Commerce on Jan. 21, 1953, and immediately instituted a program of economy in the department. Wherever possible, he turned over to private industry functions that had been performed by the Government.

He also sought to guide American businessmen in foreign investments with the aim of cutting down the amount of foreign aid distributed by the United States.

However, one of Mr. Weeks' attempts to prevent interference with private industry backfired in 1953. It was disclosed then that he had forced the resignation of Dr. Allen V. Astin, head of the Bureau of Standards.

Dr. Astin's department had ruled that a product that had been advertised as giving longer life to storage batteries was totally ineffectual. The Commerce Secretary objected to the ruling, saying that Dr. Astin "had not been sufficiently objective."

After a storm of protests by scientists, Dr. Astin was kept at his job and his ruling on the project upheld.

The next year, he was reelected director of the First National Bank of Boston, a post he had held before he became a Cabinet member.

ON ADVISORY COUNCIL

In 1959, Mr. Weeks was appointed to the Commerce Department's Business Advisory Council, a panel comprised of 150 industrial leaders who presented the business community's viewpoints to the Secretary.

He joined Hornblower & Weeks, Hemphill, Noyes in 1964 as a limited partner.

In 1968, Mr. Weeks was one of a group of 140 former officials of the Eisenhower Admin-

istration who endorsed the candidacy of Richard M. Nixon.

Mr. Weeks was former president and chairman of Reed & Barton, chairman of the United-Carr Fastener Corporation, and a director of the National Association of Manufacturers, the Gillette Company, the Pacific Mills Company, the Pullman Company, the New Hampshire Insurance Company, the Lancaster National Bank, the John Hancock Mutual Life Insurance Company and the West Point Manufacturing Company.

In 1970, he was honored by the University of New Hampshire with its Charles Holmes Pette Medal for "outstanding service to the state, nation and the world."

He was an overseer of the Harvard Corporation, a corporation of Northeastern University and, after his retirement, a trustee of the University of New Hampshire, the Amos Tuck School of Business Administration of Dartmouth College and the Fessenden School and chairman of the board of trustees of the Wentworth Institute.

THE U.S. TRADE DEFICIT

Mr. ALLEN. Mr. President, last year the United States suffered its most severe trade deficit in history and its first trade deficit since 1888.

Our trade imbalance—the difference between what we imported and what we exported—was $2.05 billion in 1971 as compared with a 1970 surplus of $2.7 billion. We thus see that our Nation experienced an adverse swing on its foreign trade account of $4.75 billion from 1970 to 1971. In view of the inequitude of these figures, I think it has become obvious to all that our Nation can no longer afford to continue to follow policies in the field of international trade which obviously have become outmoded, unrealistic and unworkable.

This very point was developed in a highly articulate fashion by Mr. M. O. Lee, who is chairman of the Vanity Fair Corp., in an address before the Alabama State Chamber of Commerce on November 18, 1971. As a businessman, and as a leader in textiles, perhaps the most beleaguered of all major industries, Mr. Lee described in a definitive and convincing manner the results of a generation or more of free trade—one in which the United States has opened its ports to competitors the world over, who in some cases have denied outright any access to their markets.

Mr. Lee suggests that it is time to "Buy American"—that it is time we faced squarely, and fairly, the competitive threat to our economic stability. I not only share his view, but commend to the Senate his thoughts, so well expressed in his recent address. I ask unanimous consent that the address be printed in the RECORD.

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

REMARKS OF M. O. LEE

My sincere thanks for your very kind welcome. Alabamans have had a long tradition for gracious treatment of their guests, and I am delighted to be a beneficiary of your hospitality.

I would not violate that hospitality by commenting on the Alabama-Auburn football game. The sports writers say that the winner will probably play number one—Nebraska—in one of the Bowl games. I must tell you I was born and grew up in Nebraska. So on behalf of the Cornhuskers from New Jersey, Pennsylvania and Ohio who have been attracted to Nebraska by the good weather, high educational standards, and other factors of interest to athletes, may I ask you—and particularly the Alabama and/or Auburn football squad—to treat our poor little Nebraskans kindly and gently—and with real Southern hospitality.

While we share a common interest in football and the Bowl games, more important is the common concern we share for what happens to American business and workers, here in Alabama and throughout the nation. I, as a representative of one of the nation's largest apparel manufacturers, you, as leaders of Alabama industry. Our destinies are linked. And I welcome this chance to discuss the problems . . . and opportunities we share jointly.

Despite the success of Nebraska, Alabama, and Auburn on the football field, 1971 has been a pretty tough year. We can point to a lot of things that happened which we don't approve.

But the truth is: 1971 was not all negative. I believe that in the future it can be said of this year that it was a twelve months when the people of this nation rejected mob rule and the hippie philosophy of something for nothing . . .

. . . a period when the leaders of this nation—in Washington, in industry and in labor—finally said enough to the tidal waves of unrestricted imports that have been engulfing us; enough to monumental trade deficits; enough to discrimination against American capital and goods abroad; and enough to inflation, the silent thief that has been robbing us of our savings and sapping our will to work.

As a member of an industry that is labor intensive and only partially susceptible to automation, I am very much concerned with the current state of international trade and its repercussions upon our apparel industry. Today I would like to discuss with you the nature and possible cure for the flood of imports that has already destroyed portions of our industry; that has helped raise unemployment in our country to unacceptable levels; that has cut already low margins of profit in many companies; and that threatens to turn our nation into a dumping ground for products that we will eventually be unable to pay for.

Alabama is a state vitally dependent upon apparel and textiles. Some 229 apparel plants in your state employ over 41,000 workers. The textile industry in Alabama adds another 43,000 workers operating 129 plants. Twenty-six out of every 100 manufacturing workers here in Alabama depend upon textiles and apparel for a livelihood.

VF Corporation has 16 plants in Southeastern United States and employs 18,000 people of which 8,000 are employed in Alabama.

How can our workers compete with those in Japan who average 39 cents an hour in the apparel industry; with those in Hong Kong where the average hourly wage for clothing workers is 26 cents; with Taiwan and its 15-cents-an-hour scale and with Korea which pays its workers an average of nine cents an hour in the apparel industry? Try to compete with them.

Here in Alabama, your steel industry and your chemical industry and your textile industry have also been undercut by imports from nations whose wage scales are sharply below yours. We would like to compete with foreign producers, but would like to do so on equal terms. We are handcuffed by wage scales, tax laws, policies and regulations that most foreign producers do not have to put up with.

Alabama, then, is a state that knows firsthand the effects of unfair competition from abroad.

How did this situation arise? How did we lose our preeminence in international trade?

Five years after World War II ended, we were the undisputed No. 1 industrial power in the world. We still are. But our position is fast slipping. In the past two decades, the growth rate of our gross national product has ranked third from the bottom among the 21 leading nations of the globe.

Two decades ago the American dollar was the world's most respected currency—that standard by which all others were measured. It no longer is. It was a shocking experience for Americans this past summer to have their dollars rejected by Europeans.

In 1950, mills in Pittsburgh, in Chicago and in Alabama produced almost half of the world's steel production. Today, these mills account for a mere one-fifth of all steel production.

Two decades ago, Detroit produced three-quarters of all automobiles in the world, and we had a sizable export trade in automobiles. Today, our share of the world market of automobiles has shrunk to just one-third. Thirty-five percent of new car registrations in California are foreign.

After World War II, our shipyards were the largest and finest in the world. Last year, they produced only 2 percent . . . 2 percent of the world's merchant ships.

Our machine tool industry was once the pride of the world. We have backed into fourth place.

Now the industry with which I am intimately concerned—textiles and apparel—has been nothing short of a disaster area, as a consequence of our overly liberal trade policies.

A respected figure in the American footwear industry has estimated that imported footwear has wiped out 76,250 job opportunities in this country alone by 1969. By 1975, the figure could reach 169,200. Four years ago, footwear imports were 22 percent of the U.S. market. This year they are around 36 percent and heading for the 42 percent zone.

Another respected figure, this one in the textile industry, has estimated that to produce the 1969 volume of imported textiles and apparel products would have required about 250,000 textile and apparel jobs.

Today, the American Apparel Manufacturers Association estimates, one out of every two women's sweaters sold in this country is imported; one out of three men's dress shirts sold is imported; and one-third of all women's blouses consumed in the U.S. is imported.

If you want to see how fast imports can penetrate a market, one need only look at the panty hose market, where imports went from virtually nothing to 10 percent of domestic production in 18 months.

Textiles, particularly hard hit, have been suffering a trade deficit since 1958. Last year, $1.6 billion more textiles and apparel products were imported into this country than exported.

The United States practically "invented" the man-made fibers industry. Imports of man-made fibers have risen from less than 1 billion equivalent square yards in 1967 to a current annual rate of nearly 4.4 billion.

This appalling state of affairs has had a direct effect on American industry. Among textile mill product companies, after tax profits to sales have tumbled from an average of 3.6 percent to 1.9 percent in a five-year span (1966–70). Apparel makers' profits during the same period have gone from 2.5 percent to 1.9 percent.

Bankruptcies are as common in the textile and apparel industries as the boll weevil in the cotton field.

My company, the VF Corporation, has progressed against this general trend. There are several reasons for this. Our emphasis has been on man-made fibers. This is an area in which foreign competitors have only recently zeroed in. In addition, we have stressed

quality and fashion and price levels that position us strongly in the competitive battle. And I might add VF has had the financial resources and the commitment that have enabled us to make technological, production and management advances—not really common in our industry.

We are confident we can continue to grow and prosper—and that our industry can recover—if people, first, begin to understand the problems, then respond in attitudes, in conviction, in buying practices.

People must recognize that the problem is not caused simply by differences in labor costs between the U.S. and foreign countries—not by our inflation, nor by the effects of U.S. business investments abroad . . . nor by the Vietnam war and military expenditures. Despite the over-simplified explanations you often hear for our plight, I believe that like everything in human affairs, there is no single factor behind this appalling state of affairs. Nor can we place the blame on external cause for all our economic distress.

Part of the decline in American prestige, in American influence, in share of the world markets was inevitable . . . it was bound to happen in the normal course of events. We could not remain kingpin and dominate every single aspect of the world economy forever . . . it was bound to happen in the normal course of events. We could not remain kingpin and dominate every single aspect of the world economy forever . . . as much as some of us would like to. Other countries have the same aspirations and drive and high technical skills that we do, although they may not have the same resources.

But, of course, there is no need to deliberately throw away both our pre-eminence and our markets by short-sighted actions.

Other countries don't.

Compare the United States with most of the countries of the world which are interested in trade. Compare tax policies. Take a look at depreciation and incentive systems. See who protects domestic producers. Examine the attitude of labor and of government. You'll begin to understand that world trade as practiced by our competitors is neither free nor fair. And we go into the battle with one arm tied behind our back!

A comparison of the American and of the Japanese experience over the recent past illustrates the attitude of Japanese labor leaders in fostering Japan's super-growth rate.

Japanese labor takes the position that what is best for their nation and for their company is best for them. This attitude is engrained in them. Unions participate in helping the company overcome obstacles, achieve efficiencies, meet competition. Japanese labor and management work as a team. Japanese unions often postpone wage increases realizing that wages can be increased only as the company grows.

Such common labor practices as featherbedding, cooping, limiting production, the closed shop are virtually unknown in Japan. And incidentally, this is true in many other foreign countries.

In America, we have some labor leaders—and this has been particularly true in the apparel industry—who I regard as enlightened. They recognize the need for craftsmanship and productivity. They understand the perils of unfair, disorderly competition from abroad. But this has not been universally true by a long shot. And too often, labor and management have operated on an antagonism principle—as adversaries, constantly in confrontation. You know the results.

Since the end of World War II, wages have been rising 4.5 percent each year and two years ago reached a 7.5 percent annual rate—3½ times the overall gain in productivity.

As a consequence, despite extraordinary refinements in production techniques and widespread adoption of automation in this country, output of the American worker has only grown 35 percent in the past decade. Japanese output has soared 189 percent in the same time.

As a further consequence, the gap between the U.S. and Japanese hourly employment costs widened during the decade from $2.43 to $3.23 per hour. Whereas American manufacturers now pay an average total hourly labor cost of $4.18 per hour including fringes and benefits, Japanese manufacturers pay their labor an average of 95 cents-per-hour.

As bad as inflation is, as bad as our labor costs and productivity might be, they are not the only culprits in outpricing ourselves in world markets. I believe that most of the blame must be placed on laws that hamper the efficient and productive, that hamstrings modernization and automation.

Fred Borch, Chairman of General Electric Company, put it this way in a recent speech: "What is the real reason for the serious U.S. trade situation? It boils down to the fact that other countries have placed international trade as a top national priority and have adopted structural policies to promote their trade balances and their balance of payments."

What does Mr. Borch mean by structural policies?

It's very basic. We must restructure our laws and policies in order to intensify capital investment in modernization and automation. We must encourage investment in research and development. And industry must be rewarded, not penalized, for doing what is so obviously in the interest of the American public.

The Japanese and West German governments who understand the necessity for having the most modern machinery actually faster new construction and modernization. The American government, committed to fantastically high levels of government spending, makes unrealistic and inadequate tax concessions for new plant and replacement of equipment.

In the decade just ended, investment in new plant equipment in Japan represented somewhere around ⅓ of the gross national product. In West Germany, the comparable figure was 25 percent. Among large countries, the U.S. stood last in new investment in plant and equipment as a percentage of gross national product . . . only 16 percent.

Despite recent improvement in depreciation guidelines and improved first-year write-offs, the United States continues to have the poorest capital recovery system among the world's industrial nations. After seven years, the average total recovery for capital expenditures by American corporations is still only 76%—or four percentage points below the first year write-off of U.K. corporations.

The need for improved depreciation policies has been heightened by our growing ecological concern. I'm for fighting pollution and protecting our environment. But I think it is also important to understand the costs. For example, the Industrial Conference Board, a non-profit fact-finding group, has estimated that by 1975, public and private spending for air and water pollution alone will total $61.7 billion. This amount of money, if invested in new plant and equipment, would create jobs for two-thirds of the nation's 4.8 million unemployed.

Incidentally, other nations have not yet assumed such responsibilities and accompanying cost burdens. Nor are there any signs that they will imminently. Hence, American corporations are operating under another large burden.

The handicaps under which American corporations operate are compounded by aggressive policies of foreign governments in subsidizing exports directly or indirectly and by restrictions placed on American investment abroad.

In Japan, most industry is closed to majority U.S. participation. And direct investment is restricted largely to new firms. On imports, fairly stiff quotas are imposed in 40 categories of goods, including coal, computers, oil and shoes and other leather products. Major tariff barriers include duties of up to 40 percent on value of canned fruits and vegetables, up to 25 percent on cosmetics, up to 25 percent on computers. A commodity tax is added to the cost of such items as autos, air conditioners, cosmetics and film. Even where there are no quota restrictions, such as with apparel, Japan has found ways to effectively keep out most U.S. apparel products.

Controls on capital investment and quotas are only two of a host of non-tariff barriers that are used by many countries to effectively control the flow of imports of sensitive products. These barriers have become more important since the Kennedy Round which reduced tariffs by as much as 50 percent and thus limited the ability of tariffs to regulate trade in many products.

Non-tariff barriers take many forms. For example, France and Belgium have very high road taxes on large automobiles which fall almost exclusively on U.S. autos. Italy virtually excludes imports of Japanese automobiles. This has increased the pressure to market Japanese automobiles in other countries, particularly the U.S. In the power generator field, which is mostly government controlled in Western Europe, purchase of generator equipment is usually made domestically or at least within the economic trade block.

In the electronic equipment field, France, West Germany, and the U.R. have a tripartite accord on quality certification which, according to the Department of Commerce, could be detrimental to U.S. products. Besides these specific items, most European nations have turnover taxes. These taxes are levied on all imports but *related* on exports. This helps the European manufacturer, since it reduces his world selling price. What a contrast to the way American manufacturers are treated—and taxed!

Let me make one thing clear. I'm not an isolationist, opposed to world trade.

The VF corporation is an international apparel complex. We have plants now or will have shortly in Spain, Japan.

But we invest our own money in those countries and take the same risks as everyone else. We create jobs, pay taxes, and compete in each market-place with no special favors. If foreign companies want to invest in America on the same basis, I have no objection. I welcome them. Just let them play by the same rules, with the same wage scales, the same taxes, and the same opportunities as we do.

As I've suggested, I agree with General Electric and Mr. Borch: we need new structural policies and we need to understand the importance of world trade to our national interest.

We also need some other things—like getting back to basics and working from the premise that "Patriotism" is not a four-letter word. We should give preferential treatment to our own citizens, to our own country, by buying goods of American manufacture whenever they are available. By "Buying American", we are giving employment to American citizens, upgrading American skills, reducing unemployment rolls and contributing to the maintenance of our schools and other civic enterprises, contributing to the strengthening of our balance of payments, strengthening the American dollar.

A dollar invested in goods of American manufacture, whether it be textiles or apparel or automobiles or steel, has a multiplier effect. It goes round and round our economy, benefitting everyone.

I'm not saying buy a product of lesser quality, just because it's made in America. I am saying the American consumer should at least be given the option of buying a

product made in the United States, and many retailers don't even provide that option today.

Somehow we have been blinded by the mystique of foreign labels. We have been taught to believe that if goods are made in France, Turkey or Hong Kong or Mesopotamia, they are exotic and more desirable. Foreign labels carry a certain snob appeal. Yet, no country on earth produces wares as fine as those made in America. I have been going around the country preaching the gospel of "Buy American" and the response that I have been receiving has just been tremendous. People have been telling me that a "Buy American" movement is long overdue. So, look for the "Made In America" label. You'll be benefitting your neighbor, as well as yourself.

"Buy American" is not enough. Even an effective "Buy American" campaign coupled with the existing tariff rates on imports cannot cope with the unrestricted marketing of foreign products into this country.

What is needed is a program or series of modern multilateral agreements which would put exports-imports on a rational, orderly basis. One of the goals of such multilateral agreements would be to help developing nations market their excess products throughout the world. Yet, these exports must not be detrimental to the importing countries. It is one thing to share our market. It's quite another to lose it! Nevertheless, I favor working for multinational arrangements that would also serve as a basis for further negotiations of truly reciprocal trade by eliminating barriers to export trade, paticularly the barriers faced by American producers.

Recent agreements negotiated by President Nixon with four countries—Japan, Hong Kong, Korea and Taiwan—on wool and man-made fibers apparel—are a step in the right direction. These should be used as a stepping stone to a multilateralized agreement covering the trade of all textile-apparel products. Within this, a forum could be set up to police the operation of the arrangement and help reduce existing barriers to trade in these products.

Multilateral agreements of this type could logically be extended to the steel, automotive, electronics and other sectors of our economy suffering from indiscriminate imports.

Coincidental with these agreements, an equitable monetary agreement should be developed so world trade can be resumed in an orderly manner. While these multilateral agreements are being hammered out, we should work for a lowering of trade restrictions and barriers to investment of American capital abroad.

And while we are bargaining for our exports on a quid pro quo basis with foreign nations, we must continue to put our economic house in order. We have succeeded in pricing ourselves out of many markets with prolonged wage-price spiral. The President has called a temporary halt to this self-defeating process. Now, we have gained breathing time to make positive moves toward expanding our export markets.

Phase II should give us the opportunity to begin to build a more rational, logical economy.

During Phase II, we should also seek to regain our technological leadership in areas where we have lost it and to extend our leadership in areas where we are ahead.

Outstanding superior technology may be the one enduring, our prime weapon, in our struggle for economic vitality—against unfair foreign competition. Again, here is an instance where tax incentives—national commitment—are required.

My personal hope is that the period of Phase II will provide an opportunity for national re-examination.

We need in this country an infusion of pride—pride in ourselves as people, pride in the work we do, the products we make, the country we are constantly remolding.

Recessions are no fun. But they are educational!

Perhaps, out of the recession, we are learning a concern for people here in the United States who need jobs. We are learning that it is in our own interest when American business profits and re-invests and creates new jobs. We are learning that retail sales don't come from low-priced merchandise, produced abroad. Retail sales come from American workers who have jobs and confidence and money to spend.

You businessmen here today—what kind of a car do you drive? What kind of camera do you use? Where are your clothes manufactured? What are you doing to let Congress and the President know how you stand on adding fairness to our out-of-kilter world trade position? What are you doing to explain the importance of this whole issue to your employees and suppliers and friends?

None of us have done enough.

Let us all hope for a world where there is a free, fair flow of trade. Let us hope that trade restrictions and barriers can eventually be removed. But until there is fairness, until there is orderliness, until relative stability and equilibrium can be restored and foreign obstacles to free trade can be removed, let us do what we must to protect American jobs . . . sustain American industry . . . and stimulate America's capacity to do the things required to assure our people a better life.

There is no nation or culture on the face of this earth that has produced more good for people in so short a period of time as the United States of America, and I believe it is high time that all of us, the press, radio, TV—stop whipping the United States of America and point with pride to her accomplishments.

RAY W. SMITH—LIVING THE LIFE OF A MODERN RENAISSANCE MAN

Mr. McINTYRE. Mr. President, at Dartmouth College each year an award is made to that senior who best exemplifies the Greek ideals of excellence and service to his community. The award is given in honor of a New Hampshire native whose varied life experiences have shown him to be the embodiment of those qualities.

Ray W. Smith of Dublin Lake, N.H., has in his life been a soldier, businessman, government servant, archeologist, and writer. He has excelled in each field. His dedication is to a full and varied life, but in each career he has avoided the temptation to become a dilitante. He has, instead, pursued each ambition with all of his energies, never comprising that goal of excellence.

Mr. President, New Hampshire is very proud of this man who has been described as "the foremost modern example of a Renaissance man."

I ask unanimous consent to have printed in the RECORD a tribute to him written by Jim Quinn of the Keene, N.H., Evening Sentinel.

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

RAY SMITH: HE'S BEEN SO BUSY, WHERE DOES HIS STORY BEGIN?

(By Jim Quinn)

DUBLIN.—Ray Winfield Smith settled into a soft, high-backed chair, crossed his legs and folded his hands in his lap.

"I really don't know where to begin," he smiled. "I'm afraid you're going to be baffled simply by my having done so many things."

Smith was accorded laurels recently in Time magazine and The New York Times, and is the initiator of an ambitious archeological project. As a research associate of the University of Pennsylvania, he headed a team of scientists who traveled to Egypt about five years ago.

There, by assembling scattered blocks of ancient temple, the men discovered previously unknown facts about an eccentric king named Akhenaten and his beautiful wife, Queen Nefertiti.

Back in the United States for a short stay before returning to the project, Smith found himself inundated by newsmen clamoring for more details.

EVERY RANK

"I sat for one entire day at 10 different news conferences. I don't know why, but for some reason they spread them out instead of holding a group interview."

Smith is a slightly-built man of 74, whose pin-striped suit is tailored perfectly and sharp eyes speak of organization and intelligence. Reaching back for a better starting point, he mentally flipped through events and years like pages in a dictionary.

"You might want to know something about my experiences in World War I," he suggested. "As an enlisted man, I received an award for rewriting the Ordinance Department's equipment tables. At one time or another, I've held every rank from buck private through colonel."

BACK IN UNIFORM

The end of the war found Smith a young man of 21 with a world to explore. He chose Europe, working the oil fields of Germany and the Netherlands.

He moved on in 1936 to Houston, Tex., where for six years he directed a highly successful import-export business. Then came World War II, and Smith was back in officer's stripes once again.

Due to his experience, Smith was put in charge of the Enemy Oil Committee, a group of high-level government officials whose assignment was to scout Western Europe, Japan and the Far East for data on countries' oil routes and sources. With a potentially large-scale war beginning, the committee sought to avoid a disastrous oil shortage in the United States.

"I suggested the importance of the Gulf of Aqaba, which was extremely important because of its link to oil movement in the Mediterranean. I was probably the greatest expert in the world on the Gulf of Aqaba at that time. Nobody knew about it."

FASCINATING

Smith later served as an official on "about eight to 10" government agencies, among them a board which helped control the German economy after World War II.

During this time Smith was involving himself in other interests as well. He became a member of an international commission for the study of ancient glass, and eventually became interested enough in the subject to write a book about it entitled, "Glass From the Ancient World."

"The American Institute of Graphic Arts chose it as one of its 50 best books of the year," said Smith. He also has had articles published in the National Geographic Magazine.

For the past eight or nine years Smith's energies have been concentrated on the Mideast. In 1963, he was appointed director of the American Research Center in Egypt, a focal point for study of humanities. Two years later he began what was to be "the realization of the greatest archeological project in the world," he said. Assembling a group of top-notch archeologists, Smith set up a research center in Cairo, and then jour-

neyed to Karnak in the ancient Egyptian capital of Thebes.

There, Smith attempted what had never been done before: he rebuilt the scattered ruins of the ancient temple to the sun disk Aten.

The work was difficult. The temple's 35,000 blocks had been scattered through the centuries into museums, storehouses and temples throughout Europe and the United States. With hired help, Smith was able to assemble enough of the original blocks—15 per cent—so that sandstone inscriptions and decorations indicated many lost relevations from the past.

WIFE'S ROLE

Perhaps the most startling discovery was that the youthful king Akhenaten may not have been the real ruler of his kingdom. Strong indications point to his attractive wife Nefertiti's "subtle dominance" of the Egyptian throne, as well as her possible conception of six daughters without the aid of the king.

"Akhenaten was a physical monstrosity," said Smith. "Such persons were often unintelligent and some sterile."

American journalists were waiting for Smith when he returned. Their writings often annoy him, however.

"Naturally, I don't mind being publicized. But journalists are always getting things wrong," he said. "There's nothing you can do about it, though."

RENAISSANCE MAN

Smith's home is a testament to his love for scholarship, and particularly for Egypt. Throughout the three-story structure are glass cases with old Egyptian objects, high-backed wooden chairs bearing painted coats of arms, multi-colored Oriental rugs and a swinging gate made of wrought iron. In the open rooms, marked by their orderliness and wood paneling, one has the feeling of visiting a museum.

The stone, fortress-like home sits atop a wind-swept hill, a twisting mile from Dublin Lake. Taking the driveway's turns, the visitor is immediately aware something special awaits him. "Warning: You Have Been Photographed," says sign hanging high above the road.

Smith enjoys life here, where his living room sits nearly on a level with Mt. Monadnock. "This happens to be the highest home in New England," he said matter-of-factly.

He searched for a way of summing up his career. He found the page he wanted in an alumni magazine published by Dartmouth College, his alma mater, and began reading.

"Ray Winfield Smith of Dublin could be the foremost modern example of a Renaissance man."

BUFFALO RIVER, A NATIONAL RIVER

Mr. FULBRIGHT. Mr. President, I am pleased that the Senate has now completed final action on legislation to establish the Buffalo River as a national river and I look forward to this measure becoming law in the near future. I believe it represents an outstanding addition to our national park system.

This marks the culmination of an effort which began more than 10 years ago when I asked the National Park Service to study the possibility of establishing a national recreation area along the Buffalo. In 1963 the Park Service recommended the creation of the Buffalo National River and after further studies, I introduced legislation for this purpose. In 1969 and again last year the Senate passed bills which Senator McCLELLAN and I cosponsored. Earlier this week the House of Representatives approved the bill and now the Senate has given its final approval.

The Buffalo is nationally recognized for its scenic beauty and enactment of this legislation will enable the preservation, in its free-flowering, natural state, of an important segment of the river. We have taken an important step in assuring the protection of the Buffalo for the benefit and enjoyment of present and future generations.

An estimated 1.7 million persons will visit the river annually during its first years in the National Park System and the development of the park should have considerable impact on the area's economy.

The provisions of the bill are such that the project can be carried out with the minimum possible disruption to the residents of the area.

I wish to express my appreciation to the chairman of the Subcommittee on Parks and Recreation (Mr. BIBLE) and to the chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON) for their efforts and leadership in behalf of this legislation. I also commend the fine work of Representative JOHN PAUL HAMMERSCHMIDT, who introduced the legislation in the House of Representatives and secured its passage in that body.

Additionally, of course, I would pay tribute to the large numbers of citizens of Arkansas and surrounding States for their dedicated support of the Buffalo National River. Many of them have been active for years in supporting this legislation, and their efforts have now been rewarded. In the years ahead I believe that Congress will be proud of having passed this measure.

FBI INVESTIGATIONS OF PARENTS AND SCHOOLCHILDREN

Mr. ALLEN. Mr. President, a few days ago I called attention to charges that agents of the FBI were being used to investigate children and their parents in Alabama in connection with the location of public schools which their children attended. My comments on the charges along with correspondence on the subject were printed in the CONGRESSIONAL RECORD of January 6, 1972. I suggested the existence of a distorted sense of priorities in the important area of Federal law enforcement and I expressed the hope that it would be possible to fix responsibility for deployment of FBI agents and its limited resources for conducting investigations of parents and schoolchildren.

Mr. President, on January 31, 1972, I received a letter of explanation from the Honorable J. Edgar Hoover in which responsibility for this type of investigation is clearly fixed. In the interest of objectivity and fairness, I ask unanimous consent that Mr. Hoover's letter be printed in the RECORD at the conclusion of my remarks.

It appears that the Civil Rights Division of the Department of Justice had ordered the FBI to investigate an unspecified number of parents and children in the Sandusky Community of Jefferson County, Ala. One can infer from all of the information available to me that the Civil Rights Division of the Department of Justice may have suspected that some children in the community were attending neighborhood schools rather than schools to which they were assigned under plans imposed by some Federal authority.

Mr. President, in the context of investigations of private citizens, I noticed that on February 1, 1972, when CBS's Daniel Schorr testified before Senator ERVIN's Subcommittee on Constitutional Rights, he did not fault the FBI for the investigation of his background. In fact, no one can criticize the FBI for conducting a routine investigation when ordered to do so by proper authorities in the executive branch of Federal Government. In Daniel Schorr's case, the responsibility for the investigation was properly fixed in the executive branch and President Nixon promptly issued instructions that, "in the future, there will be no such investigations without advance consent." I think this was a wise decision.

The impact of an FBI investigation on the individuals investigated is profound and was so pointed out by Mr. Schorr in these words:

> An FBI investigation is not a neutral matter. It has an impact on one's life, on relations with employers, neighbors and friends. For me, the effects, though I do not wish to exaggerate them, persist until today.

Mr. President, I am personally satisfied that FBI agents do not overtly attempt, either by their manners or by their questions to intimidate parents and school children. Nevertheless, the psychological effects are intimidating as indicated by Mr. Schorr, and this is the crux of my complaint.

On basis of many charges I have received from Alabama, I am convinced that radical zealots in the Civil Rights Division of the Department of Justice deliberately resort to techniques of harassment and intimidation in their relationships with public school officials. It is an outrage that these same techniques should now be employed by the Department against parents and schoolchildren.

Mr. President, President Nixon can, if he chooses, order the Department of Justice to stop using FBI agents to investigate parents and schoolchildren. If he chooses not to do so, he will perhaps explain to the American people the nature of the Federal offense involved in sending one's child to a neighborhood school and hopefully he will explain the priorities in law enforcement which justify the misuse of a justly proud and efficient law enforcement agency to gather evidence to support or to disprove the suspicions of Federal bureaucrats that a few schoolchildren may be attending a neighborhood school rather than a school to which they had been consigned by Federal authorities.

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

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., January 31, 1972.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR: Your remarks as contained in the Congressional Record of January 26, 1972, regarding a copy of a letter received by you from Mrs. Jerry A. Baker, Secretary of Concerned Parents, Inc., have been noted.

For your information, the investigation mentioned by you in the Congressional Record was conducted at the specific request of Mr. David L. Norman, Assistant Attorney General in charge of the Civil Rights Division, United States Department of Justice, Washington, D.C. 20530.

I have replied to Mrs. Baker's letter specifically advising her that FBI Agents did not follow little children home from school and any questions asked were not intended to intimidate anyone.

I am enclosing a copy of my letter dated January 27, 1972, to Mrs. Baker in order that you will have the correct information concerning this matter.

The results of the investigation have been furnished the Civil Rights Division of the United States Department of Justice and should you desire further information concerning this matter, you may contact Mr. Norman.

Sincerely yours,

J. EDGAR HOOVER.

USE OF ARTIFICIAL KIDNEY MACHINES

Mr. WILLIAMS. Mr. President, on November 5, Senator TOWER, Senator BOGGS, and I introduced S. 2813, which would amend the Vocational Rehabilitation Act to provide financial assistance to individuals who are in need of the treatment of an artificial kidney machine or a kidney transplant. To date, 31 Senators have joined us as cosponsors of this needed legislation.

On February 3, Dr. George E. Schreiner, professor of medicine, Georgetown University Medical Center, and chairman of the National Kidney Foundation's Legislative Committee; Dr. E. Lovell Becker, professor of medicine, Cornell Medical School and president of the National Kidney Foundation; and Dr. Samuel Kountz, assistant professor of medicine, University of California, San Francisco, appeared before the Select Subcommittee on Education of the House of Representatives in support of H.R. 6302, H.R. 12644, and H.R. 12109, which are companion bills to S. 2813.

I ask unanimous consent that the text of the written testimony be printed in the RECORD.

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

TESTIMONY OF GEORGE E. SCHREINER, M.D., PROFESSOR OF MEDICINE, GEORGETOWN UNIVERSITY, WASHINGTON, D.C., BEFORE THE SELECT COMMITTEE ON EDUCATION, FEBRUARY 3, 1972

Mr. Chairman: Thank you for giving us the opportunity to appear before this Subcommittee in support of H.R. 6302, H.R. 12644 and H.R. 12109 which amend the Rehabilitation Service Act to provide increased assistance to end stage kidney patients.

I am George E. Schreiner, Professor of Medicine, Georgetown University Medical Center and Chairman of the National Kidney Foundation's Legislative Committee. With me are Dr. E. Lovell Becker, Professors of Medicine, Cornell Medical School and President of the National Kidney Foundation and Dr. Samuel Kountz, Assistant Professor of Medicine, University of California, San Francisco. Dr. Becker and I will attempt to answer any questions pertaining to artificial kidney care and Sam Kountz who transplants more kidneys than any other surgeon in the world will explain transplantation.

Our Foundation which has affiliates in 45 states is deeply concerned about the 8 million Americans who each year suffer from kidney and kidney related diseases and the 55,000 patients who proceed to end stage kidney disease and need the artificial kidney and transplantation therapies.

The kidney plays a vital role in one of the most complex and subtle of the body's functions. It removes end-products of metabolism from the blood and aids in maintaining the body's electrolyte composition, hydration, and acid/base balance; it also takes part in a number of other physiological processes, including the regulation of blood pressure and the stimulation of red cell formation.

The human kidney is subject to many serious diseases that lead to its failure, and many attempts to provide substitutes have been made. The two principal methods for the treatment of chronic renal failure are hemodialysis (artificial kidney) and transplantation.

Mr. Chairman, it is very difficult to present this Subcommittee with exact figures as to the number of patients who are ideally suited for the artificial kidney therapy and transplantation and the estimated annual maintenance costs for these patients. Several government agencies including the Department of Health, Education and Welfare, the National Institute of Arthritis and Metabolic Disease, the Veterans Administration and a number of physicians in academia have investigated the incidence of chronic kidney failure, and because of differences in identifying and classifying these patients there are varying estimates of the number of deaths from kidney disease and the number of "suitable" artificial kidney and transplant candidates each year. One of the most recent estimates (1969) held to be acceptable is that of Dr. David Hathaway of the Kidney Disease Control Program. He said 20,000 new patients each year could benefit from dialysis and from transplantation.

In 1967 the so-called Burton Report of the Department of Health, Education and Welfare suggested initial treatment annually of 11,000 new patients by transplant and of 29,000 new artificial kidney patients. Presently, (in the United States there are approximately 5,000 patients on the artificial kidney machine and as of 1970, 3,500 patients were transplanted.

The costs like numbers of patients vary from program to program. However, the following represent a national average for the artificial kidney and transplantation therapies.

We feel that of the 55,000 to 60,000 end stage kidney disease patients between 20,000 and 25,000 could be given the life-saving care. Of these 60% could be trained for home dialysis and 40% maintained in-hospital or satellite centers. In addition newly improved transplant capabilities now allows 2,500 to 3,000 transplants per annum. The costs for home dialysis are $6,000 per annum after the first year. The first year costs are considerably more because of the need for a 12-week home training program ($9,000) and the cost of the machine and the necessary adjustments to the home such as plumbing and carpentry ($4,000) plus dialysis for the remainder of the year at $6,000. The first year costs, then are approximately $19,000 and each year thereafter, $6,000.

In-hospital or satellite center artificial kidney costs vary from state to state depending on physician supply and number of patients, but the national average is $25,000 per annum.

Transplantation costs are $8,000 per annum with very little continuing expenses after the first few months following surgery. These costs generally are for drugs and normal surgical follow-up. The success rate of transplantation is 85%.

The physician and lay leadership of the National Kidney Foundation have reviewed all existing Federal statutes in an effort to determine the best possible means of delivering the life-saving therapies of the artificial kidney machine and transplantation to the thousands of Americans who at this moment need financial and social assistance and are not now receiving it. Our analysis has convinced us that Rehabilitation Service is the best mechanism, short of a comprehensive national health insurance program, to assist kidney disease patients. We make this judgment for a number of compelling reasons. In our discussions of these reasons we wish to make it clear that we refer to medical and rehabilitation as essential ingredients in the care of the end stage kidney patient.

(1) The Rehabilitation organization is presently supporting over 120 patients on the artificial kidney and has assisted in the costs of transplantation. The mechanism is there and meeting the needs of patients for care and rehabilitation within the limitations of its resources.

(2) It does not require a "means" test unlike Medicaid which not only requires a "means" test, but in certain states insists that the patients agree not to work. In the case of kidney disease patients this is particularly damaging. Nearly all artificial and transplantation patients are capable of leading normal productive lives if they receive the therapy on a regular basis (the artificial kidney patients is usually dialysized 8 hours three times each week). The Rehabilitation Services unlike other programs does not consider the end stage renal patient as *totally* disabled.

(3) The experience of physicians working in the Vocational Rehabilitation program in the State of Washington indicates that 50% of their end stage kidney patients were in need of and received retraining. There are physicians and Rehabilitation officials in other parts of the country who suggest as many as 75% should be retrained. To the best of our knowledge no other Federal or State program offers this service.

(4) The Rehabilitation program is flexible while historically insisting on the highest quality care at the lowest possible medically and socially acceptable cost. This is particularly significant, because the program involves both Federal and State health delivery systems in the decision making apparatus and of course in the financing.

(5) The Rehabilitation Services in the 50 states lend themselves to an excellent means for the exchange of information (educational and medical) concerning ideas, concepts and techniques in the care and retraining of renal patients.

The Rehabilitation agencies have gained valuable experience from such programs as the shelter and blind workshops. This could be an important instrument in a continuing dialogue between educators, physicians and patients.

Perhaps the best way to sum up the special role of Vocational Rehabilitation is to quote from a recent statement by Dr. Belding Scribner of the University of Washington. He said, "The Rehabilitation Service does what has to be done socially, economically and medically for the artificial kidney and transplant patient. In my view their approach is unique in the existing Federal-State health delivery system." Dr. Scribner's program at

the University of Washington has done a remarkable job of supporting patients. Since 1968, over 140 of his patients have been assisted by the Rehabilitation Service. Their particular program has almost exclusively utilized home dialysis. Their costs are $20,000 for a three year period per patient on the artificial kidney and an average cost of $8,000 per transplant. The Washington State program has been able to avoid a means test, retrain, while providing high quality care. The Washington experience is an example of an excellent working relationship between the Federal-State and Rehabilitation experts, physicians and patients.

The experiences of the Rehabilitation agencies in other states is available through a survey recently completed by Virgil Smirnow Associates, Community Health Consultants. It contains a series of tables explaining current and projected support for the artificial kidney patient in the 50 states. I have included a copy of this report at the end of my testimony.

Mr. Chairman, we are very grateful for the opportunity to appear before you and members of this Subcommittee. We cannot let the occasion pass without requesting that this Subcommittee report these amendments to the Full Committee as soon as possible. If this means not waiting for the Reorganization Plan from the Chief Executive, we urge you to do so, because the problem of end stage renal patients is serious and immediate.

Thank you.

RETIREMENT OF DR. E. V. SMITH, AUBURN UNIVERSITY

Mr. ALLEN. Mr. President, after 40 years of service at Auburn University, my good friend Dr. E. V. Smith, dean of the school of agriculture, has chosen to lay aside his labor of love and accept retirement on June 30, 1972.

The State of Alabama and the Nation have been vastly enriched by Dr. Smith's teaching, research, and significant contributions of his time, talents, and leadership in both academic and agriculturally related professional groups and associations. His host of friends in Alabama and throughout the Nation wish Dr. Smith a long and happy life in retirement.

Mr. President, a recent news dispatch from the Birmingham, Ala., News, outlines Dr. Smith's proud record of accomplishments in connection with the announcement of his retirement. I ask unanimous consent that the item be printed in the RECORD.

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

DR. SMITH RETIRING FROM AUBURN POST

AUBURN.—Dr. E. V. Smith, dean of the School of Agriculture and director of the Agricultural Experiment Station at Auburn University, has announced that he will retire June 30 after more than 40 years of academic and administrative service at Auburn.

Dean Smith, a native of Ozark, received his B.S. at Auburn in 1928 and the M.S. from Iowa State in 1931. He immediately joined the faculty of the School of Agriculture at Auburn and continued at the institution without interruption except for doctoral studies at Iowa State which culminated with the Ph.D. in 1938.

In 1944, Dr. Smith was appointed assistant dean and director, becoming associate dean and director in 1949. He became dean and director on Jan. 1, 1951.

He is a Fellow in the American Association for the Advancement of Science and is a member of the Division of Agriculture, National Association of State Universities and Land-Grant Colleges; Association of Southern Experiment Station Directors; Association of Chief Administrators of Agriculture; and the Agricultural Research Institute.

While a member of the faculty, he contributed many papers as results of his research in weed control poisonous plants, and pond and fisheries management.

Dr. Smith holds membership in a number of honor societies, including Phi Eta Sigma, Gamma Sigma Delta, Alpha Zeta, Phi Kappa Phi, and Sigma Xi. He is listed in Who's Who in America, Who's Who in the South and Southwest, and similar biographies.

In 1958 he was chosen Man of the Year in Service to Alabama Agriculture. He also served a term on the U.S. Public Health Service's National Environmental Health Advisory Committee.

He is married to the former Martha North Watson and is active in Kiwanis and the Presbyterian church.

SPESSARD HOLLAND—A FIGHTER FOR HIS PEOPLE IS GONE

Mr. McINTYRE. Mr. President, just 1 year ago we rose in the Senate to bid farewell from this body to one of our most distinguished colleagues, Spessard Holland, of Florida. He was retiring after 24 years of leadership in the Senate.

Now we are arising to express our sorrow on the passing of Spessard Holland from this life. It came as a terrible shock to me as I know it did to each of us here to learn that he would no longer be with us and that he would not have the chance for years well-deserved rest and relaxation after nearly four decades of service to his people as lawyer, teacher, prosecuting attorney, county judge, State senator, Governor, soldier, and U.S. Senator.

He left the Senate by his own choice. I am certain that the people of his State would have reelected him overwhelmingly if he had decided that he wanted to return to the Senate.

Spessard Holland was never reluctant about working diligently for those things he felt would help the people who elected him to the Congress. He was a forceful floor debator and he was always well prepared to support his cause.

As chairman of the Agriculture Appropriations Subcommittee he handled billions of dollars of the Federal money for a vast array of national needs—rural electrification, soil conservation, forestry and many other matters relating to our natural resources as well as our food and fiber which has kept our people and much of the world fed and clothed. He was ever mindful that there is a limit to what we can take from the public treasury.

I was always amazed at his broad range of interest and knowledge. I remember many times discussing New Hampshire with him. He had many friends in New Hampshire and knew the State well.

Through it all he was a delightful person, a warm person to be with. I thoroughly enjoyed the all too few times we had the chance to be together.

To his lovely wife and to his family, I express my sorrow. She has faced an enormous loss—one she can never recover. I want her to know that there are many who want to bear that loss with her.

RURAL CREDIT FUND

Mr. ALLEN. Mr. President, those who value form over substance were no doubt tremendously pleased with President Nixon's proposal to the Congress last week to establish a billion-dollar-plus rural credit fund to promote economic growth in town and country America. Among other things, the President's proposal would channel credit through the Farmers Home Administration to provide rural housing assistance, to assist in the establishment of businesses in rural areas, and to step up funding for community sewer and water facilities.

Well, what the President said is nice. It is what he did not say and what his administration is failing to do at this time that is disturbing.

In all due respect, I frankly cannot accept the proposition that the administration is prepared to go all out to initiate a comprehensive program to revitalize rural America when it is at present refusing to fully fund crucial farm and farm-related programs it is urging and claiming credit for.

Just last week, the distinguished chairman of the Committee on Agriculture and Forestry, the Senator from Georgia (Mr. TALMADGE), wrote the President expressing his deep concern over the impoundment of $75 million of the $350 million that Congress appropriated for the Farmers Home Administration's operating loan program for the current fiscal year. In his well documented letter, the distinguished Senator from Georgia articulately pointed out precisely how the administration's tight money crunch was adversely affecting the farmers of America, particularly the farmers of Georgia, in the area of FHA operating loans.

For example, Senator TALMADGE pointed out that in his State of Georgia, there are at present at least 94 approved FHA loan applications, totaling over $1 million, which have been turned down because of insufficient funds. I might add that I have been advised that in my own State of Alabama, FHA authorities have already expended their allotment of funds for the third quarter of this fiscal year and unless additional authority is soon forthcoming, more than 200 approved applications, totaling between $2 and $3 million, will suffer a corresponding fate.

I commend to the Senate the letter Senator TALMADGE wrote to President Nixon and ask unanimous consent that it be printed at this point in the RECORD.

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

U.S. SENATE,
COMMITTEE ON AGRICULTURE
AND FORESTRY,
Washington, D.C., February 3, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This is to request that you release an additional $75 million appropriated by Congress for use by the Farmers Home Administration to extend badly needed farm operating loans prior to the planting

season this year. As you will recall, the total appropriation for the Farmers Home Administration operating loan program was $350 million for fiscal year 1972. It has come to my attention that you have impounded $75 million of this amount.

In your message of February 1, you announced a greatly expanded program of credit for the development of rural America, a program that would give the Farmers Home Administration authority to make loans to establish and improve businesses that would create economic growth for rural areas.

I was pleased that you share my view of the need to provide greatly expanded credit for rural development purposes. As you know, I introduced last year S. 2223, a bill to provide a comprehensive system of credit for the development of rural America.

However, I have always felt that our hard-pressed family farmers have the greatest need for credit in rural America. While I feel that the Farmers Home Administration should have expanded authority to make rural development loans, I believe that the most important function of the farmers Home Administration is to provide adequate credit for family farmers who cannot get credit elsewhere.

In Agriculture Committee hearings on the operating loan program last year, the Committee received testimony from the Administrator of the Farmers Home Administration, James V. Smith, that only half of the applications received in 1970 were funded. Mr. Smith agreed that the amount of money currently available for farm operating loans was far from adequate. In response to a question from Senator Bellmon, he also testified that 75 per cent of farmers who cannot, as a last resort, get help from the Farmers Home Administration are forced to go out of business.

Mr. President, in response to your request, the Committee on Agriculture and Forestry took immediate action to transfer the farm operating loan program from a direct to insured operating program. This legislation, together with several committee amendments designed to improve the Farmers Home Administration, passed the Senate on May 11, 1971.

However, the Congress recognized that the legislation might not clear both houses of Congress in time to meet the needs of farmers in this fiscal year. Therefore, the Congress appropriated $75 million of loan funds above your request.

The nation's family farmers need credit now if they are to continue farming operations in 1972. A shortage of operating loan funds has assumed crisis proportions in many sections of the country. In my own state of Georgia, I know that 94 approved loan applications, which would total over a million dollars, have already been turned down because of insufficient funds. I understand that more loan denials will follow.

Mr. President, if these farmers could get credit anywhere else, they would not have even applied to the Farmers Home Administration. Certainly their applications would not have been approved had not the need been severe. The family farmers who are unable to get credit to continue operations have no strong pressure groups to represent them. In many cases they are too proud to tell even their neighbors of their unfortunate financial situation.

I believe that it will be a great tragedy if we allow thousands of small family farmers to be forced into the city because our government refuses to make the minimum investment before planting time that is needed to keep these people on the farm. I implore you to use the authority you have to release the impounded $75 million dollars for the nation's farmers.

Respectfully,

HERMAN E. TALMADGE,
Chairman.

Mr. ALLEN. In the President's rural development message, he made much of the fact that his administration has been taking a number of administrative steps to improve and boost the Federal contribution to rural America by substantially increasing program funds. For example, the President said:

> Funding for community, sewer and water facilities has reached a record high level of $300 million in loans, plus $42 million in direct grants. This represents an increase of almost 80 percent over the level provided two years ago.

Again what the President said is nice, but I should like to point out that $60 million for water and sewer grants for rural towns and cities of under 5,500 population is still impounded by the administration. This program is also operated under the Farmers Home Administration and if the current situation in Alabama is typical of the other States, there is an enormous need for these funds in hundreds of communities with inadequate water and sewer facilities. In Alabama today, 16 projects require grant funds, but they cannot be funded at present because of the refusal of the administration to release these moneys. These projects are as follows:

Name	County	Loan	Grant
1. Brilliant, Town of	Marion	$210,000	$46,000
2. Munford Water System	Talladega	230,000	57,400
3. S. Bullock Water System	Bullock	340,000	184,000
4. Edwardsville, Town of	Cleburne	57,000	15,000
5. Belk, Town of	Fayette	94,000	41,000
6. New Hope Water System	Coffee	90,000	32,000
7. Gantt, Town of	Covington	90,000	38,500
8. Kellyton Water System	Coosa	208,000	92,800
9. Goshen, Town of	Pike	60,000	22,000
10. W. Lawrence Water System	Lawrence	$880,000	$266,000
11. Hillsboro Waterworks Board	Lawrence	171,000	50,000
12. Northwest St. Clair Water	St. Clair	198,500	53,500
13. Five Points WFPA	Talladega	402,000	
14. Fords Valley	Etowah	262,000	120,000
15. Autaugaville	Autauga	190,000	35,000
16. Randolph Water System	Bibb	152,000	56,000
Total		3,634,500	1,109,200

I should like to make it abundantly clear that the junior Senator from Alabama stands ready to cooperate with the President in his alleged determination to formulate a comprehensive program directed at the revitalization and development of the rural areas of our Nation and the establishment of a sound balance between rural and urban America. In fact, I should like to point out to the Senate that our Senate Agriculture Committee, under the dynamic leadership of the senior Senator from Georgia, and our Senate Rural Development Subcommittee, whose chairman is the distinguished junior Senator from Minnesota (Mr. HUMPHREY), has already made great strides in the development of a comprehensive set of recommendations and legislative proposals for dealing with the economic and social needs of rural America. I think I can safely speak for all the members of both the committee and subcommittee in saying that we welcome the President's new concern for the American farmer, American agriculture, and rural communities of our Nation for this is not a partisan issue.

I should like to remind the administration, however, that the farmers of Alabama measure performance by deeds, not promises. Fresh in their minds is the fact that three times in the past 3 years, the President has frozen substantial quantities of money appropriated by the Congress for loans to rural electric cooperatives. Fresh in their minds, too, is the fact that the administration has also continued to impound funds approved by Congress for the rural environmental assistance program. We recall that just a few weeks ago, the administration took $55.5 million in farm conservation money out of deep freeze and released it to farmers, who have been waiting for months to help share in the cost of soil conservation projects, tree planting, contour farming and terracing.

No, Mr. President, the farmers of America cannot be fooled by rhetoric, idle words and meaningless pledges. They have attended too many county fairs not to be able to recognize a shell game when they see one.

BIRTHDAY GREETINGS TO SENATOR HAROLD E. HUGHES, OF IOWA

Mr. WILLIAMS. Mr. President, I wish to extend my warmest best wishes to an exceptional colleague and a very close friend, the distinguished junior Senator from Iowa, HAROLD E. HUGHES, on the occasion of his 50th birthday on February 10.

Both of us are members of the Committee on Labor and Public Welfare, so I have had the particular good fortune to observe him in action. I can only say that I have observed him to be a man of remarkable ability.

Senator HUGHES has devoted his outstanding abilities primarily in two areas—ending the war in Southeast Asia and the growing crisis of alcohol and narcotics addiction in the United States.

As chairman of the Subcommittee on Alcoholism and Narcotics, he has held hearings throughout the country, attracting the attention of millions with his positive, forthright, intelligent approach to the tragedy confronting us today. He has shown impressive insight by authoring legislation dealing with these problems.

As a strong advocate in the cause of peace, he has ignored all potential political risks and stood foursquare for his beliefs.

However, even the impressive public achievements of HAROLD HUGHES reflect only a part of the man. To those who

know him, he is a man of towering humanity; a man whose enormous inner resources are reflected in his every act.

Mr. President, I remember vividly one particular day that HAROLD HUGHES spent in New Jersey. During the course of that day, he had the occasion to speak to a wide variety of individuals—suburbanites, inner-city drug addicts, ironworkers, peace advocates. With each, he established an incredible rapport; a rapport that stemmed from the instinctive, deep feeling of those people that they were meeting a warm, truly compassionate, and totally dedicated human being.

I think that all of us in this body have shared that feeling.

HAROLD HUGHES is my good friend and the good friend of all America. I take the great pleasure in wishing him the happiest of birthdays.

ELDERLY CITIZENS IN NURSING HOMES

Mr. ALLEN. Mr. President, from time to time I cannot escape the depressing conclusion that our Nation is being slowly strangled by an autocratic, insensitive, self-perpetuating, and near uncontrollable Federal bureaucracy. A part of the chemistry in this sticky bureaucratic spider web now spreading into every nook and corner of the land is an attitude of contemptuous detachment which permits hardened bureaucrats to treat human beings as little more than insensate numerals.

Mr. President, I have spoken in the Senate of the increasing evidence of this attitude—most often in the context of programs administered by the Department of Health, Education, and Welfare. Yet, I honestly admit that nothing I have ever said on the subject is so compellingly persuasive as the thoughts expressed in a letter which I received from my good friend, Mrs. L. C. (Evelyn) Hardy, of Tuscaloosa, Ala., who has written on the subject of the attitude toward our elderly citizens in nursing homes.

Mr. President, I strongly urge all Senators to read carefully and ponder the message of this letter. Then when we discuss the ever-recurring subject of reordering national priorities, I hope that many Senators will agree with me that the necessity to rethink and to rework and to mend and to cure our sprawling Federal bureaucracy is one of the Nation's most urgent tasks, one which deserves immediate attention.

Mr. President, I ask unanimous consent that Mrs. Hardy's letter be printed in the RECORD.

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

LA ROCCA NURSING HOME,
Tuscaloosa, Ala., February 2, 1972.

HON. JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: This past week my husband and I attended a Medicaid Workshop in Montgomery, Alabama. I came away frustrated and irritated and determined to let my voice be heard. I debated with myself as to where to start. I could go at the situation as Ralph Nader has done or I could approach the situation through someone I believed in. After much soul-searching I decided you had proven yourself to be a worthy representative of the people, therefore, this letter to you. I do not intend to rest until I get results regardless of the detours I may have to take.

Grantland Rice once said, "You are here only a short while, so don't worry, don't hurry and don't forget to smell the flowers." I have never learned how not to hurry and not to worry but I have learned to smell the flowers. Elderly citizens in nursing homes are God's flowers and those on Medicaid have been regulated to second story people. This country is on the brink of Socialism therefore, I must worry and I must hurry with any program or thoughts that I might have to return my country to some semblance of sanity and common sense for I am here for only a short while.

Let us analyze the Medicaid program. During the meeting I listened as my nursing home patients were discussed in cold, calculating numbers—so many points for skilled care, so many for intermediate, etc. My blood boiled! I searched my soul and repeated Helen Keller's poem to myself:

They took away what should have been my eyes (But I remembered Milton's Paradise).
They took away what should have been my ears. (Beethoven came and wiped away my tears).
They took away what should have been my tongue. (But I had talked with God when I was young).
He would not let them take away my soul, Possessing that, I still possess the whole.

I was relieved for one moment that the government could not possess my patient's soul. This is no exaggeration. Medicaid is disinterested benevolence. When an elderly citizen must accumulate a number of points to classify for skilled, intermediate or custodial care—this is cold calculations. Is it any wonder our younger citizens are so disillusioned with the establishment? I am inclined to agree with many of their methods—they do get results! Can the government do nothing in simplicity? Must our elderly citizens be regulated to death? Could not the millions of dollars skimmed off at the top—red tape, forms, etc. be put to better use by using it to truly care for our elderly? We give freely to foreign countries with no questions asked; yet our own citizens must bare their souls before they can receive Medicaid and after receiving help they are subjected to evaluation after evaluation. What dignity they have is destroyed in the process. How often are foreign aid programs evaluated? Why do our elderly citizens need evaluation if it is determined that they need help, need nursing care and a reputable physician states as much? Evaluate the care in the home yes, but leave the patient alone. Millions of dollars have been spent by the government with no apparent improvement in the plight of the elderly. In fact patients were in a more secure position under the old age pension plan.

The federal government is like an octopus. Those long tentacles can choke to death. No longer is hard work, dedication and initiative important. One only needs to know how to fill out forms.

You have seen my home. My husband and I have dedicated the best years of our lives to giving our elderly citizens a lovely home in which to live. We were doing this long before the "howl" about nursing homes. We will not lower our standards. I am a registered nurse, have a BS in Nursing Education and an MA degree. My husband has a BS in Business Administration. Is my work in vain? Again will our senior citizens be regulated to death?

Sincerely,

MRS. L. C. (EVELYN) HARDY.

PRISONERS AND MISSING IN ACTION IN VIETNAM WAR

Mr. CURTIS. Mr. President, once more I rise to express my deep concern for the welfare of the American prisoners of war and the Americans who are missing in action in the Vietnam war. They must never be our forgotten Americans. They are entitled to first consideration in every action our Government takes in military and diplomatic areas and in all matters relating to our foreign policy. No action should be taken nor any decision made without stopping to consider what can be done for these POW's and MIA's.

Mr. President, this has been a long war. It has been a long time since the United States suffered her first casualty and the loss of the first prisoners and missing men which occurred in the first half of the 1960's. It has been a long time of waiting through those war years of the last half of the 1960's. However, during this time most Americans have gone about their activities as usual. They could either see their loved ones, or they could be reached by telephone or letter. Most families have enjoyed some happy times in spite of the war. Most little children have had the privilege and opportunity to romp and play with their daddies. Words fail us to describe the suffering, the anguish, the loneliness and the sacrifice made by the mothers, the fathers, the wives, and children of these men.

We have good reason to know and believe that many of the men who are listed as missing in action may be alive and are held as prisoners. The Communist forces on the other side of this war do not tell the truth. They refuse to obey the treaties that have been entered into to protect men in these situations. The Communists have not permitted the International Red Cross to carry out their mission as it should be. The Communists have failed to properly report all the names of the individuals involved. They have failed to carry out treaty commitments and the provisions of international law in reference to the delivery of mail to and from these men who are held by them.

Mr. President, the rest of us owe much to these men and their families. First of all, we should never forget. These men should be our constant concern and foremost in our prayers. We should speak and we should write. We should contact people at home and abroad, reciting the facts and making an appeal for the Communist's world to be humane and honorable in all the handling of the matters relating to these POW's and MIA's. We should petition foreign governments for help. In short, we should do everything we can conceive to mobilize world public opinion to the end that these men will be released and returned. Our petitions and our demands should be heard around the world without ceasing until these men are released and accounted for.

THE GENOCIDE CONVENTION: A DEBT TO ANNE FRANK

Mr. PROXMIRE. Mr. President, the Senate has had the Genocide Convention before it for 24 long years.

For some that lengthy delay might seem but a brief moment in the span of history, but for those who suffered the terror of persecution that moment is an eternity. Never was the nightmare of religious and racial genocide made more vivid than in the tragic diary of Anne Frank. For that courageous girl and her family, struggling day by day to escape murder in Nazi concentration camps, each hour within their tiny hiding place brought a growing fear of betrayal and capture. Each minute ticked away with terror.

Those millions who have read this brave attempt at cheerfulness in the face of adversity, of reason in the midst of chaos, of love surrounded by hatred, cannot help but be touched most profoundly. Anne Frank was an amazing individual. Her death came as one of 6 million, but her story has been immortalized. It seems tragically strange that this young girl's diary should pass down through the years alongside of the Genocide Convention left unsigned by America. Each moment was agony for the Frank family, yet we allow 24 years to slip by while thousands suffer a similar fate.

Our obligation to Anne Frank and her fellow victims of prejudice and genocide is obvious. The Genocide Convention long before the U.S. Senate should now be ratified. As yet our profound moral debt remains unpaid.

BOY SCOUTS CONTINUE TO GROW AND CONTRIBUTE TO A BETTER LIFE IN NEW HAMPSHIRE

Mr. McINTYRE. Mr. President, the long history of the Boy Scouts of America is replete with major accomplishments and contributions by our youth for the good of the Nation.

But the Boy Scouts have never stood on their laurels. They are a part of the now generation. They are dealing successfully with problems our Nation faces today.

Their Operation Reach program is a nationwide fight against drug abuse.

Their Project SOAR—Save Our American Resources—is directed at conserving those resources we still have and protecting our Nation against the ravages of pollution.

There are more than 18,000 young New Hampshire residents participating in Scouting. Nearly 7,000 adults work with these young men in their Scouting activities. They are backed up by a professional Scout staff of 13.

New Hampshire is better off because of the Boy Scout program. I am proud to be associated with the program.

I ask unanimous consent that a current report on Scouting in New Hampshire be printed in the RECORD.

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

BOY SCOUTS OF AMERICA,
North Brunswick, N.J., February 1972.

To: The Honorable THOMAS J. McINTYRE
Subject: New Hampshire and Scouting

Things like emergencies, camping, the problem of pollution, and the drug abuse problem are of interest both to the State of New Hampshire and to the Boy Scouts of America. It is only natural then that the State and Scouting work together in many ways, each contributing much to the other. Scouting gives to the State and all its people—particularly the young—through its program. For its part, the State of New Hampshire gives to the Boy Scouts of America through its people, cooperation, and locale.

EMERGENCIES

Scouting in New Hampshire is active in the areas of law enforcement and emergency aid. In the State are 10 special-interest Explorer posts that deal with law enforcement.

Ever since the 1938 hurricane, Scouts in New Hampshire have been active in just about all statewide emergencies and local disasters.

PROJECT SOAR

Project SOAR is Scouting's program to preserve our environment to Save Our American Resources. The program is an example of Scouting's broad contributions. Many New Hampshire officials and conservationists are involved on our Project SOAR committee, which was directly involved in producing a manual for Project SOAR. Scouting Keep America Beautiful Day on June 5 of this year serves to illustrate the yearlong program of ecological effort. On that 1 day in New Hampshire alone 5,000 Scouts participated in conservation camporees. Some 2,800 volunteer adult Scouters and 11,680 Scouts and Explorers cleaned up 2,176 miles of New Hampshire roadways and rivers, spruced up more than 390 acres of parklands and empty lots, and collected 271 tons of trash and litter. And Scouting Keep America Beautiful Day is only a small part of the Project SOAR program. Project SOAR has in fact been so successful that the BSA Executive Board has renewed Project SOAR for at least 1 more year.

OPERATION REACH

Another major problem area in which Scouting is about to seek a similar impact is the drug abuse problem. A new approach to the problem is represented by Operation Reach, which the Boy Scouts of America pioneered in a few pilot projects in the past year and is now extending throughout New Hampshire and the rest of the Nation.

PEOPLE

A number of important people from the State of New Hampshire have contributed to the Scout movement. The Commissioner of Education, Newell Paire, is council Exploring chairman. Former Governor Winant was the first Council President in 1929. Other former Governors active in Scouting include Gov. Wesley Powell, Gov. Francis P. Murphy, Gov. Hugh Gregg, Gov. Huntley N. Spaulding, and Gov. Rolland H. Spaulding. Senator Norris Cotton, Senator Thomas McIntyre, Representative Louis Wyman, and former Congressman Oliva Huot have also been active in the Scout movement.

Three men from New Hampshire serve Scouting on the regional executive committee. They are John H. Morison of Milford, president of the Hitchiner Manufacturing Co.; John Palazzi of the Palazzi Corporation in Concord; Max I. Silber of N. Kamenske and Co., Nashua, and William A. Doherty of Franklin, president of the G. W. Griffin Co.

CAMPING

New Hampshire's Scout council owns and operates three Scout camps; two for long-term camping and one for short-term camping. Last year more than 3,100 Scouts and Explorers in 112 posts and troops were involved in long-term camping. These camps also provided summer camping last year for 21 disadvantaged boys who were not Scouts.

Scouts and Explorers from all parts of the country come to use 14 wilderness trails and camping facilities in New Hampshire that are part of the BSA National Campways tour program.

NEW HAMPSHIRE SCOUTING FACTS

The Granite State has a total Scout population of more than 18,000. This includes (as of the first of this year) 600 Explorers in 51 Explorer units, 8,100 Scouts in 276 troops, and 9,700 Cub Scouts in 243 Cub packs. Almost 7,000 adults serve these youths on a volunteer basis. Working with these nearly 25,000 citizens of New Hampshire, who are actively engaged in Scouting, is a professional staff of 13. Total membership in the State is expected to be 25,000 boys by 1976.

All in all, New Hampshire has proved to be an important State to the Boy Scouts of America; just as Scouting has proved to be important to the State of New Hampshire.

THE RICHMOND SCHOOL BUSING CASE

Mr. ERVIN. Mr. President, the February 14 issue of Time magazine contains a simple and eloquent letter on the depths of human feeling surrounding the Richmond intercounty busing decision. I ask unanimous consent that it be printed in the RECORD.

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

SIR: Judge Merhige can order until he is blue in the face. He cannot come into our homes and grab our children.

Our motto: The real Supreme Court of this land is We, the People. The judges are appointed by God; their names are Mommy and Daddy.

Mrs. CAROLYN W. BAKER,
Richmond.

U.S. RELATIONS WITH SOUTH ASIAN NATIONS

Mr. ROTH. Mr. President, a few days ago I spoke to the Senate about the need for the United States to maintain a balanced approach in its relations with the nations of the South Asian subcontinent. I noted several instances in which we had, by providing arms to India or Pakistan, aggravated tensions on the subcontinent and increased the risk of a great power clash. I referred to our unhappy experience in the recent crisis in East Bengal when we became identified with one side of an essentially intraregional conflict. I urged that we not overlook any opportunity to repair the damage to our relations with India caused by the recent crisis, and I recommended that we seek the friendship of all nations in the region.

It was, therefore, with understandable interest that I read a column by Laurence Stern in the Washington Post of February 4 on the question of providing arms to Pakistan. Mr. Stern referred to the arms offer announced by the State Department in October 1970. This included 300 armored personnel carriers and about 20 aircraft and was described in official statements as a one-time exception to the embargo which we have maintained since 1965 on military equipment for India and Pakistan. Mr. Stern points out that the United States still has to make a decision on whether to go forward with this offer, which has been held in abeyance for over a year.

In this connection, Mr. Stern makes some pertinent observations, about the high political cost of the relatively small

amount of arms that we have provided to India and Pakistan:

Since the 1965 war, when foreign-supplied armies of India and West Pakistan staggered to exhaustion and truce after 22 days of war, the United States has played the most negligible role of all the major industrial nations in the arming of the subcontinent. We adopted our embargo policy because of the embarrassing specter of two opposing armies of the third world mauling each other with American tanks, guns and airplanes.

A few statistics tell the story. The United States supplied half a per cent of all major weapons sent to the subcontinent since the 1965 war, according to the impartial and authoritative "Arms Trade With the Third World" study by the Stockholm International Peace Research Institute. The rate was less than $1 million a year.

In the same period the Russians supplied 67.5 per cent of the total, or $130 million a year, with most of the arms going to India. Britain, France and China far outpaced the United States during the post-1965 years.

And so the paradox is that the United States has gotten more unfavorable political mileage out of its diminutive role in the subcontinent arms race than any of the industrial powers who have been fueling it.

Mr. President, as I mentioned in my speech, I believe we should not neglect Pakistan, but it seems to me that our interests would be best served by encouraging that nation to focus its energies on economic and social development. With regard to supplying arms, I think the United States should move with great care and only after a thorough consideration of the impact which new shipments to Pakistan are likely to have on our relations with India and on our whole position on the subcontinent.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. GAMBRELL. Mr. President, I was necessarily absent when certain record votes were taken on amendments to H.R. 12067, the foreign aid appropriations bill, because of a longstanding prior commitment in Georgia.

Had I been present on Friday, February 4, when votes on these amendments were taken, I would have voted "yea" on the Fulbright amendment barring the use of funds for continuing public safety programs of the Agency for International Development—No. 34 Leg.—and "yea" on the Fulbright amendment decreasing from $165 million to $140 million funds for worldwide technical assistance, and from $150 million to $100 million funds for development loans—No. 35 Leg.

HARVARD LAW PROFESSOR OPPOSES EQUAL RIGHTS AMENDMENT

Mr. ERVIN. Mr. President, in the March 1971 issue of the Harvard Civil Rights Civil Liberties Law Review, Prof. Paul A. Freund of the Harvard Law School has written a strong article against the equal rights for women amendment.

Professor Freund, one of the most outstanding legal scholars in this country, concludes that the ERA, or unisex amendment, will result in the destruction of any law that differentiates between men and women. As Professor Freund puts it:

And so women must be admitted to West Point on a parity with men; women must be conscripted for military service equally with men (though classification on an individual basis for assignment to duties would be valid, it is asserted); girls must be eligible for the same athletic teams as boys in the public schools and state universities; Boston Boys' Latin School and Girls' Latin School must merge (not simply be brought into parity); and life insurance commissioners may not continue to approve lower life insurance premiums for women (based on greater life expectancy)—all by command of the Federal Constitution."

Professor Freund takes a special look at the laws relating to domestic relations which the ERA would destroy, and I hope that every Senator will have an opportunity to read this section to determine the effect of destroying the legal obligation, existent in every State, for the husband to support his family.

Prof. Jonathan H. Pincus of the Yale University School of Medicine has rightly termed this destructive element of the ERA, "the Tonkin Gulf resolution of the American social structure."

Mr. President, I highly recommend the article by Professor Freund in the Harvard Civil Rights Civil Liberties Law Review to everyone interested in a brilliant exposé of the equal rights for women amendment. I ask unanimous consent that it be printed in the RECORD.

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

THE EQUAL RIGHTS AMENDMENT IS NOT THE WAY

(By Paul A. Freund*)

My interest in the Equal Rights Amendment goes back twenty-five years, when I was encouraged to draft a statement in opposition on behalf of twenty lawyers and law professors, including Dean Pound of Harvard.[1] Last year I learned that this statement was being circulated anew by the AFL–CIO, and it became necessary to review my position on the subject.

The issue has always been over choice of means, not over ends. The objective is to nullify those vestigial laws that work an injustice to women, that are exploitative or impose oppressive discriminations on account of sex. Although such laws have been progressively superseded or held to be violative of equal protection,[2] some of these laws still disfigure our legal codes. Beyond this, the Women's Rights Movement seeks to achieve equal opportunity and equal treatment for women in business, professional, domestic, and political relationships, but unless equality is denied by a public agency or because of a law the Equal Rights Amendment by its terms has no application. If we want to see more women in law firms, in the medical profession, in the Cabinet—and I, for one, do—we must turn elsewhere than to the proposed amendment. The point is not the smug argument that we must change hearts and minds and attitudes (though that too is involved) rather than look to law; the point is that within the realm of law we have to compare the effects and effectiveness of a constitutional amendment on the one hand and the mandate of congressional legislation and judicial decisions on the other.

The proposed amendment attempts to impose a single standard of sameness on the position of the sexes in all the multifarious roles regulated by law—marital support, parental obligations, social security, industrial employment, activities in public schools, and military service—to mention the most prominent. It is necessary to try to analyze all these various applications of the single-standard formula in order to discern whether anomalies, uncertainties, and injustices would result. Unfortunately we have no definitive guide in such an exploration, for neither in the House nor in the Senate was there a committee report on the amendment, which might have focused attention on concrete issues rather than on a generalized slogan—"equal rights under law"—which is intended to supplant "equal protection of the laws." The alternative legal course is to achieve changes in the relative position of women through paramount federal standards or to overcome invidious classifications on the ground that they are presently unconstitutional. The choice resembles that in medicine between a single broad-spectrum drug with uncertain and unwanted side-effects and a selection of specific pills for specific ills.

In comparing the problem of choice twenty-five years ago and today, I concluded that so far from the case for amendment being strengthened, the choice of the alternative course was even more strongly indicated. The reason is that during the intervening years both the scope of congressional power and the promise of judicial redress have been made clearer, while the dangers implicit in the amendment remain as before. Congressional power under the commerce clause, as the civil-rights legislation shows, is adequate to deal with discrimination (whether private or governmental) based on sex, as on race. This authority has been utilized to some extent in relation to sex discrimination in employment practices[3] but not to such discrimination in places of public accommodation. Discrimination in matters of family law could be reached under Congress' power to enforce the equal-protection guarantee, as set forth in *Katzenbach v. Morgan*.[4]

Recently, to be sure, a majority of the Court refused to extend that decision to the case of the claims of 18-year-olds to share in the suffrage; but the refusal hinged on a reluctance to regard the minimum voting age for elections as a subject coming within the guarantee of equal protection.[5] Even without benefit of congressional action, the guarantee has been markedly enlarged in recent years; it has served to invalidate legislative classifications based on such factors as poverty, illegitimacy, duration of residence.[6] Surely nineteenth-century decisions holding, for example, that women could be denied admission to the bar[7] are museum pieces and should not figure in any present discussion of equal rights.

The paucity of contemporary Supreme Court decisions can be ascribed partly to the failure of women's groups to mount a series of selected test cases challenging forms of discrimination, and in part to the fact that some discriminatory laws have been held invalid by lower courts, without further appeal.[8] One Supreme Court decision, however, is a target of indignation by proponents of the amendment: *Hoyt* v. *Florida*.[9] The Court held by a divided vote that a state law might relieve women of jury duty unless they signified their willingness to serve, while requiring men to present specific reasons for excusal. Experience had shown that a much higher percentage of women than of men had in fact secured excusal on an individual basis, because of household duties, and the law was tailored to reflect this experience in a differentiated procedure based on a differentiated presumption of fact. As the Justices were divided, so, it seems to me, can reasonable persons of good will disagree among themselves on the decision. But to regard the decision as an invidious discrimination or a degrading affront to women that calls for redress by a constitutional amend-

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ment is surely far-fetched and obsessively sensitive. The classification more nearly resembled a factual generalization based on age or height than on race or color.

So far I have set out reasons why the amendment is not necessary or appropriate. Before leaving this point, let me add that even if the amendment were adopted, legislation on the state or federal level would be necessary to carry it out in its myriad applications. Four words will not in themselves remake the laws of age of consent, marital property rights, marital and parental legal duties, and protective factory legislation. The energies that have been spent for forty years in an effort to secure the submission of the amendment by Congress to the states would have to be followed, even if ultimately successful, by efforts to revise the laws in a satisfactory way. It is hard to believe that this preliminary struggle to obtain the support of two-thirds of Congress and three-fourths of the states is other than a diversion of energy from the essential task of revising the laws themselves.

In some fields a national mandate to the states is a useful, even necessary, prelude because there is a bloc of recalcitrant states or because individual states fear a loss of competitive advantage in raising their standards. The latter was the case, for example, with unemployment compensation, which lagged in the states until federal tax credit legislation took away the supposed advantage of holding out.[10] So far as women's rights are concerned, a similar situation conceivably might exist with respect to a disadvantaged position in industry; but there is a twofold answer to this supposition. So far as merely private discrimination is concerned, the amendment has no application, and all discrimination, private or governmental, is subject to the paramount power of Congress under the commerce clause. In non-commercial fields, such as marital property or parental duties, there is no need to go to the states for a preliminary mandate to change their laws. If three-fourths of the states are prepared to ratify the amendment, it is hard to see why they must first thus admonish themselves to do justice before they are prepared in fact to do justice. Although forty years of frustration ought to have carried a lesson, no doubt it seems easier to place a resounding and all-encompassing phrase in the Constitution than to identify specific wrongs and draft model laws to correct them. Yet it is the latter that sooner or later will have to be done, whatever the fate of the amendment—and I suggest that it be sooner.

Still, it may be suggested, the amendment would serve importantly as a symbol—a symbol that the nation has made a commitment to justice for women under law. One gets the impression that much of the drive for the amendment owes its force to this psychological wellspring. The value of a symbol, however, lies precisely in the fact that it is not to be taken literally, that it is not meant to be analyzed closely for its exact implications. A concurrent resolution of Congress, expressing the general sentiment of that body, would be an appropriate vehicle for promulgating a symbol. When, however, we are presented with a proposed amendment to our fundamental law, binding on federal and state governments, on judges, legislatures, and executives, we are entitled to inquire more circumspectly into the operational meaning and effects of the symbol. Lawyers, in particular, have an obligation to ask these questions and to weigh the answers that are given. For if the amendment is not only a needless misdirection of effort in the quest for justice, but one which would produce anomalies, confusion, and injustices, no symbolic value could justify its adoption. We turn, then, to these issues of meaning and effect.

A mandate that equal rights under law shall not be denied or abridged by the United States or any state on account of sex can have either of two conceivable meanings. It can mean that any classification based on sex must be justified by some good (or very good, or compelling) reason, or it can mean that no such classification can pass muster. To this question there is no authoritative answer to be found in the congressional history of the proposed amendment, but the literature of its main sponsors insists on an absolute meaning. This interpretation has been reinforced by the recent experience with the amendment in the Senate. After the original version was amended to death, Senator Bayh and other proponents offered a revised version, using the language "equal protection of the laws shall not be denied or abridged . . . on account of sex." This formulation, adopting the language of the fourteenth amendment but explicitly stressing its application to classifications based on sex, would have been accepted by a number of opponents of the original version. (I would not feel impelled to oppose the revised version, though doubting its necessity.) But it was the most active groups behind the amendment that refused to accept the substitute. They protested that courts or legislatures might find compelling reasons for certain classifications, and this result was unacceptable.[11] I should have thought that if there are compelling reasons and if the amendment would allow them to prevail, that outcome would be cause for satisfaction, not intransigent complaint.

A doctrinaire equality, then, is apparently the theme of the amendment. And so women must be admitted to West Point on a parity with men; women must be conscripted for military service equally with men (though classification on an individual basis for assignment to duties would be valid, it is asserted),[12] girls must be eligible for the same athletic teams as boys in the public schools and state universities; Boston Boys' Latin School and Girls' Latin School must merge (not simply be brought into parity); and life insurance commissioners may not continue to approve lower life insurance premiums for women (based on greater life expectancy) [13]—all by command of the Federal Constitution.

Perhaps the country ought to consider conscripting women equally with men. My point is not that we must maintain the status quo; it is that a change so far-reaching and inflexible ought surely not be brought about as the half-hidden implication of a constitutional motto. Changes of far less import in the draft law have been the subject of full-scale hearings, committee reports, and debate in and out of Congress. Can we assume that every member of Congress who is prepared to vote for the amendment is equally prepared to explain and justify its effect on military service and to support that result before his constituents? A similar question has to be raised about each of the other foregoing illustrative consequences of the amendment. The irreverent thought obtrudes itself that either not every member of Congress has been adequately briefed on the amendment's implications or not every member takes seriously the possibility of its ratification. This irreverence is reinforced when it is remembered that such subjects as selective service or admission to West Point are wholly in the control of Congress, and there is no reason to wait for the mandate of three-fourths of the states if Congress really regards sex differentiation in those institutions as unacceptable and is bent on ending it. Indeed, the change could be brought about by simple majority vote, not the two-thirds required to submit a constitutional amendment.

Special scrutiny should be given to the field of domestic relations, with its complex relationships of marital duties and parental responsibilities. Every state makes a husband liable for the support of his wife, without regard to the ability of the wife to support herself. The obligation of the wife to support her husband is obviously not identical to this; if it were, each would be duty bound to support the other. Instead, the wife's duty varies from state to state. In some jurisdictions there is no obligation on the wife, even if the husband is unable to support himself. In others, the wife does have a duty of support in such a case.

In 1968 a recommendation on the subject was made by a Task Force on Family Law and Policy of the Citizens' Advisory Council on the Status of Women, a group that supports the amendment. The recommendation was a progressive and equitable one: "A wife should be responsible for the support of her husband if he is unable to support himself and she is able to furnish such support." [14] So far, so good. But what would be the effect on the rule fixing the husband's duty? Some members of the Task Force, but only some, took a position of reciprocity consistent with the principle of the amendment: "Some of the task force members believed that a husband should only be liable for the support of a wife who is unable to support herself due to physical handicap, acute stage of family responsibility or unemployability on other grounds." [15] This solution, dictated by the Equal Rights Amendment, would be contrary to the law of every state. Moreover, the support owed solely to "a wife who is unable to support herself" might be further eroded by the establishment of child-care centers. Where such centers are created, presumably a wife with small children would no longer be "unable" to support herself through employment, and so under the constitutional rule of reciprocity would lose the right of support from her husband. Thus child-care centers could, by a reflexive effect on the mother's ability to work outside the home, constitute a threat rather than an opportunity. Of course the spouses would be free to enter into an agreement regarding support, but the law is necessarily concerned with rules and presumptions in the absence of agreement.

Is the favorable treatment now everywhere accorded to wives in respect of support a manifestation of male oppression or chauvinism or domination? Can it be expected that all the states will make an about-face on the law of support within a year of the adoption of the amendment; and if they do not, what will be the reaction of wives to the Equal Rights Amendment when husbands procure judicial decisions in its name relieving them of the duty of support because an equal duty is not imposed on their wives?

It is sometimes said that a rigid requirement of equality is no less proper for the sexes than for the races, and no less workable. But the moral dimensions of the concept of equality are clearly not the same in the two cases. To hold separate Olympic competitions for whites and blacks would be deeply repugnant to our sensibilities. Do we—should we—feel the same repugnance, that same sense of degradation, at the separate competitions for men and women? A school system offering a triple option based on race—all-white, all-black, and mixed schools—would elevate freedom of choice over equal protection in an impermissible way. Are we prepared to pass that judgment as readily on a school system that offers a choice of boys', girls', and coeducational schools? A family that prefers to send its daughter to a girls' school or college and its son to a boys' school or college is not thereby committing an invidious discrimination; their judgment of relative educational advantages may be wise or unwise, but it is not so far beyond the bounds of legitimate discretion, experimentation, and good will as to call for a uniform constitutional mandate closing off that area of choice. One of the

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prime targets of the equal-rights movement has been the color-segregated public rest room. Whether segregation by sex would meet the same condemnation is at least a fair question to test the legal assimilation of racism and "sexism."

The answer proffered is that a counter-principle, a constitutional right of privacy, would be invoked at this point.[16] But this is only to restate the problem, which is whether there are not considerations other than identical treatment that ought to be taken into account in the various contexts of relations between the sexes. If privacy is one such consideration, though unexpressed in the amendment, when will it prevail and when will it not? Is privacy in fact the only unexpressed countervailing interest? Freedom of association is a constitutional right enjoying recognition even longer and firmer than privacy. It has been invoked without avail, as has the interest in privacy, to blunt the force of equal protection in the field of racial separation. Is it to have greater recognition (as in the area of public education) where relations between the sexes are concerned? Moreover, interests more social, less individual, than privacy or association are actually involved. If a public school conducts separate physical education classes for boys and girls, or a prison maintains separate cells for men and women, would the validity of the separation depend on a claim of privacy? If the pupils or prisoners waived any interest in privacy and wished to amalgamate the classes or the cells, would the school or the prison be required to conform? Or could the law respect a wider community sentiment that separateness was fitter and not invidious?

Constitutional amendments, like other laws, cannot always anticipate all the questions that may arise under them. Remote and esoteric problems may have to be faced in due course. But when basic, commonplace recurring questions are raised and left unanswered by text or legislative history, one can only infer a want of candor or of comprehension.

I would not wish to leave the subject on a purely negative note. My concern, as I have said, is with the method proposed, which is too simplistic for the living issues at stake. It remains, then, to suggest alternative approaches. A great deal can be done through the regular legislative process in Congress. Concrete guidelines are set forth in an April 1970 Report of the President's Task Force on Women's Rights and Responsibilities. After recommending support of the proposed amendment, the Report urges that—

Title VII of the Civil Rights Act of 1964 be amended to empower the EEOC to enforce the law, and to extend coverage to state and local governments and to teachers;

Titles IV and IX of the Civil Rights Act be amended to authorize the Attorney General to assist in cases involving discrimination against girls and women in access to public education, and to require the Office of Education to make a survey on that subject;

Title II of the Civil Rights Act be amended to prohibit discrimination because of sex in public accommodations;

the jurisdiction of the Civil Rights Commission be extended to include denial of civil rights because of sex;

the Fair Labor Standards Act be amended to extend coverage of its equal pay provisions to executive, administrative, and professional employees;

liberalized provisions be made for child-care facilities.[17]

It is an extensive, important, and thoughtful set of proposals. If a two-thirds majority can be found for the abstraction of the Equal Rights Amendment, it would be puzzling to know why a simple majority could not even more readily be found to approve this concrete program.

In addition, Congress would give a vigorous and valuable lead by enacting model laws for the District of Columbia in the fields of labor legislation and domestic relations.

Moreover, a few significant decisions of the Supreme Court in well-chosen cases under the fourteenth amendment would have a highly salutary effect. And decisions under Title VII of the Civil Rights Act will clarify the role of state laws regulating employment in light of the statutory concept of bona fide occupational qualifications.[18]

Finally, Congress can exercise its enforcement power under the fourteenth amendment to identify and displace state laws that in its judgment work an unreasonable discrimination based on sex. In this connection let me point out a serious deficiency in the proposed amendment. Its enforcement clause gives legislative authority to Congress and the states "within their respective jurisdictions." This is a more restrictive authorization to Congress than is to be found in any other amendment, including the fourteenth. If the new amendment is deemed to supersede the fourteenth concerning equal rights with respect to sex, Congress will be left with less power than it now possesses to make the guarantee effective. This is the final anomaly.

The time has come for action, for meaningful action, for action based on a clear idea of just what it is that we are trying to correct and to bring about by law. For more than forty years there has been pursuit of the *ignis fatuus* of a constitutional amendment. This course has been opposed by individuals and groups whose commitment to civil rights and women's rights is not in question: groups that include the National Council of Negro Women, the National Council of Catholic Women, the National Council of Jewish Women, the American Association of University Women, and the Commission on the Status of Women, appointed by President Kennedy and chaired by Eleanor Roosevelt.[19] The real issue is not the legal status of women. The issue is the integrity and responsibility of the law-making process itself.

FOOTNOTES

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[1] The statement appears in *Hearing on S.J. Res. 61 Before a Subcomm. of the Senate Comm. on the Judiciary*, 79th Cong., 1st Sess. 78–80 (1945). A list of signatories appears in 116 CONG. REC. § 13906 (daily ed. Aug. 21, 1970) (remarks of Sen. Ervin).

[2] *E.g.*, United States *ex rel.* Robinson v. York, 281 F. Supp. 8 (D. Conn.) (1968); Commonwealth v. Daniel, 430 Pa. 642, 243 A.2d 400 (1968). Both cases invalidated statutes providing for more severe penalities for women than for men convicted of certain offenses.

[3] Civil Rights Act of 1964, Title VII, 42 U.S.C. §§ 2000e–2000e–15 (1964).

[4] 384 U.S. 641 (1966).

[5] United States v. Arizona, 91 S. Ct. 260 (1970).

[6] *E.g.*, Shapiro v. Thompson, 394 U.S. 618 (1969) (residency); Levy v. Louisiana, 391 U.S. 68 (1968) (illegitimacy); Harper v. Virginia Bd. of Elections, 283 U.S. 663 (1966) (poverty); Douglas v. California, 372 U.S. 353 (1963) (poverty).

[7] *In re* Lockwood, 154 U.S. 116 (1894); Bradwell v. State, 83 U.S. (16 Wall.) 130 (1872).

[8] *See* note 2 *supra*. *See also* Kirstein v. Rector and Visitors of the Univ. of Va., 309 F. Supp. 184 (E.D. Va. 1970) (requiring admission of women to all-male campus of the University of Virginia, where facilities open to women were not equal); White v. Crook, 251 F. Supp. 401 (M.D. Ala. 1966) (holding invalid the exclusion of women from jury service).

[9] 368 U.S. 57 (1961).

[10] *See* Steward Machine Co. v. Davis, 301 U.S. 548, 587–88 (1937).

[11] N.Y. Times, Nov. 12, 1970, at 19, col. 3. *But cf.* "Separation of the sexes by law would be forbidden under the amendment except in situations where the separation is shown to be necessary because of an overriding and compelling public interest and does not deny individual rights and liberties." Citizens' Advisory Council on the Status of Women, *A Memorandum on the Proposed Equal Rights Amendment to the Constitution* in the CONGRESSIONAL RECORD, vol. 116, pt. 7, pp 9684–9687. The dimension of this escape hatch are left unexplored. The only example given is the maintenance of separate restrooms, which other proponents have explained as preserving a right of privacy. *See* p. 240 *infra*.

[12] Citizens' Advisory Council on the Status of Women, *supra* note 11, the CONGRESSIONAL RECORD, vol. 116, pt. 7, pp. 9684–9687.

[13] *Cf.* Gruenwald v. Gardner, 390 F.2d 591 (2d Cir.), *cert denied*, 393 U.S. 982 (1968) (higher Social Security retirement benefits for women sustained). Presumably the amendment would require a different result.

[14] Citizens' Advisory Council on the Status of Women, Report of the Task Force on Family Law and Policy 9 (1968).

[15] *Id.*

[16] Emerson, *In Support of the Equal Rights Amendment*, 6 Harv. Civ. Rights-Civ. Lib. Rev. 225, 233 (1971).

[17] President's Task Force on Women's Rights and Responsibilities, A Matter of Simple Justice iv-v (1970).

[18] *See* Phillips v. Martin Marietta Corp., 39 U.S.L.W. 4160, 4160–61 (U.S. Jan. 25, 1971) (Marshall, J. concurring).

[19] *See also* the valuable recent report recommending against adoption of the amendment, Committee on Federal Legislation, *Amending the Constitution to Prohibit State Discrimination Based on Sex*, 26 Record of N.Y.C.B.A. 77 (1971).

INTERGOVERNMENTAL COOPERATION ACT OF 1972

Mr. ROTH. Mr. President, it gives me great pleasure to join Senators in cosponsoring S. 3140, the Intergovernmental Cooperation Act of 1972, introduced yesterday by the distinguished Senator from Maine (Mr. MUSKIE). Reform of the system of Federal domestic assistance has long been a major interest of mine. During my tenure in the House I cosponsored legislation similar to this bill.

My initial familiarity with the failures of our grant-in-aid apparatus resulted from a project which my staff and I completed in 1969. At that time we compiled the first comprehensive catalog of Federal domestic assistance programs. To assure that we continue to make progress in the area of user-oriented program information, I introduced the Program Information Act. This proposal passed by the Senate during the 91st Congress, has been introduced in both Houses during this Congress.

What has most disturbed me about the evolution of our system of domestic assistance is that we have continued to proliferate categorical programs without concerning ourselves sufficiently with their utility to intended recipients. After all, the grant system was created to assist the States, localities, and other non-Federal bodies in carrying out their proper functions without burdening them with complex, expensive, and inflexible

requirements. Further, it seems to me that we have failed to give adequate attention to the impact of grants on the balance within our Federal system; and to evaluating the degree to which these grants are achieving the national objectives for which they were created.

A realistic picture of the difficulties faced by applicants for Federal grants arises from a realization of the number of programs operating in any particular functional area. This picture is complicated when the multiple uses to which programs can be put are taken into account. By "multiple uses" I refer to the fact that, for example, there are housing, research, and manpower training programs which can be of benefit to educators and educational institutions. Sorting out the multiple uses of programs is an undertaking requiring the most sophisticated grantsmanship.

In order to obtain a statistical picture of the maze of programs and agencies confronted by a potential grant applicant, my staff and I have constructed Chart 1. Columns 2 to 4 indicate the number of programs, accounting for multiple uses, and the number of agencies and subagencies—bureaus or offices within larger units—involved in a variety of functional categories. For example, there are something like 172 grants identified as housing programs handled by 16 agencies and 32 subagencies. As regards education programs, a potential aid recipient could be faced by approximately 440 programs under the direction of 31 major agencies and 53 bureaus.

I have been able to obtain this statistical information on the multiple uses of programs through use of the computer programs of Applied Uranbetics, Inc., a Washington firm whose business is providing services to State and local governments and others in their attempts to solve social problems. While this data results from a study several months old, I am confident that it still represents the basic reality.

This proliferation of programs, besides creating mammoth informational problems for grant applicants, has led to needless duplication and overlapping of Federal assistance programs. Duplication of programs has resulted in duplicating guidelines, duplicating regulations, and duplicating application forms. As a result, State and local officials find themselves mired in expensive and inflexible red tape and bureaucracy. It is important to realize that a grant applicant may have to contend with guidelines, regulations and application forms generated by a number of departments and bureaus, each having their own ways of doing things.

One Governor in reply to an inquiry from my office on this subject commented as follows:

> There is little doubt that conflict and duplication among Federal grant programs have increased to the point that it today constitutes one of the major problems we face. The separate grant programs for sewer, water, open space, housing and planning programs are not only causing expensive administration duplications, but provide a source of great confusion to local government units as to the appropriate place to seek assistance.

I am happy to say that President Nixon and his administration have sought to deal with the deficiencies of our system of domestic categorical grants-in-aid. I support the broad intentions of the administration's four Executive reorganization bills, its special revenue-sharing proposals, and the efforts of the Office of Management and Budget's Federal Assistance Review.

While I heartily approve of these reforms as steps in the right direction, I do not believe that they alone will treat all the ills of the domestic assistance system. Even if both the executive reorganization program and the six special revenue-sharing bills become law, State and local officials and Federal administrators would still face a most complex array of categorical grants. Again putting to use chart 1, it is possible to take a "before and after" look at the number of programs and agencies which citizens, private institutions, and State and local governments must sort through when seeking aid in a number of program categories.

By rearranging programs and agencies to account for the likely effects of the proposed reorganizations and special revenue-sharing plans, we can to some extent measure their impact. Study of columns 5 to 8 of the chart leads to the conclusion that even if all of this legistion were enacted, we would still need to look for other means to further rationalize the grant system. In the category of housing aid the number of programs involved would be reduced from about 172 to 155, while 13 major agencies, nine newly created administrators, and 20 bureaus would carry the load formerly borne by 16 major agencies and 32 bureaus. The approximately 440 education programs now existing would shrink to 380 with 25 major agencies, 15 administrators, and 34 bureaus acting where 31 major units and 53 bureaus had participated. Special revenue sharing by itself would phase out only 130 of the 1,000-plus categorical programs.

I do not suggest that all 440 education grants, for example, should be, or indeed could be consolidated. I do think, however, that some beneficial groupings could be made that would simplify the administration of Federal grants. I would urge the executive branch to press even harder to consolidate grants through administrative action when possible and to continue to pursue other grant reforms.

These efforts require more from the Houses of Congress than cheering from the sidelines. The Intergovernmental Cooperation Act of 1972, will contribute greatly to the reconstruction of our apparatus of intergovernmental aid. First of all, this legislation as one means of simplifying the financial reporting requirements of Federal assistance programs, permits Federal agencies to place greater reliance on State and local audits which meet Federal standards.

Title II of this bill would permit the President to transmit to Congress plans which consolidate overlapping domestic programs. A plan would become effective if either House of Congress disapproved it within a period of 10 calendar days during which Congress was in continuous session. This procedure, whereby Congress exercises a negative veto, utilizes that set forth in the Reorganization Act of 1949. Original congressional intent is protected in this bill by explicit requirements set for the purposes and manner of grant consolidations. Some of us might ideally prefer not to allow semilegislative powers to the President. However, when one realizes the enormous and detailed task involved in restructuring over 1,000 grants, such a delegation of power seems more reasonable.

The third purpose of the Intergovernmental Cooperation Act of 1972, is to permit Federal agencies to set up common application, management, and funding procedures for appropriate programs. Emphasis is placed on intraagency joint funding although some provision is made for applying the technique to programs managed by more than one executive agency. The President is now authorized by several statutes to carry on demonstration joint funding projects, which have been conducted with apparent success. The advantages of such a procedure are obvious for the private institution or Governmental unit seeking coordinated solutions to problems.

Title IV of the Intergovernmental Cooperation Act of 1972 seeks to improve congressional and Executive oversight of Federal assistance programs. The substantive committees of Congress would be given the responsibility of periodically reviewing grant programs falling within their jurisdictions and reporting their findings to their respective Houses. To better perform this task a committee chairman would be authorized to appoint, with the approval of the ranking minority member, a program review specialist to the professional staff of the committee. This title also requires more extensive reporting of grant-in-aid activities to Congress by Federal agencies and the President.

It is my hope, Mr. President, that enactment of the Intergovernmental Cooperation Act of 1972 would be a significant step toward a better system of intergovernmental aid. The Advisory Commission on Intergovernmental Relations, the Nixon administration, House and Senate Intergovernmental Relations Subcommittees and their staffs, as well as individual Members of both Chambers, have all contributed to this legislation. I doubt that anyone would dispute the contention that we must act creatively and promptly to make our grant system a more effective part of a vital and balanced Federal system.

Mr. President, I ask unanimous consent that chart No. 1, to which I have referred, be printed in the RECORD.

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

CHART 1.—APPROXIMATE NUMBER OF PROGRAMS AND AGENCIES INVOLVED IN VARIOUS PROGRAM AREAS BEFORE AND AFTER REORGANIZATION AND REVENUE SHARING

Program area (1)	Before reorganization			After reorganization and revenue sharing			
	Programs (2)	Agencies (3)	Sub-agencies (4)	Programs (5)	Agencies (6)	Administrations (7)	Sub-agencies (8)
Urban	174	17	33	136	15	15	23
Housing	172	16	32	155	13	9	20
Renewal	113	9	26	90	6	13	15
Rural	189	16	39	155	11	12	27
Agriculture	166	12	34	132	10	10	30
Food	62	7	20	52	7	9	18
Business	273	34	52	253	23	16	43
Education	440	31	53	380	25	15	34
Schools	118	12	16	81	10	8	12
Employment	253	31	34	230	19	11	26
Vocational rehabilitation	87	15	12	59	9	5	8
Transportation	137	22	53	104	15	13	28
Streets and highways	54	9	15	21	5	7	10
Law enforcement	63	19	19	57	13	8	17
Science	348	21	50	333	17	13	29
The consumer	43	16	15	36	13	9	12
Poverty	232	16	30	201	15	12	21
Aged	93	12	19	86	8	9	16
Handicapped	97	9	11	86	7	4	6
Day care	30	5	11	19	3	8	8
Recreation	119	20	30	102	16	12	22
Conservation	112	15	36	87	12	8	18
Water resources	167	13	38	147	9	14	30
Energy and minerals	48	12	14	47	8	5	10
Air pollution	27	6	12	27	5	7	10
Health	368	24	43	335	19	12	28
Hospitals	60	6	6	58	3	4	5
Drugs	70	8	15	67	7	5	13
Sanitation	63	8	19	52	6	8	12

NOTES

These statistics were obtained from computer programs made available by Applied Urbanetics, Inc. of Washington, D.C.

Column 2—All programs which among their multiple uses can be used in this program area are included.

Column 3—Cabinet departments and independent agencies.

Column 4—Bureaus and other operating units within departments and independent agencies.

Column 7—The new administrations to be created by administration bills for the purpose of coordinating program operations.

CAREER PROMOTION SYSTEM OF U.S. INFORMATION AGENCY

Mr. PELL. Mr. President, I have noted with concern that the Director of the U.S. Information Agency, Mr. Frank Shakespeare, has decided to make a basic and potentially far-reaching change in the career promotion system of the Agency. I believe I have a particular responsibility in this regard, too, in that I was the principal Senate sponsor of the legislation that established, in 1968, a career professional service for Foreign Service information officers. Hence, I believe I am particularly aware of the intent of Congress, an intent which would be violated by this proposed change. Moreover, having taken the lead in creating such a career merit promotion system, I have no intention of quietly acquiescing in any action that could lead to its dissolution.

The change proposed by the USIA Director, I believe, violates the basic principles that underlie the career merit system of the entire Federal service.

If other agencies should follow the example being set by the USIA—if other politically appointed agency heads decide they shall personally select career employees for promotion—the results could be disastrous to the entire concept of a professional, nonpolitical Federal career service.

If the State Department should follow the USIA precedent, the permanent promotion of our career Foreign Service officers might well depend, not on their professional abilities, but on how closely their policy or even political views met those of a transient Secretary of State.

Or consider the Defense Department. If the Defense Department should follow the USIA precedent, the promotion of our top military career officers would be dependent, not on their professional military abilities as judged by their peers, but by their ability to please a Secretary of Defense.

Shall we have cold war "hard line" generals and admirals promoted by a "hard line" Defense Secretary, and "moderate" generals and admirals appointed by a "moderate" Defense Secretary? I do not think we would want to have the top military professionals of the Pentagon divided into two camps of generals and admirals—those with "Republican" promotions and those with "Democratic" promotions.

Neither do I think we want our career Foreign Service information officers divided into groups of those holding "Republican" promotions and those holding "Democratic" promotions. In the career service there can only be one kind of promotion—a merit promotion. And I might add that I am happy indeed that neither the State Department, the Defense Department, nor any other agency, to my knowledge, has indicated an inclination to follow in the footsteps of Mr. Shakespeare.

I would like to examine briefly the change in promotion policy put forward by the USIA Director.

The professional career services of the Department of State and the USIA are based on the merit principle. Under a tried and tested system, members of each class of Foreign Service officer and U.S. information officer are ranked for promotion by independent selection boards based on their performance.

Mr. Shakespeare has announced that he will not accept the rankings of the independent selection boards for promotion from class 2 to class 1 of the USIA career service. Instead, he proposed to select these career professionals for promotion on the basis of his personal preference from an alphabetical list of eligibles.

Congress, in establishing a career service for the Department of State and for the U.S. Information Agency, had very clearly in mind the fact that these professional officers continue to serve successive Secretaries, Directors, Presidents, and administrations.

It should be equally clear that personal selection of career officers for promotion on the basis of personal preference of the Director is not consistent with the basic reasons for career service.

The inherent danger of politicizing the career service through such system is obvious.

Let me add that I do not question Mr. Shakespeare's motives. He has stated that he considers the change necessary for good management of an agency for which he is responsible. But I do not think Mr. Shakespeare realizes the full implications of his proposal. Regardless of whether it is his intent to politicize the career service, I believe the promotion policy he suggests would have that result.

After all, the Director, without personally selecting career officers for promotion, has a major role in promotions. He has authority to make assignments of the men promoted; he has authority to order material placed in the personnel files of career officers, material that will be considered by the selection boards; he appoints the members of the selection boards; he drafts the precepts which guide the selection boards in making their recommendations, and he decides how many promotions shall be made. Surely this array of authority gives the Director more than enough power to assure that promotions are indeed made on the basis of merit.

Mr. President, I believe that Congress stated clearly its intentions regarding the promotional system of the USIA career service. Indeed there is question whether Mr. Shakespeare's new FSO–1 promotion system meets legal requirements.

I urge Mr. Shakespeare, in the interests of the important programs that he administers, and in the interests of a high quality career service, to reconsider the position he has taken.

As for myself, I cannot in good conscience support Senate approval of nominations for promotion to FSO–1 unless the nominees are selected in accordance with the basic principles and procedures of a career professional service based on merit.

THE WAR POWERS REPORT

Mr. GOLDWATER. Mr. President, the Committee on Foreign Relations has today reported a bill which holds ominous implications for the future safety of the United States. At a later time, I intend to participate actively in debate on the several grave issues attached to the committee bill. For now, I will simply an-

nounce the publication of an article which I have written on the subject of war powers that is scheduled for printing in the next issue of the Arizona State Law Journal, Law and the Social Order.

My article shows that from the time of the Founding Fathers, who had just come through a long War of Independence, the safety of the people and their united interests has been made the first priority of Government. It also reveals that, in accordance with this concept, there have been 197 foreign military hostilities waged by Presidents in defense of the national security and only five of them have been declared. Moreover, Congress has never enacted binding policy rules hampering the President's conduct of these initiatives; nor has there been any Supreme Court decision in time of war which shackled the President's ability to wage that hostility. Thus, 183 years of experience under the Constitution has firmly established the principle that the President, as Commander in Chief and the primary author of foreign policy, has both a duty and a right to take military action at any time he feels danger for the country or its freedoms. Any legislation, such as the war powers bill, which would restrict his flexibility in these situations is clearly unconstitutional.

Mr. President, I ask unanimous consent that my article, entitled "The President's Ability To Protect America's Freedoms—The Warmaking Power," be printed in the RECORD.

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

THE PRESIDENT'S ABILITY TO PROTECT AMERICA'S FREEDOMS—THE WARMAKING POWER

(Barry M. Goldwater*)

(NOTE.—The Senate Foreign Relations Committee has ordered favorably reported Senate bill 2956, which lays down rigid rules to govern the President's use of the Armed Forces in the absence of a congressional declaration of war. With this bill in the background, Senator Goldwater discusses the historical military actions taken by American Presidents and Congresses' responses to these actions. He then examines the constitutionality of congressional limitations on the President's warmaking power and concludes that while Congress holds control over the size and strength of the country's military machinery, the President's power to use that machinery when he feels the country is in danger cannot be restrained by congressional policy directives.)

I. CONTEMPORARY SETTING

On November 17, 1971, President Nixon signed a $21.3 billion military procurement bill,[1] but emphasized in doing so that he would ignore a so-called end-the-war rider as being "without binding force or effect" and failing to "reflect my judgment about the way in which the war should be brought to a conclusion." [2] Hours later, the House of Representatives rejected, for the fourth time in 1971, a proposal to set a specific deadline for ending the United States military involvement in Indochina.[3]

Not to be deterred by two setbacks in one day, Senator Mike Mansfield, the distinguished Majority Leader of the Senate and author of the troop withdrawal amendment just torpedoed by President Nixon, promptly opened a new attack on the Executive's military authority. The next day another Mansfield amendment was reported to the Senate—a prohibition on spending attached to the 1972 Department of Defense Appropriation Act which sought to force the withdrawal of 60,000 American troops from NATO.[4] This time the President needed no aid from the other Chamber, since the Senate voted on November 23 to reject the limitation by 39 yeas to 54 nays.[5]

The senior Senator from Montana had yet one more challenge waiting in his campaign against Executive discretion, however, for only a week earlier the Senate had passed his third amendment of the year aimed at terminating all United States military operations in Indochina.[6] The amendment set a final date for the withdrawal of all United States forces within 6 months, and was coupled to the Special Foreign Military and Related Assistance Act.[7] The first session of the 92d Congress might still be deadlocked over this issue had not the House of Representatives voted against the proposal a week before Christmas.[8]

However, the most sweeping challenge of 1971 to the President's foreign policy prerogatives stayed alive. I refer to Senate Bill 2956, a bill to codify the rules governing the use of the Armed Forces in the absence of a declaration of war.[9] This legislation, awesome in its implications, was ordered reported favorably on December 7, 1971, by a unanimous vote of the Senate Committee on Foreign Relations.[10]

Thus closed the legislative year 1971, the second succeeding year in which Congress had undertaken a massive effort to reverse what many members of Congress call the erosion of the legislative branch by Presidential usurpation.[11] Many lawmakers and constitutional writers treat the current moves by Congress as a momentous occasion, precipitated by what they allege to be a completely unprecedented example of Presidential warmaking during the past quarter century.[12] But is the experience of Executive initiative in the use of military force truly a modern phenomenon—a departure from long standing tradition? Is the recent struggle in Congress to impose controls over the waging of war an historical first, unknown until now in view of the general self-restraint by earlier Presidents? Or are the present maneuverings between the two political branches of our government merely a sign of recurring ripples in the stream of history? Who, if anyone, possesses the dominant powers to wage war; to authorize the initiative of war; to deploy men, equipment, and supplies? What checks and balances are there on the war powers? What control does Congress or the President have over the other in regard to making war? What kind of hostilities, if any, can our nation legally engage in without a formal declaration of war? All these questions, and more, are interwoven in the current effort by Congress to restrict the President's ability to wage war. It is my hope that this Article will help illuminate these issues.

II. HISTORICAL OVERVIEW

A. Presidential initiatives

It may come as a shock to many Americans that the United States has been involved in at least 197 foreign military hostilities in its history,[13] only five of which have been declared wars.[14] These incidents took place all over the world.[15] Nearly half involved actual fighting,[16] and no less than 111 actions were undertaken solely on Executive authority without the initial support of any related statute or treaty, let alone a declaration of war.[17]

A few commentators have brushed aside these precedents as being "short-lived" [18] or "minor undertakings," [19] or almost exclusively "confined to the Western Hemisphere." [20] But it is a fact that 93 actions lasted more than 30 days,[21] a considerable number involved the landing of many thousands of American troops on foreign soil,[22] and exactly 100 occurred outside the Western Hemisphere.[23] These operations include the capture of 90 French ships during the period from 1798 to 1800, the sinking or capture of 65 pirate vessels in the Caribbean prior to 1825, several landings and punitive actions abroad to defend or evacuate United States citizens and their property, the dispatch of 2,000 sailors and marines to force open commercial trade with Japan in the 1850's, the use of 126,468 troops to suppress the Philippine Insurrection after the 1898 treaty of peace with Spain was concluded, the deployment of several thousands of troops ashore in China from 1900 to 1941, the Pershing Expedition into Mexico with 12,000 men, the commitment of 14,000 men to Allied expeditions in Russia a year and a half after Armistice Day, the Korean Conflict of the 1950's, the occupation of parts of Lebanon in 1958 by 14,000 American soldiers and marines, the super-power confrontation between the United States and the Soviet Union during the Cuban missile crisis of 1962, and the Vietnam hostilies, among many others.[24]

B. Early congressional response

Obviously, little wars are not a "phenomen[on] new to the national experience." [25] Nor have past Presidents been immune from congressional sniping at their military policies.[26] Throughout the early years of this century, there were dozens of attempts in Congress to shackle the President's right to use miiltary power. In 1912, Senator Bacon proposed an amendment to the Army Appropriation Bill which will have prohibited the use of any money provided by that law for the pay or supplies of any part of the Army of the United States employed, stationed, or on duty in any country or territory beyond the jurisdiction of the laws of the United States or in going to or returning from points within the same.[27]

This amendment, which would have restricted all United States troops to the United States or its possessions, was defeated without a record vote.[28] In 1919, several Members of Congress introduced measures aimed at ordering American soldiers home from Europe and challenging the presence of our troops in Siberia as unconstitutional.[29] The only one that passed, however, was a watered-down resolution by Senator Hiram Johnson, simply requesting the President to provide Congress with information on the Siberian Expedition.[30] Then in 1922, a major effort was made in Congress to control the geographical deployment of American forces. The House Committee on Appropriations reported the War Department funding bill with a provision specifying:

"No part of the appropriations made herein for pay of the Army shall be used, except in time of emergency, for the payment of troops garrisoned in China, or for payment of more than 500 officers and enlisted men on the Continent of Europe; nor shall such appropriations be used, except in time of emergency, for the payment of more than 5,000 enlisted men in the Panama Canal Zone, or more than 5,000 enlisted men in the Hawaiian Islands.[31]"

After a vigorous debate squarely on the constitutional allotment of the war powers between the Executive and Congress,[32] the House agreed, on March 24, to Representative Rogers' motion to strike out the committee restriction. John Rogers, a law graduate from Harvard and a seven-term Republican Congressman, presented an illuminating and scholarly discussion of the constitutional issues involved, which stands to this day as one of the greatest expositions ever made during a legislative attempt to run the details of the Armed Forces.[33]

The Senate made its move later in the year. On December 27, 1922, Senator Reed offered an amendment to the Naval Appropriation Bill designed to "at once cause the return to the United States of all American troops now stationed in Germany." [34] The amend-

Footnotes at end of article.

ment was debated, but never accepted. On December 30, 1922, Senator King called up an amendment to the same appropriation measure providing:

That no part of said amount shall be used for the purpose of maintaining or employing marines, either officers or enlisted men, in the Republic of Haiti or the Dominican Republic after June 30, 1923.[35]

Senator King's amendment was rejected the same day.[36] In 1925, he was again disturbed by the use of American troops in the Caribbean and again introduced an amendment to the Naval Appropriations Bill. It stated that "no part of . . . any amount carried in this bill shall be used to keep or maintain any marines in the Republic of Haiti." [37] Once more, Senator King's amendment was rejected.[38]

Three years later, the Senate engaged in one of the most fully-aired debates ever conducted on the question of congressional authority to restrict the power of the President to employ troops abroad—a discussion that would put to shame contemporary exchanges in that body which wander far afield of the true inquiries at the heart of the war powers issue. In 1928, the Senate focused its attention on an effort by Senator Blaine to prevent American forces from being used for intervention in the affairs of any foreign nation "unless war has been declared by Congress or unless a state of war actually exists under recognized principles of international law." [39] The proposal was initiated in view of the feeling of several Senators that the United States military occupation of Nicaragua was not in accordance with the Constitution.[40] Senator Blaine's broad amendment, and a more limited one by Senator McKellar which was confined to Nicaragua alone,[41] would have directed the withdrawal of troops and marines from Nicaragua within 9 months, presaging the format of the first Mansfield amendment of 1971.[42] Only the geographical area was different. Both the Blaine and McKellar amendments failed after a week of debate, by a vote of 22 yeas to 52 nays on the Blaine proposal and 20 yeas to 53 nays on the McKellar amendment.[44]

By 1940, Congress did succeed in enacting a geographical limitation on the emplacement of United States units abroad. Section 3(e) of the Selective Service Act of 1940 expressly required that no draftees were to be employed beyond the Western Hemisphere, except in territories and possessions of the United States.[45] Congressional debate on the provision confirms beyond doubt that it was the intent of its sponsors to limit the meaning of "Western Hemisphere" narrowly to the area of the Americas which "we have long engaged to protect under the Monroe Doctrine." [46]

And yet, 1 year later President Franklin Roosevelt deployed our forces, including draftees, to hold Iceland and Greenland, months before the United States formally entered Word War II.[47] President Roosevelt's action in sending troops more than 2,000 miles away from home bore out Senator Lodge's admission, as author of the restriction, that "[t]his is a pious hope."[48]

A year before, Roosevelt had violated at least two of the post-World War I neutrality laws when he handed over 50 reconditioned destroyers to Great Britain in exchange for a series of military bases in the British West Atlantic.[49] President Roosevelt moved this nation from a neutral into a belligerent status before the repeal of the neutrality laws by ordering the United States Navy to convoy military supplies meant for Britain and Russia as far as Iceland and to attack Axis submarines in the process.[50]

III. CONGRESS REASSERTS ITSELF

A. Indochina amendments

This historical sketch, while not exhaustive demonstrates that individual Members of Congress have often criticized Presidential conduct of foreign hostilities, but seldom, and perhaps never, has the Legislative Branch as a unit directly challenged the President's decisions with statutes unequivocally ordering the Executive to withdraw troops from a specific geographic area, or prohibiting him from employing forces in certain situations.[51] Even recent highly-publicized endeavors by Congress to restrict Executive actions, fall far short of being outright shackles on his conduct.

For example, the Cooper-Church amendment, purportedly barring the introduction of new forces into Laos and Thailand, actually attempts to translate into law President Nixon's own pledges not to involve American ground combat troops in these countries.[52] This amendment, as enacted in the Department of Defense Appropriation Act of 1970, reads:

In line with the expressed intention of the President of the United States, none of the funds appropriated by this act shall be used to finance the introduction of American ground combat troops into Laos or Thailand."

Nothing is said about barring the sending of advisors to these two countries, or requiring the removal of any American forces already there. Nor is there any mention of stopping the bombing, or how the provision is to be construed in the event its language no longer represents the President's position.

An identical provision was also enacted as part of the defense appropriations laws for 1971 [54] and 1972.[55] Indeed, President Nixon included the language of the 1970 provision in his own proposed budgets for these years.[56]

Another quasi-restriction on the employment of United States forces, which cleared Congress in 1970, is a ban against the introduction of both United States ground combat troops and advisors into Cambodia. This provision, incorporated into the Supplemental Foreign Assistance Authorization Act for 1971,[57] states;

"In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for Cambodian military forces in Cambodia." [58]

Again, the Administration posed no objection to the proposal. Secretary of State William P. Rogers testified that it "carries out the President's intention." [59] In fact, Secretary Rogers may have facilitated passage of the amendment when he later wrote to Senator Church: "I should like to reaffirm that the Administration's program, policies, and intentions in Cambodia in no way conflict with" the proposal.[60] It should be noted that the amendment does not purport to cover the use of air and sea power. Nor, according to the conference report on the provision, does it prevent the use of United States troops in border sanctuary operations designed to protect the lives of American soldiers [or of] United States military personnel to supervise the distribution and care of United States military supplies and deliveries to Cambodia, and . . . the training of Combodian soldiers in South Vietnam.[61]

Given such broad exceptions, I believe these provisions are no precedent at all for strict congressional supervision over the Executive's warmaking ability. In truth, they are no more than exercises in restating, with Presidential acquiescence, policy decisions which he had previously announced his intention to follow. Should the President, in viewing the world situation, feel compelled to alter his position, I further believe he could constitutionally avoid any of the above kinds of quasi-limitations on the basis of his independent powers, which I shall discuss in a later part of this Article.[62]

In 1971, the House of Representatives rejected, on five occasions,[63] specific deadlines for ending the hostilities in Southeast Asia, beating back, by the greatest majorities (158 to 254 and 163 to 238), two proposals which sought to cut off funds for the war.[64] The Senate turned down its own version of the fund cut-off when it defeated the Hatfield-McGovern amendment by a 42 to 55 vote.[65]

The Senate subsequently approved the first of three Mansfield amendments.[66] The original provision, added to the Military Selective Service Act Amendments,[67] declared it "to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina and to provide for the prompt and orderly withdrawal of all United States military forces not later than nine months after the date of enactment of this section. . . ." [68]

Senator Mansfield's amendment further "urges and requests the President to implement the above-expressed policy by initiating immediately" three described actions.[69] But nowhere in this or in either of his other two proposals is there a tie to the congressional appropriation power, nor is there any suggestion that the policy expressed therein be binding on the President.

Even so, Congress watered down the first provision before enacting it, changing "the policy of the United States" to "the sense of Congress" and dropping the 9-month termination date entirely.[70] When Congress subsequently did adopt a second Mansfield amendment as a declaration of "the policy of the United States," [71] President Nixon emphatically announced his intention to ignore the policy," even though Congress had once again excised any specific timetable from the amendment.[73] As mentioned above, the third Mansfield amendment was dropped in conference, after the House voted against it.[74]

B. Codification of war powers

In 1971, the Senate Foreign Relations Committee closed out the book on Congress' efforts to reassert itself vis-a-vis the President by ordering Senate Bill 2956 favorably reported. This bill was introduced by the senior Senator from New York, Jacob Javits, to codify the war powers.[75] S. 2956 is a redraft of a concept first proposed by Senator Javits in 1970.[76] It has been taken up in varying form by 18 other Senators, who individually or jointly introduced five different proposals designed to define the sole conditions under which the Armed Forces of the United States shall be used in hostilities.[77]

S. 2956 represents a compromise of all these approaches.[78] Section 1 of the bill sets out the short title, "The War Powers of 1971." Section 2 contains a statement of purpose and policy. The primary thrust of S. 2956 is conveyed by section 3, which relates to the emergency use of the Armed Forces. The provision dictates that, in the absence of a declaration of war by Congress, the military power of the United States "shall be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances" only in four limited situations. The instances to which the President is restricted in using the Armed Forces are (1) to repel an attack upon the United States, take necessary and appropriate retaliatory actions in the event of such an attack, and forestall the direct and imminent threat of such an attack; (2) to repel an attack against our military forces located outside the United States, and forestall the direct and imminent threat of such an attack; (3) to evacuate endangered citizens of the United States located in foreign countries; and (4) to carry out a specific statutory authorization, which shall never be *inferred* from any treaty or provision of law, including any appropriation act.

Section 4 of the bill provides for prompt reports by the President to Congress whenever troops are committed pursuant to section 3, and section 5 mandates that no hos-

Footnotes at end of article.

tility initiated under section 3 shall be sustained beyond 30 days without further congressional authorization. Moreover, section 6 states that hostilities commenced pursuant to section 3 may be terminated prior to 30 days by statute or joint resolution of Congress.

Section 7 establishes a legislative procedure under which congressional consideration of legislation authorizing the continuation of hostilities, or the termination of hostilities, shall be given priority treatment to guide such legislation through Congress in no more than 8 days from the date of its introduction, if sponsored or cosponsored by one-third of the Members of the House in which it is introduced. Section 8 sets the effective date of the law as the day of its enactment, but expressly excludes from its application, hostilities in which United States forces are involved on that date.

In short, the bill lays down rigid rules which are supposed to govern the nature and duration of the only situations in which the President may use United States military forces in hostile action. The term "hostilities" is not defined, and thus it is unclear whether our forces are to be so limited only in situations involving actual battles and the imminent threat thereof, or also in situations involving deployments of men and equipment stationed in a state of readiness or alert, for possible response to a developing emergency.[79] In either event, the bill represents the most sweeping attempt to govern Presidential use of America's military machinery that this country has ever witnessed.

IV. CONSTITUTIONALITY OF CONGRESSIONAL LIMITATIONS

A. Textual allotments to Congress

The major role of upholding the constitutionality of legislation restricting the President's command over the use of the Armed Forces has been assumed by Senator Jacob Javits,[80] with a significant helping hand from Senator William B. Spong of Virginia,[81] a learned scholar of international law in his own right. In addition, such respected and nationally-known authorities as Professor Henry Steele Commager, Professor Richard B. Morris, Professor Alfred H. Kelly, Dean McGeorge Bundy, and Professor Alexander Bickel have testified that the Javits bill is in direct pursuance of the congressional war power.[82]

In essence, the advocates of war powers legislation contend that the major war powers are expressly granted to Congress by article I, section 8, of the Constitution.[83] Here are found the powers to "provide for the common Defense"; regulate Commerce with foreign Nations;" "define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations"; "declare War . . . and make Rules concerning Captures on Land and Water"; "raise and support Armies;" "provide and maintain a Navy"; "make Rules for the Government and Regulation of the land and naval Forces"; "provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrection and repel Invasions"; "provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States"; and "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof." [84]

In particular, it is argued that the Constitutional Convention intended, by reserving to Congress the power "to declare war," to leave with Congress the power "to authorize war." [85] The constitutional concept of the President's role in the scheme of prosecuting war, is claimed to be built upon the experience of the Founding Fathers with the commission given to General George Washington by the Continental Congress when it appointed him to head the colonial forces.[86] The last clause of the commission provided that General Washington was "punctually to observe and follow such orders and directions" [87] as he should receive from the Congress. Also, heavy reliance is placed on the specific power of Congress to carry into execution, not only its own powers, but also all other powers vested by the Constitution in any *officer* of the Government.[88] My distinguished and highly respected Chairman of the Senate Armed Services Committee, Senator John Stennis, commented upon the matter at the time of the introduction of the redraft, of which he is a cosponsor. He said that this clause is considered to grant Congress the power not only to carry "into execution" the powers vested in the President, but also to restrict and control those powers.[89]

B. Textual allotments to the President

Notwithstanding the current voices of astonishment over claims by the Executive that he may employ military forces on his own authority, many leading writers throughout the greater part of our history have recognized that this power is vested by the Constitution in the President. One major source of this power, of course, is his designation as Commander in Chief.[90] Professor Quincy Wright, one of the nation's foremost commentators on international law, wrote some 50 years ago:

"The powers of the Commander in Chief extend to the conduct of all military operations in time of peace and of war, thus embracing control of the disposition of troops, the direction of vessels of war and the planning and execution of campaigns, and are exclusive and independent of Congressional power." [91]

Just why the Founding Fathers saw fit to confer this title on the President and to invest him with these powers, I have never quite been able to understand, but I have a growing feeling that with the recognized and infinite wisdom of the Founding Fathers they realized that a single man with these powers, who would not be disturbed by the politics of the moment, would use them more wisely than a Congress which is constantly looking toward the political results. Though I first came to this thought without the benefit of supporting writings, I have recently learned of other places where a similar view is recorded.

In speaking of this grant of power, Hamilton wrote:

"Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority." [92]

Contrary to the position taken by my Senate colleague from New York, Senator Jacob Javits, the Constitutional Convention was probably appalled at the difficulties Washington had encountered at the hands of the Continental Congress.[93] Rather than desiring to pertpetuate the experience of weakness and division which the country had suffered under the early Congresses and Articles of Confederation,[94] I believe the Framers intended to infuse national strength through this provision, so as to effectively "secure the Blessings of Liberty to ourselves and our Posterity." [95]

In 1910, Dr. David Watson wrote, in his two-volume work on the Constitution, that of all of the explanations of why the Constitution should make its President Commander in Chief of the military and naval forces of the country, "none seems more reasonable than the fact that during the Revolution Washington experienced great trouble and embarrassment resulting from the failure of Congress to support him with firmness and dispatch. There was a want of directness in the management of affairs during that period which was attributable to the absence of centralized authority to command. The members of the Convention knew this and probably thought they could prevent its recurrence by making the President Commander-in-Chief of the Army and Navy. Doubtless, also, the Convention was influenced by precedents, of which there were many, running back for a long period." [96]

Professor Clarence Berdahl, upon writing in 1922 his outstanding thesis on war powers of the Executive, observed:

"The members of the Convention had not forgotten the trouble and embarrassment caused during the Revolution by congressional interference and the lack of a centralized control over the army. They were very influenced also by the precedents in the practise of European states, in former plans of union for the colonies, and in the recently established state constitutions." [97]

Thus, not only did the Framers plan "a union which could fight with the strength of one people, under one government intrusted with the common defense," [98] but in so doing they were undoubtedly influenced by political traditions known to them.[99]

Nor does the conferral of a broad power to wage a defensive war conflict with the design of the Founding Fathers to avoid establishing a "despicable monarch." Charles Evans Hughes wrote:

"The prosecution of war demands in the highest degree the promptness, directness and unity of action in military operations which alone can proceed from the executive. This exclusive power to command the army and navy and thus direct and control campaigns exhibits not autocracy but democracy fighting effectively through its chosen instruments and in accordance with the established organic law.[100] "

This recognized emphasis by the Framers on unity and single-mindedness of purpose in the new Government logically means the President must deploy and direct military forces free of control by Congress, and it has been so interpreted by several authorities. As early as 1862, William Whiting, one of the great lawyers of his time,[101] compiled a work on the war powers of the President in which he declared:

"Congress may effectually control the military power, by refusing to vote supplies, or to raise troops, and by impeachment of the President; but for the military movements and measures essential to overcome the enemy—for the general conduct of the war—the President is responsible to and controlled by no other department of government.[102]" Whiting's foresight [103] led him to add that the Constitution "does not prescribe any territorial limits, within the United States, to which his military operations shall be restricted." [104]

Dean Pomeroy,[105] a contemporary of Whiting, wrote in the 1870 edition of his textbook on constitutional law that he, too, rejected the idea that "the disposition and management of the land and naval forces would be in the hands of Congress . . . ." "The policy of the Constitution is very different," Pomeroy instructs. "It was felt that active hostilities, under the control of a large deliberative body, would be feebly carried on, with uniform disastrous results." [106] He said that the Legislature may "furnish the requisite supplies of money and materials" and "authorize the raising of men," but "all direct management of warlike operations, all planning and organizing of campaigns, all establishing of blockades, all direction of marches, sieges, battles, and the like, are as much beyond the jurisdiction of the legislature, as they are beyond that of any assemblage of private citizens." [107] What of con-

Footnotes at end of article.

gressional authority to pass laws for executing all powers vested by the Constitution in the Government of the United States, or in any department or officer there? "But these measures," declares Pomeroy, "must be supplementary to, and in aid of, the separate and independent functions of the President as commander-in-chief; they cannot interfere with, much less limit, his discretion in the exercise of those functions." [108] Pomeroy expands on this view by telling us Congress "may determine how many men shall be enlisted in each branch of the service, or what and how many armed vessels shall be constructed." As Congress makes all appropriations, it may decide "what forts shall be erected, and their cost; what ships built, their character and cost; what kind of arms purchased or manufactured, and the cost." The President, on the other hand, "may make all dispositions of troops and officers, stationing them now at this post, now at that; he may send out naval vessels to such parts of the world as he pleases; he may distribute the arms, ammunition, and supplies in such quantities and at such arsenals and depositories as he deems best . . . ." [109] When actual hostilities have commenced, the President "wages war, Congress does not." He "possesses the sole authority and is clothed with the sole responsibility" of conducting all warlike movements, whether at home or abroad.[110]

This untrammeled view of the President's freedom to deploy troops and equipment wherever and whenever he chooses is a consistent theme in commentaries from both the colleges and the courts.[111] Berdahl squarely takes up the issue:

"Altho there has been some contention that Congress, by virtue of its power to declare war and to provide for the support of the armed forces, is a superior body, and the President, as Commander-in-Chief, is 'but the Executive arm, . . . in every detail and particular, subject to the commands of the lawmaking power,' practically all authorities agree that the President, as Commander-in-Chief, occupies an entirely independent position, having powers that are exclusively his, subject to no restriction or control by either the legislative or judicial departments." [112]

Anticipating legislative proposals of the kind embodied in today's end-the-war amendments, Berdahl concludes:

"Just as the President decides when and where troops shall be employed in time of war, so he alone likewise determines how the forces shall be used, for what purposes, the manner and extent of their participation in campaigns, and the time of their withdrawal." [113]

The position of these writers has been fortified by judicial opinion. Thus, in explaining that it is for the President, as Commander in Chief, to direct the campaigns of the army "wherever he may think they should be carried on," [114] Charles Evans Hughes cited *Fleming v. Page*," [115] where the Supreme Court said:

"As Commander in Chief, he is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in a manner he may deem most effectual to harass and conquer and subdue the enemy." [116]

Likewise, in 1866, four concurring members of the Supreme Court declared that "Congress cannot direct the conduct of campaigns. . . ." [117] Later, the Supreme Court affirmed a holding in which the Court of Claims had said that "Congress cannot in the disguise of 'rules for the government' of the Army impair the authority of the President as commander in chief." [118] And in *United States v. Sweeny*, the Court said that the Constitution has conferred upon the President "such supreme and undivided command as would be necessary to the prosecution of a successful war." [119]

But, as broad and unrestricted as is the President's role of Commander in Chief, it does not exhaust his authority in the field of national defense. Another great power vested in the President is his conduct of the nation's foreign policy. The Constitution provides that the President shall make treaties and appoint ambassadors with the advice and consent of the Senate.[120] But the Constitution provides that the President alone receives ambassadors,[121] and holds all the Executive power of a sovereign nation.[122] From this, it is clear the President bears "primary responsibility for the conduct of our foreign affairs." [123] It was Alexander Hamilton who first argued that the President's role in international affairs is a dynamic one, which "may, in its consequences, affect the exercise of the power of the Legislature to declare war." [124]

The President's power to initiate and formulate the foreign policies of our government entirely on his own authority, has been conclusively established by the Supreme Court.[125] The Court's holding is squarely aligned with the accepted tradition under which the President can effectively commit Congress and the country to the course he has set. Pomeroy says:

"The President may, without any possibility of hindrance from the legislature, so conduct the foreign intercourse, the diplomatic negotiations with other governments, as to force a war, as to compel another nation to take the initiative, and that step once taken, the challenge cannot be refused.[126]

Berdahl, in his famed thesis, summarizes the authorities in 1920 as agreeing that the President, through his control of diplomatic intercourse, holds in his keeping the peace and safety of the United States, that he may initiate such diplomatic policies and so conduct diplomatic negotiations as to force the country into a war, "without any possibility of hindrance from Congress or the Senate." [127]

Professor Westel Willoughby has also observed that the President's control over foreign relations makes it possible for him to bring about a situation in which, as a practical proposition, there is little option left to Congress as to whether it will or will not declare war or recognize a state of war as existing.[128]

Willoughby did not mean to imply that this result was improper and could be checked by Congress. He wrote that the power of the President to send troops outside the country "as a means of preserving or advancing the foreign interests or relations of the United States" is a "discretionary right constitutionally vested in him, and, therefore, not subject to congressional control." [129]

An additional source of power bearing on this inquiry lies in the President's duty, and right, to execute the laws. The Supreme Court has announced that this power includes enforcement of "the rights, duties and obligations growing out of the constitution itself, our international relations, and all the protection implied by the nature of the government under the constitution. . . ." [130]

The reach of this power, too, continues even as it touches other grants made by the Constitution. Corwin asserts that, by virtue of his power to base action directly on his own reading of international law (which today includes some 42 mutual defense treaties),[131] the President has been able to gather to himself powers with respect to war-making that ill accord with the specific delegation in the Constitution of the war-declining power to Congress." [132]

Corwin thereby acknowledges that this power is vested in the President, notwithstanding its impact upon the separate war power of Congress.[133]

The courts have upheld the power of the President to begin and continue hostilities without a declaration of war. In approving President Lincoln's blockade of the Confederacy, the Supreme Court held that when "a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority." [134]

From this, Professor Schwartz believes:

"The language of the high Court in the *Prize Cases* is broad enough to empower the President to do much more than merely parry a blow already struck against the nation. Properly construed, in truth, it constitutes juristic justification of the many instances in our history (ranging from Jefferson's dispatch of a naval squadron to the Barbary Coast to the 1962 blockade of Cuba) in which the President has ordered belligerent measures abroad without a state of war having been declared by Congress." [135]

The principle of national self-defense thus ratifies each of the 192 undeclared wars which I have cited above.[136] The power of the President to wage these actions without a formal declaration, and generally without any prior approval of Congress, is not only supported by the doctrine of *The Prize Cases*,[137] but is the natural extension of the concept of defensive wars contemplated by the Founding Fathers. When the Constitutional Convention altered a clause giving Congress the power "to make war" by replacing it with the power "to declare war," [138] there was unquestionably a purpose of "leaving to the Executive the power to repel sudden attacks." [139] How much else the Framers meant to leave with the President is not as definite, but it is at least significant that they had a difference in mind between the two terms and left the making of war with the President.

It is my strong belief that the Framers intentionally painted with a broad brush.[140] For the Founding Fathers clearly understood that "it is impossible to foresee or define the extent and variety of national exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them." [141] From this I conclude that, should the Fathers be set down by the Divine Hand in our modern world, they would not tolerate rigid legislative policy restrictions on the authority needed by the Executive in defending our nation and our people against all possible foreign threats.[142]

Other judicial precedents bear out the power of the Executive to use such force as is necessary for defensive purposes. Justice Nelson, sitting as a circuit justice, held that the President's duty to execute the laws includes a duty to protect citizens abroad.[143] The Supreme Court has carried this concept even further by declaring that a citizen abroad is entitled "to demand the care and protection of the Federal government over his life, liberty, and property." [144] The right of intervention for the protection of "the lives, liberty, and property" of citizens abroad is firmly established by international law as well.[145] Of course, the right of a state to secure its own self-preservation is also cemented under international law.[146]

V. CONCLUSIONS

The forging of a lengthy chain of historical ventures by Presidents,[147] set against a backdrop of national weakness that the Framers, as practical men, were determined to reverse, persuades me that Presidents have acted constitutionally, and in accordance with a great American tradition, when they have deployed forces outside the United States in defense of our national interests.[148] I further believe the right of the President to take military action at any time he feels danger for the country or its freedoms or, stretching a point, its position in the world,

Footnotes at end of article.

cannot be restrained by policy directives from Congress.[149]

Congress indeed holds an impressive share of the national war powers. Congress can set the size of the various branches of the Armed Services, a step which the 92d Congress has already taken.[150] It can end the draft, a move I have advocated since 1964.[151] It can deny or cut appropriations for tanks, aircraft, submarines, carriers, ABM's, and all the other military-related hardware that constitutes the country's defense arsenal.[152] It can turn down an Administration's request for funds to equip and train the military units of allied foreign countries.[153] Congress can choose not to increase taxes, thereby placing tremendous political pressure on a President whose own instincts for international adventurism must be weighed against the risks of bucking a public that wants butter, not guns, and of assuming the stigma of a grossly unbalanced budget. Congress also can repeal or limit the numerous delegations of emergency powers that have been granted the President over wages and prices,[154] the exportation, manufacture, or distribution of vital or rare materials,[155] the licensing of trade with foreign countries,[156] and the multitude of other economic elements that bear on the defense strength of the United States.[157] In addition, Members of Congress enjoy a prominent public forum from which they can go directly to the American people with their criticisms fo executive policies.[158]

In short, Congress has control over the size and strength of the military and economic machinery which the President may use for making war.[159] A President leading a nation with three million men under arms can, if he chooses, involve the country in considerably more commitments than a Commander in Chief who heads an armed force of two million members. A President strengthened by a $90 billion defense budget can deploy vastly more arms and vessels around the world than a President who must carefully ration out the means available under a $60 billion defense appropriation.

But once Congress establishes the military forces and provides them with equipment and supplies, it is the President who determines the policies under which those forces shall be stationed, transported, and committed in furtherance of the national defense. Once Congress has created a military of, for example, 2½ million members, Congress possesses no power to tell the President how many of those servicemen shall be stationed in Europe, or how many in Indochina, or when these troops shall be withdrawn from certain areas overseas, or for how long they can be employed in hostilities. These are policy decisions which have been vested by the Constitution in the President, free of the direct supervision and control of the legislature. I repeat, Congress cannot dictate these kinds of military policy rules to the President and, in full accordance with the Constitution, he need not follow such rules should Congress pass them.

The uniform refusal by Congress, as a collective body, ever to block or limit even one of the nearly 200 Presidentially-initiated hostilities which have occurred to date,[160] strongly suggests the construction which the Founding Fathers intended for the constitutional provisions allotting the war powers. For some legislators to say that this long-continued practice may now be overturned by a sudden change of interpretation, demands that the sponsors of legislative command centers should bear the burden of proving their case by the most clear and cogent evidence.

The mere repetition of statements that the power to declare war carries with it the sole power to commence war, does not make it so. The fact that "[n]o Supreme Court decision has restrained the conduct of presidentially-authorized hostilities,"[161] holds far more meaning for me than all of the anguished pleas in the world that Congress must prevent another Vietnam.[162]

In the first place, Congress was involved up to its ears each step of the way throughout the expansion of our participation in Indochina.[163] Time and again Congress put its votes on the side of more troops and more funds.[164] Secondly, the Constitution cannot be changed out of emotional whims, no matter how morally pious they may be. Thirdly, the proposals to define when, where, and how long the President can employ United States forces abroad are shot through with terrible problems that are even more ominous than the ones they seek to forestall.[165]

It is not easy for me to assert that the President has this terrific power, but I must. I wish it were possible for me to join those dreamers who think we have no problems in this world. But I am old enough to have lived through this same thing before. It is not difficult at all for me to transport myself back in time to the 1920's and the 1930's when, as a young man, I can remember this country as an isolated country and a country being called a "Fortress America." I can remember when our troops drilled with wooden guns and paper tanks, when we did not have enough airplanes in our Air Corps even to hold maneuvers, and when our Navy was weak—all because we were going through the very same kind of emotional trauma we see expressed throughout our country today.

We have an understandable desire to be at peace. Lord knows, I do not want another war. I do not want my grandchildren to suffer war, but neither do I want my children or grandchildren, or the children of any American, to be subjected to the dangerous, serious threat that our country was faced with in the late 1930's when we knew we were going to have to go to war and we knew that we were not equipped.[166]

When I rise in the Senate to support a new defensive weapons system or when I uphold in this Article the concept of sufficient flexibility in Executive powers to defend America's freedoms, I do not have any degree of satisfaction, unless that satisfaction might come to me in my older years as I sit on my hill in the desert and think that possibly the warning a few of us are trying to give the American people was heeded and that I could sit in peace on that hill and talk with my grandchildren because of it.

FOOTNOTES

* Member, United States Senate (Arizona).

[1] Act of Nov. 17, 1971, Pub. L. No. 91–156, 85 Stat. 423.

[2] 29 CONG. Q. WEEKLY REP. 2371 (1971). (The Act was signed Nov. 17, 1971.) President Nixon's comments were directed at section 601 of the Act, the "Mansfield Amendment." *Id.*

[3] The proposal was in the form of an amendment to the 1972 Department of Defense Appropriations Act, H.R. 11731, 92d Cong., 1st Sess. (1971), calling for a halt in funding for any military support by United States forces in or over Indochina after June 1, 1972. It was rejected by a vote of 163 to 238. *See* text of amendment at 117 CONG. REC. H11170 (daily ed. Nov. 17, 1971) and vote, *id.* at H11196–97.

[4] H.R. 11731, § 744 (Star Print), 92d Cong., 1st Sess. (1971), as reported by The Senate Committee on Appropriations, S. REP. No. 92–498, 92d Cong., 1st Sess. 48–49 (1971).

[5] 117 CONG REC. S19516 (daily ed. Nov. 23, 1971).

[6] *See* S. 2819, § 9, 92d Cong., 1st Sess., 117 CONG. REC. S18282 (daily ed. Nov. 11, 1971).

[7] *Id.*

[8] 117 CONG. REC. H12689–90 (daily ed. Dec. 16, 1971).

[9] S. 2956, 92d Cong., 1st Sess. (1971), was introduced by Senator Javits for himself and Senators Stennis, Eagleton, and Spong. *See* text of bill, 117 CONG. REC S20627–28 (daily ed. Dec. 6, 1971).

[10] Daily Digest, 117 CONG. REC. D1280 (daily ed. Dec. 7, 1971).

[11] *See* pages 429–31 *infra.*

[12] *See, e.g.,* statements of Senators Javits and Eagleton, 117 CONG. REC. S20627–28 (daily ed. Dec. 6, 1971), and the testimony of Professors Commager, Morris, and Kelly, *Hearings on S. 731, S.J. Res. 18 and 59, Before the Senate Comm. on Foreign Relations,* 92d Cong., 1st Sess. (1971), reprinted in 117 CONG. REC. S3353–62 (daily ed. Mar. 16, 1971) (hereinafter cited as *Senate War Powers Hearings*).

[13] *See generally* Emerson, *War Powers Legislation,* 74 W. VA. L. REV. 53 (1972).

[14] The five declared wars are the War of 1812, the War with Mexico, the Spanish-American War, and World Wars I and II.

[15] *See generally,* Emerson, *supra* note 13, app. A (chronological list of 192 United States military hostilities abroad without a declaration of war, prepared at my request).

[16] At least 81 hostilities were accompanied by fighting or ultimatums. *Id.* app. D.

[17] See the list of 81 hostilities which may arguably have been initiated pursuant to prior legislative authority, *id.* app. G. But it should be observed that 51 of these possible collaborations by Congress took the form of a treaty. Thus, if a full-blown congressional declaration of war would be required to commit United States forces to hostilities, the fact that 51 activities may have been authorized by treaty and therefore by one House of Congress alone, would not serve as a precedent for the requirement of declarations of war in other circumstances.

[18] Malawer, *The Vietnam War Under the Constitution: Legal Issues Involved in the United States Military Involvement in Vietnam,* 31 U. PITT. L. REV. 213 (1969).

[19] Reveley, *Presidential War-Making: Constitutional Prerogative or Usurpation?,* 55 VA. L. REV. 1243, 1258 (1969).

[20] *See* testimony of Professor Henry Steele Commager, who claims the precedents are confined to the Western Hemisphere and contiguous territory up to "the last twenty years or so," with one exception. *Senate War Powers Hearings,* supra note 12, at S 3355.

[21] *See* Emerson, *supra* note 13, app. E.

[22] *Id.* app. A.

[23] *Id.* app. F.

[24] *Id.* app. A.

[25] *See* R. DUPUY & W. BAUMER, THE LITTLE WARS OF THE UNITED STATES, at preface (1968).

[26] President Tyler was denounced in Congress and threatened with impeachment because he deployed military units to protect Texas against Mexico in 1844. C. BERDAHL, WAR POWERS OF THE EXECUTIVE IN THE UNITED STATES 47–49, 70–74 (1921).

President Polk was rebuked in a resolution passed by the House of Representatives declaring that the war with Mexico, which his military maneuvers had precipitated, "was unnecessarily and unconstitutionally begun by the President of the United States." *Id.*

In 1871, President Grant was severely condemned on the floor of the Senate because of his action in sending a strong naval force to Santo Domingo to protect it from invasion and internal disorder. In fact, a resolution introduced by Senator Sumner would have condemned the use of the Navy without the authority of Congress as "an infraction of the Constitution of the United States and a usurpation of power not conferred upon the President." But the resolution was tabled by a large majority (38 to 16). *Id.*

[27] 48 CONG. REC. 10,927 (1912).

[28] *Id.* at 10,930.

[29] *See* H.R. Res. 251 (Representative Rhodes), H.R. Res. 266 (Representative Wood), H.R. Con. Res. 8 (Representative Mason), S. Res. 181 (Senator McCormick), S.J. Res. 60 (Senator Edge), S.J. Res. 111 (Senator Sherman), 66th Cong., 1st Sess. (1919).

[30] S. Res. 13, 66th Cong., 1st Sess. (1919). *See* 58 CONG. REC. 1864 (1919).
[31] 62 CONG. REC. 4109 (1922).
[32] *Id.* at 4510.
[33] *See id.* at 4109–10, 4295–98.
[34] *See* 64 CONG. REC. 934 (1922).
[35] *Id.* at 1117.
[36] *Id.* at 1131.
[37] 66 CONG. REC. 2191 (1925).
[38] *Id.* at 2215.
[39] 69 CONG. REC. 6991 (1928).
[40] *See, e.g.,* 69 CONG. REC. 6982–92 (1928).
[41] *Id.* at 6986.
[42] *See* 117 CONG. REC. S 9717 (daily ed. June 22, 1971).
[43] 69 CONG. REC. 7192 (1928).
[44] *Id.*
[45] 54 Stat. 885, 886 (1940).
[46] 86 CONG. REC. 10,295 (1940). *See id.* at 10,092, 10,103–05, 10,116, 10,129, 10,391, 10,742, 10–794–98, 10895–914.
[47] *See* Emerson, *supra* note 13, app. A.
[48] 86 CONG. REC. 10,897 (1940). The 1940 provision is a poor precedent for war powers legislation. Not only was it flouted by President Roosevelt, but it was openly admitted during Senate debate that Congress could not constitutionally restrain the President from commanding troops wherever he wishes. *Id.* at 10,895–914.
[49] *See,* E. CORWIN, THE PRESIDENT: OFFICE AND POWERS 238–39 (4th rev. ed. 1957).
[50] *Id.* at 203. Schwartz concludes:

The President's action in this respect is of particular legal interest because of an express provision in the Lend Lease Act of 1941, that "Nothing in this Act shall be construed to authorize or permit the authorization of convoying vessels by naval vessels of the United States."

2 B. SCHWARTZ, THE POWERS OF GOVERNMENT 202 (1963).
[51] The 1940 law, which apparently barred the sending of troops outside the Western Hemisphere, was treated by both the Congress and the President as merely a "hope" of Congress, not an actual limitation on Executive authority. *See* note 48 *supra.*
[52] Congressional Research Service, Legislation Enacted by the 91st Congress to Limit United States Military Involvement in Southeast Asia 9–10 (Mar. 30, 1971) [hereinafter cited as C.R.S.]
[53] Act of Dec. 29, 1969, Pub. L. No. 91–171, § 643, 83 Stat. 469, 487.
[54] Act of Jan. 11, 1971, Pub. L. No. 90–668, § 843, 84 Stat. 2020.
[55] Act of Dec. 18, 1971, Pub. L. No. 92–204, § 742.
[56] C.R.S., *supra* note 52, at 28.
[57] Act of Jan. 5, 1971, Pub. L. 91–652, § 7(a), 84 Stat. 1942.
[58] *Id.*
[59] C.R.S., *supra* note 52, at 18.
[60] *Id.*
[61] H.R. Rep. No. 1791, 91st Cong., 2d Sess. (1970).
[62] *See* pages 435–43 *infra.*
[63] These votes were taken on June 17, June 28, Oct. 19, Nov. 17, and Dec. 16, 1971. 29 CONG. Q. WEEKLY REP. 2371 (1971); 117 CONG. REC. H. 12,689–90 (daily ed. Dec. 16, 1971).
[64] Nedzi-Whalen amendment, 117 CONG. REC. H 5399–400 (daily ed. June 17, 1971) (text and vote); Boland amendment, 117 CONG. REC. H 11,170 (daily ed. Nov. 17, 1971) (text), and *id.* at H 11,196–97 (vote).
[65] 117 CONG. REC. S 9251, S 9279 (daily ed. June 16, 1971). Also, an effort to deny funds for use by our forces in Indochina for any purpose other than withdrawing such troops, was defeated when the Senate struck the Cooper-Church amendment from the Foreign Aid Authorization bill by a vote of 47 to 44. 117 CONG. REC. S 17,060, S 17,075 (daily ed. Oct. 28, 1971).
[66] Amend. no 214, 117 CONG. REC. S 9717–18 (daily ed. June 22, 1971); amend. no. 437, 117 CONG. REC. S 15,111 (daily ed. Sept. 17, 1971) (proposal), 117 CONG. REC. S 15,582 (daily ed. Sept. 30, 1971) (vote); and S 2819, § 9, 92d Cong., 1st Sess., 117 CONG. REC. S 18,282 (daily ed. Nov. 11, 1971).
[67] H.R. 6531, 92d Cong., 1st Sess. (1971).
[68] Amend. no. 214, note 66 *supra.*
[69] *Id.* The Amendment would require the President to (1) establish a final date for the withdrawal from Indochina of all United States military forces within 9 months, contingent upon the release of all American prisoners of war; (2) negotiate for an immediate cease-fire in Indochina; and (3) negotiate for phased and rapid withdrawals of United States forces in exchange for phased releases of American prisoners of war. *Id.*
[70] *See* Act of Sept. 28, 1971, Pub. L. No. 92–129, § 401.
[71] *See* Act of Nov. 17, 1971, Pub. L. No. 92–156, § 601.
[72] *See* note 2 *supra.*
[73] *See* Act of Nov. 17, 1971, Pub. L. No. 92–156, § 601.
[74] *See* note 8 *supra.*
[75] *See* note 9 *supra.*
[76] S. 3964, 91st Cong., 2d Sess. (1970).
[77] S. 731, 92d Cong., 1st Sess. (1971) (Senators Javits, Bayh, Mathias, Packwood, Pell, Spong, Weicker, and Williams); S. 1880, 92d Cong., 1st Sess. (1971) (Senators Bentsen and Byrd of W. Va.); S.J. Res. 18, 92d Cong., 1st Sess. (1971) (Senator Taft); S.J. Res. 59, 92d Cong., 1st Sess. (1971) (Senators Eagleton, Inouye, McGovern, Montoya, and Stevenson); and S.J. Res. 95, 92d Cong., 1st Sess. (1971) (Senators Stennis, Mansfield, and Roth).
[78] *See* 117 CONG. REC. S 20,627 (daily ed. Dec. 6, 1971) (remarks of Senator Javits upon introducing S. 2956).
[79] One of the bill's sponsors, Senator Stennis, has warned that "the Congress should not restrain the President's powers, as Commander in Chief, to deploy forces to crisis areas and, for example, 'show the flag' by sending a carrier to stand offshore." 117 CONG. REC. S 20,628 (daily ed. Dec. 6, 1971). Nevertheless, absent a definition of "hostilities," there is no guarantee on the face of the bill that American forces can be introduced in crisis situations without a divisive confrontation between Congress and the President, unless Congress agrees with the President in advance of each deployment. For example, if the Soviet Union invaded Rumania, it is doubtful the United States could build up its forces in certain areas of NATO. If it is "clearly indicated" (an undefined term) that American troops may be drawn into action, the limitations of S. 2956 would be triggered. In this case, our forces could not be shifted into position unless one of the four emergency conditions of the bill existed. This could mean the President must assure Congress, for example, that United States forces were directly and imminently threatened by the Soviet attack, a difficult burden of proof in such a volatile and unpredictable situation. But even should a redeployment or increase of American forces be permissible, the President would be required to withdraw our forces from the trouble spot after 30 days should Congress fail to extend his authority. Whether such a pullout would inflame the crisis rather than calm it, is a judgment the bill would thereby transfer from the President to Congress.
[80] *See A Brief on S. 731, to Make Rules Respecting Military Hostilities in the Absence of a Declaration of War,* 117 CONG. REC. S 2527–31 (daily ed. Mar. 5, 1971); Javits, *Congress and the President: A Modern Delineation of the War Powers,* 35 ALBANY L. REV. 632 (1971).
[81] *See* Spong, *Can Balance Be Restored in the Constitutional War Powers of the President and Congress,* 6 U. RICHMOND L. REV. 1 (1971).
[82] *See* testimony of Professors Commager, Morris, and Kelly, *Senate War Powers Hearings, supra* note 12, at 3353–62 (daily ed. Mar. 16, 1971); testimony of Dean McGeorge Bundy, *Senate War Powers Hearings, supra* note 12, at S 5628 (daily ed. Apr. 26, 1971); testimony of Professor Bickel, *Senate War Powers Hearings, supra* note 12, at S 12387 (daily ed. July 28, 1971).

It may be recalled that in 1951, when President Truman was under attack for deploying American land forces to Korea and Europe without congressional authorization, Professor Commager lambasted Truman's critics as "unregenerate isolationists." He then insisted "that the overwhelming weight of authority supports Presidential discretion in this field." Proposals calling for congressional approval before any American soldiers can be sent out of the country "have no support in law or in history," he said. Commager, *Presidential Power: The Issue Analyzed,* N.Y. times, Jan. 14, 1951, § 6 (Magazine), at 11; *id.*; Apr. 1, 1951 § 6 (Magazine), at 31.

Also, it should be noted that Professor Bickel qualified his support of the legislation by saying:

I don't think the President can be deprived of his power to respond to an imminent threat of attack (as well as to the attack itself); or of his power to respond to attacks and threats against our troops wherever they may be, as well as against our territory; or of the power to continue to see to the safety of our troops once they are engaged, *even if a statutory 30-day period has expired.*

117 CONG. REC. S 12390 (daily ed. July 28, 1971) (emphasis added).
[83] *See* 117 CONG. REC. S 2528 (daily ed. Mar. 5, 1971).
[84] U.S. CONST. art, I, § 8.
[85] Javits, *supra* note 80, at 632, 634.
[86] *See* 117 CONG REC. S 2528 (daily ed. Mar. 5, 1971).
[87] *Quoted in id.* at S 2528–29.
[88] *See* S. 2956, 92d Cong., 1st Sess., § 2 (1971).
[89] *See* 117 CONG. REC. S 20,628 (daily ed. Dec. 6, 1971).
[90] U.S. CONST. art. II, § 2.
[91] Wright, *Validity of the Proposed Reservations to the Peace Treaty,* 20 COLUM. L. REV. 121, 134 (1920).
[92] THE FEDERALIST, No. 73, at 409 (rev. ed. 1901) (with special introduction by Goldwyn-Smith).
[93] Professor John Norton Moore testified at the War Powers Hearings that he believes "reliance on the experience under the Articles of Confederation seems a frail reed for interpreting a Constitution promulgated in large measure as a result of dissatisfaction with the experience under the Articles." *Senate War Powers Hearings, supra* note 12, at S 6469. The Articles were operative during at least 5 of the 8 years covered by George Washington's commission.
[94] According to J. H. McIlvaine, writing in the *Princeton Review* for October 1861: It was the extreme weakness of the Confederation which caused the war of independence to drag its slow length along through seven dreary years. . . . The treaties which the Confederation had made with foreign powers, it was forced to see violated and treated with contempt by its members; which brought upon it distrust from its friends, and scorn from its enemies. It had no standing among the nations of the world, because it had no power to secure the faith of its national obligations.

Quoted in J. POMEROY, AN INTRODUCTION TO THE CONSTITUTIONAL LAW OF THE UNITED STATES 51–52 (1870).
[95] U.S. CONST. preamble. It is instructive that Hamilton and Madison expressly rejected as too weak the political model of the Germanic Empire in which the Diet possessed the general power of making war. In any emergency, they warned, "military preparations must be preceded by so many tedious discussions . . . that before the Diet can settle the arrangements the enemy are in the field. . . ." THE FEDERALIST, No. 19, *supra* note 92, at 97–98.

[96] 2 D. WATSON, THE CONSTITUTION OF THE UNITED STATES 912 (1910).

[97] C. BERDAHL, *supra* note 26, at 115.

[98] Hughes, *War Powers Under the Constitution*, 85 CENT. L.J. 206, 209 (1917).

[99] During the great debate of 1922 over the effort by Congress to control and move the Army and Navy, Representative Newton of Minnesota argued:

The fathers who sat in the constitutional convention had some very definite ideas about government. . . . They had but emerged from the War of Independence and were trying to avoid the anarchy and chaos following that war. Its members included Washington, Hamilton, and others who had witnessed during the days of the Revolutionary War the inefficiency of the legislative body attempting to function as an executive, which resulted in interference with military operations and caused great trouble and embarrassment and added materially to the increasing of the cost of the military operations. Washington had had to put up with congressional interference and knew its evils. Hamilton had been on Washington's staff and was thoroughly familiar with all of the troubles and embarrassments that Washington had been subjected to by the Continental Congress, which was clothed with the powers of an executive. There is no question but what they and their colleagues made up their minds that the new Government would have an Executive that was clothed with real power. Furthermore, the governors of several of the 13 States were clothed with power, making them commander in chief of the military forces of their State. Therefore, with experience and precedent to guide and direct them, the Chief Executive was made the Commander in Chief of the Army and the Navy, both in time of war and peace.

62 CONG. REC. 4298–99 (1922).

[100] Hughes, *supra* note 98, at 206.

[101] It is said of Whiting that "[a]s a lawyer, he proved to be so thorough, industrious, and adroit in analysis of mastered cases that the old Common Pleas [in Massachusetts] was often termed 'Whiting's court.'" He was appointed special counselor of the United States War Department in November 1862, and became its solicitor from February 1863, until he resigned in April 1865. 21 R. STARR, DICTIONARY OF AMERICAN BIOGRAPH 703 (1944).

[102] W. WHITING, THE WAR POWERS OF THE PRESIDENT AND THE LEGISLATIVE POWERS OF CONGRESS IN RELATION TO REBELLION, TREASON, AND SLAVERY 82 (2d ed. 1862).

[103] Months before Lincoln's Emancipation Proclamation, Whiting argued that the President, as Commander in Chief, may emancipate the slaves of any belligerent section of the country, if such an act is necessary to weaken the enemy. *Id.* at 66–82.

[104] *Id.* at 83.

[105] Dr. John Norton Pomeroy was Dean of the University of New York Law School.

[106] J. POMEROY, *supra* note 94, at 288–89. On other grounds, Madison indicates the Constitution intentionally removed the direction of the military forces from Congress because it is "particularly dangerous to give the keys of the Treasury and the command of the army into the same hands . . ." THE FEDERALIST, No. 37, *supra* note 92, at 202.

[107] J. POMEROY, *supra* note 94, at 289.

[108] *Id.*

[109] *Id.* at 472.

[110] *Id.* at 473.

[111] Watson believed:

The power is vested in the President to dispose of or arrange the component-parts of the Army and Navy at his pleasure . . . While Congress can make rules for the Army and Navy, it cannot interfere with the President's power as commander of such forces.

D. WATSON, *supra* note 96, at 914. Speaking of the President's duties for the protection of our citizens and national interests, Wright declares:

By reduction of the army and navy or refusal of supplies, Congress might seriously impair the *de facto* power of the President to perform these duties, but it can not limit his legal power as Commander-in-Chief to employ the means at his disposal for these purposes.

Q. WRIGHT, THE CONTROL OF AMERICAN FOREIGN RELATIONS 307 n.93 (1922). Also of interest is the remark by former President William H. Taft that it "is clear that Congress may not usurp the functions of the Executive . . . by forbidding or directing the movement of the army and navy." Taft, *The Boundaries Between The Executive, the Legislative and the Judicial Branches of the Government*, 25 YALE L.J. 600, 606 (1916).

[112] C. BERDAHL, *supra* note 26, at 116–17.

[113] *Id.* at 122.

[114] Hughes, *supra* note 98, at 209.

[115] 50 U.S. (9 How.) 603 (1850).

[116] *Id.* at 615.

[117] *Ex parte* Milligan, 71 U.S. (4 Wall.) 2, 139 (1866).

[118] Swaim v. United States, 28 Ct. Cl. 173, 221 (1893), *aff'd*, 165 U.S. 553 (1897).

[119] 157 U.S. 281, 284 (1895).

[120] U.S. CONST. art. II, § 2.

[121] *Id.* § 3.

[122] *Id.* § 1. Also remarks by Solicitor General Erwin Griswold that the grant of Executive power "is not a merely passive grant." 117 CONG. REC. S 12,968 (daily ed. Aug. 3, 1971).

[123] New York Times Co. v. United States, 403 U.S. 713, 741 (1971) (Marshall, J., concurring). Three other Justices of the Supreme Court also recently acknowledged the President's "constitutional primacy in the field of foreign affairs." *Id.* at 756 (Harlan, J., dissenting, with whom Burger, C.J., and Blackmun, J., joined).

[124] E. CORWIN, *supra* note 49, at 178–79. In other words, says Corwin, the President, "is consequently able to confront the other departments, and Congress in particular, with *fait accomplis* [*sic*] at will . . ." *Id.* at 180.

[125] United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319–20 (1936), in which the Supreme Court held that the power of the President in the field of international relations is "delicate, plenary and exclusive" and "does not require as a basis for its exercise an act of Congress. . . ." Pertinent here are comments by then Professor Woodrow Wilson about the Chief Executive's "control, which is very absolute, of the foreign relations of the nation." According to Wilson, "The initiative in foreign affairs, which the President possesses without any restriction whatever, is virtually the power to control them absolutely." W. WILSON, CONSTITUTIONAL GOVERNMENT IN THE UNITED STATES 77 (1961) (lectures first printed in 1911).

[126] J. POMEROY, *supra* note 94, at 447.

[127] C. BERDAHL, *supra* note 26, at 31.

[128] 3 W. WILLOUGHBY, THE CONSTITUTIONAL LAW OF THE UNITED STATES 1558 (2d ed. 1929). Even the practice of recognition, an exclusive act of the President, can, if premature, be treated as cause for war under international law. *See* Berdahl, *supra* note 26, at 32. Justice Joseph Story refers to the authority of the President to receive foreign envoys, with its implicit power of recognition, as "pregnant with consequences, often involving the question of peace and war." 3 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 1561, at 418 (1833).

[129] W. WILLOUGHBY, *supra* note 128, at 1567.

[130] In *re* Neagle, 135 U.S. 1, 64 (1890). *See also* Wright, *supra* note 91, at 134–35. See the comment by Professor Corwin that "the President may also make himself the direct administrator of the international rights and duties of the United States, or of what are adjudged by him to be such, without awaiting action either by the treaty-making power or by Congress, or by the courts." E. CORWIN, *supra* note 49, at 196.

[131] U.S. DEPT. OF STATE, UNITED STATES COLLECTIVE DEFENSE ARRANGEMENTS (1966).

[132] E. CORWIN, *supra* note 49, at 197–98.

[133] *Id.*

[134] The Prize Cases, 67 U.S. (2 Black), 635, 668 (1862).

[135] B. SCHWARTZ, THE REINS OF POWER 98 (1963).

[136] *See* page 425, *supra*.

[137] 67 U.S. (2 Black) 635 (1862).

[138] Madison, *Notes of the Debates in the Federal Convention of 1787*, in 3 U.S. DEP'T OF STATE, DOCUMENTARY HISTORY OF THE CONSTITUTION 554 (1900).

[139] "Mr. Madison and Mr. Gerry moved to insert 'declare,' striking out 'make' war; leaving to the Executive the power to repel sudden attacks." *Id.* at 553.

[140] But compare the view of my distinguished friend from Virginia that "the President's only role in the war-making process was, as Commander-in-Chief, to direct operations as the executive arm of the Congress." Spong, *supra* note 81, at 4–5.

[141] THE FEDERALIST, No. 23, *supra* note 92, at 119.

[142] In the words of Hamilton, "The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed." *Id.* at 119–20.

[143] Durand v. Hollins, 8 F. Cas 111 (No. 4186) (C.C.S.D.N.Y. 1860) (Justice Nelson had been on the Supreme Court since 1845).

[144] The Slaughterhouse Cases, 83 U.S. (16 Wall.) 36, 79 (1872).

[145] *See* J. CLARK, RIGHT TO PROTECT CITIZENS IN FOREIGN COUNTRIES BY LANDING FORCES 25 (3d rev. ed. 1934).

[146] *See* Q. WRIGHT, *supra* note 111, at 307; Spong, *supra* note 81, at 24; B. SCHWARTZ, *supra* note 135, at 175; C. BERDAHL, *supra* note 26, at 59; U.S. Dep't of State, *The Legality of United States Participation in the Defense of Viet-Nam*, in THE VIETNAM WAR AND INTERNATIONAL LAW 583 (R. Falk, ed. 1968).

[147] In the words of Professor Henry Monaghan, "A practice so deeply embedded in our governmental structure should be treated as decisive of the Constitutional issue." Monaghan, *Presidential War-Making*, 50 BOSTON U.L. REV. 31 (1970).

In contrast is the view of Francis D. Wormuth, who makes the guess that of all these military hostilities "eighty-two were undertaken by a subordinate officer on the spot and without orders from superiors." From this, he ridicules the significance of the entire list by claiming the argument must be that these 82 precedents "hold that every naval and army captain also has the legal right to initiate war without the authorization of either Congress or the President." SATURDAY REVIEW, Oct. 2, 1971, at 28.

Nonsense! All of the precedents set forth herein were undertaken pursuant to known Executive policies. No incidents are cited which were later repudiated or disavowed. The military officers "on the spot" were acting in each of the 192 hostilities to carry out a clear Presidential policy, whether it be a design to suppress piracy or the slave trade, or a commitment to protect United States citizens and property abroad or an avowed Presidential foreign policy objective, such as the Monroe Doctrine or an executive interpretation of our treaty rights.

In illustration of how routine this practice is, I might refer to a letter by Secretary of State Cass in August 1958, in which he advised the Secretary of Navy, "I have the honor also to suggest the importance of our squadron being directed to traverse the whole of the Levant, showing itself along the coasts of Egypt, Palestine, Syria, and of Asia Minor for the purpose of affording all possible protection to the persons and property of our citizens." 69 CONG. REC. 6930 (1928). Another example is the letter by Secretary of State Charles E. Hughes, on March 15, 1922, in which he informed the Chairman of the House Military Affairs Committee that the practice of landing troops in China for over 20 years was conceded to the United

States by the final protocol for the settlement of the disturbances in China of 1900. 62 CONG. REC. 4300 (1922).

Finally, since it is the President who is Commander in Chief and bearer of all the Executive power under the Constitution, it is the President who is thereby immediately responsible for the command of forces and the conduct of campaigns. In practice, the President acts through the Executive departments of Government and they, in turn, act through subordinate officers. But their acts are in legal contemplation the acts of the President himself, unless disavowed. *See* United States v. Eliason, 41 U.S. (16 Pet.) 291, 301–02 (1842); Wilcox v. Jackson, 38 U.S. (13 Pet) 498, 512 (1839); C. BERDAHL, *supra* note 26, at 21; D. WATSON, *supra* note 96, at 914.

[148] Summarizing his position after more than 50 years of study, Professor Quincy Wright declared:

I conclude that the Constitution and practice under it have given the President, as Commander-in-Chief and conductor of foreign policy, legal authority to send the armed forces abroad; to recognize foreign states, governments, belligerency, and aggression against the United States or a foreign state; to conduct foreign policy in a way to invite foreign hostilities; and even to make commitments which may require the future use of force. By the exercise of these powers he may nullify the theoretically exclusive power of Congress to declare war.

Wright, *The Power of the Executive to Use Military Forces Abroad*, 10 VA. J. INT'L. L. 43, 54 (1969).

Another eminent authority summed up his own half-century of study by finding that the practice of the President to use military power at his own will "had developed into an undefined power—almost unchallenged from the first and occasionally sanctified judicially—to employ without Congressional authorization the armed forces in the protection of American rights and interests abroad whenever necessary." Corwin, *Who Has the Power to Make War?*, N.Y. Times, July 31, 1949, at 14. *See also* pages 425–26 *supra*.

[149] *See* pages 435–43 *supra*. The 100th Justice of the Supreme Court has said that (1) there is no prohibition in the Constitution which keeps the President from initiating war without the declaration of Congress, and (2) no statute could "prevent the President from exercising his traditional powers as Commander in Chief, which do include under certain circumstances the commitment of armed forces to hostilities." Testimony of William H. Rehnquist, *Hearings on Congress, the President, and the War Powers Before the Subcomm. on National Security Policy and Scientific Developments of the House Comm. on Foreign Affairs*, 91st Cong., 2d Sess., 228–29, 232 (1970).

My personal view is strengthened by the almost unanimous advice from some 40 authorities, of all political shadings, whom I have consulted on this subject. For example, Dean Acheson wrote to me about legislation which would limit the President's use of forces to 30 days in emergency situations unless Congress specifically extends his authority. He said:

Any attempt to spell out procedural requirements and limitations on executive power will tend to make rigid that which must be flexible. If the President and the Congress are to assume attitudes of hostility, the nation in this modern world will be subject to grave perils. The separation of powers is not based upon the premise of their fundamental hostility. Criticism and restraint are contemplated in the workings of the system, and can be accomplished. The present legislative proposals do not seem to me to provide for this, but, instead, by setting up a series of rigid rules, to limit the powers of the President beyond safety and to give the Congress, by inaction, that the Constitution never contemplated, a veto upon executive action.

Letter from Dean Acheson to Barry M. Goldwater, May 18, 1971 (unpublished letter in author's personal files). Another former Secretary of State said:

[W]e should not clutter up our Constitution with detailed directives to the President and to the Congress where we cannot know the future circumstances in which such directives will have to be followed.

Letter from Dean Rusk to Barry M. Goldwater, May 11, 1971 (unpublished letter in author's personal files). Thus, Dean Rusk writes of his opposition to war powers controls either in the form of legislation or an amendment to the Constitution.

[150] *See* Congressional Reference Service, *Regulating the Size of the Armed Force Under Selective Service Law*, 117 CONG. REC. S 9590–91 (daily ed. June 21, 1971). According to Senator Stennis, 1971 is the first time Congress has ever set numerical strength levels on the total size of the regular forces, including both volunteers and inductees, in the Selective Service Act. *See id.* at S 9589 (remarks of Senator Stennis).

[151] Prompt repeal of the compulsory draft and its replacement with an all-volunteer military were among the pledges included in my 1964 platform as the presidential candidate of the Republican Party.

[152] It is a little-noticed fact that the 1972 defense budget is the smallest relative military budget in a quarter century. Defense spending dropped to 34% of total federal spending in 1972, falling below human resource spending (42%) for the first time in over 20 years. OFFICE OF MANAGEMENT & BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, THE U.S. BUDGET IN BRIEF, FISCAL YEAR 1972, at 5 (1971).

[153] For example, in mid-1964 President Johnson sought $125 million in military aid funds, much of it earmarked for a larger air force for South Vietnam. 1 L. JOHNSON, *Special Message to the Congress Transmitting Request for Additional Funds for Viet-Nam*, in PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES, LYNDON B. JOHNSON, 1963–64, at 692–93 (1965). Congress turned down this early opportunity to prevent an escalation of our Indochina activity and approved all the funds which the President had requested. Act of Oct. 7, 1964, Pub. L. No. 88–633, § 607, 78 Stat. 1010; Act of Oct. 7, 1964, Pub. L. No. 88–634, 78 Stat. 1015.

[154] *See, e.g.*, Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210 (Dec. 22, 1971).

[155] *See, e.g.*, The Export Administration Act of 1969, 50 U.S.C. App. §§ 2401–13 (1970) (export controls). Also of interest is The Defense Production Act of 1959, *id.* §§ 2061–166, relative to the diversion of certain materials from civilian use to military purposes and controls on the distribution of critical and strategic materials.

[156] *See, e.g.*, Trading With the Enemy Act of 1917, *id.* §§ 1–44, relative to the licensing of transactions with foreign enemies or allies of enemies during any period of national emergency declared by the President; The Export Administration Act of 1969, *id.* §§ 2401–13.

[157] *See* U.S. NEWS & WORLD REPORT, Oct. 25, 1971, at 31.

[158] We can probably see the effect of a changing public mood in the Vietnamization policy of the current Administration, under which 480,000 troops will have been withdrawn from Indochina in three years. The State of the Union Address, President Richard M. Nixon, 118 CONG. REC. H 145, H 149 (daily ed. Jan. 20, 1972).

[159] The active role outlined for Congress in the preceding paragraph would, I believe, conform foursquare with the doctrine announced by the United States Court of Appeals for the Second Circuit in Orlando v. Laird, 443 F.2d 1039 (2d Cir. 1971), *cert. denied*, 92 S. Ct. 94 (1971). The court held that the power of Congress to declare war calls for "*some* mutual participation between the Congress and the President . . . with action by the Congress sufficient to authorize or ratify the military activity at issue. . . ." 443 F.2d at 1043 (emphasis original). The court expressly indicated that congressional collaboration can follow the initiation of a hostility, rather than precede it, and can take the form of military appropriations as well as extensions of the draft. In addition, the court suggests that area resolutions and treaties, such as the Tonkin Gulf Resolution, Pub. L. No. 88–408, 78 Stat. 384 (1964), *terminated*, Foreign Military Sales Act of 1971, Pub. L. No. 91–672, § 12, 84 Stat. 2053, and the SEATO Treaty, Southeast Asia Collective Defense Treaty, Sept. 8, 1954, [1955] 1 U.S.T. 81, T.I.A.S. No. 3170, are sufficient in authorizing the prosecution of war even though expressed in broad language.

Needless to say, there is probably some resolution or treaty around which would fit almost any military contingency. And no fighting is going to continue for long without a President including funds in his annual or supplemental budget request for its support, at which point Congress will either collaborate by voting the money or force a change in policy by cutting or denying defense-oriented funds.

[160] *See* pages 426–32 *supra*.

[161] Ratner, *The Coordinated Warmaking Power—Legislative, Executive, and Judicial Roles*, 44 S. CAL. L. REV. 461, 486 (1971).

Though three early cases touching the French naval war are heavily relied upon by the advocates of war powers controls, these cases were decided after hostilities had ended. Thus, the issue of curbing the President's conduct of war during actual fighting was not presented. *See* Bas v. Tingy, 4 U.S. (4 Dall.) 37 (1800); Talbot v. Seeman, 5 U.S. (1 Cranch) 1 (1801); Little v. Barreme, 6 U.S. (2 Cranch) 170 (1804). Furthermore, the cases involved "an issue squarely within a specific grant of authority to Congress. That is, the power 'to make Rules concerning Captures on Land and Water.'" Testimony of Prof. J. Moore, 117 CONG. REC. S 6469 (daily ed. May 10, 1971). See U.S. CONST. art. I, § 8.

Although Schwartz at one point indicates *Little* may have broad implications, he sharply qualifies his position elsewhere by adding: "A Constitution which did not permit the Commander in Chief to order belligerent acts whenever they are deemed necessary to defend the interests of the nation, would be less an instrument intended to endure through the ages, than a suicide pact." He also writes: "If one thing is clear under the Constitution, it is that the actual use of the armed forces by the Commander in Chief is not subject to any legal control." B. SCHWARTZ, *supra* note 50 at 168, 205, 217.

[163] A prime conception motivating the introduction of war powers legislation seems to be an assumption that it is the President who has, on his own, drawn this nation into an escalation of the Vietnam hostilities. For example, Senator Javits comments that this legislation "may, in retrospect, be viewed as the most constructive legislative by-product of our Nation's tragic Vietnam experience." 117 CONG. REC. S 20,627 (daily ed. Dec. 6, 1971) (remarks of Senator Javits).

[163] I have identified at least 24 statutes in which Congress has supported an expansion of the Indochina hostilities. Goldwater, *Congress: Accessory to Vietnam*, 117 CONG. REC. S 12,466 (daily ed. July 29, 1971).

In the words of the United States Court of Appeals for the Second Circuit: "The Congress and the Executive have taken mutual and joint action in the prosecution and support of military operations in Southeast Asia from the beginning of those operations." Orlando v. Laird, 443 F.2d 1039 (2d Cir. 1971), *cert. denied*, 92 S. Ct.

[164] For example, in 1966, Congress approved

a $13.1 billion supplemental appropriations request meant chiefly to fund military operations in Southeast Asia. Although the bills implementing this request were the focus for televised hearings by the Senate during which our Indochina policy was thoroughly examined, Congress responded by granting every penny sought. Act of Mar. 16, 1966, Pub. L. No. 89-367, 80 Stat. 36, 37; Act of Mar. 25, 1966, Pub. L. No. 89-374, 80 Stat. 79, 82; 1966 CONG. Q. ALMANAC 153. One year later, Congress appropriated an additional $12.2 billion tagged for the support of military operations in Southeast Asia. Act of Mar. 16, 1967, Pub. L. No. 90-5, 81 Stat. 5, 6; Act of Apr. 4, 1967, Pub. L. No. 90-8, 81 Stat. 8; 1967 CONG. Q. ALMANAC 209.

[165] For example, Secretary of State William P. Rogers cautions:

To circumscribe presidential ability to act in emergency situations—or even to appear to weaken it—would run the grave risk of miscalculation by a potential enemy regarding the ability of the United States to act in a crisis. This might embolden such a nation to provoke crises or take other actions which undermine international peace and security.

Testimony of Secretary of State William P. Rogers, *Senate War Powers Hearings, supra* note 12, at S 7199 (daily ed. May 18, 1971). Professor James MacGregory Burns agreees. He has testified that artificial restrictions on Executive discretion "may not lead to peace but to war, as foreign adversaries estimate that the United States will not respond to a threat to world peace because of legislative restrictions on the executive." *Hearings on Congress, the President, and the War Powers, Before the Subcomm. on National Security Policy and Scientific Developments of the House Comm. on Foreign Affairs*, 91st Cong., 2d Sess. 81–82 (1970) (testimony of Dr. Burns).

I have spoken of my own fears about war powers legislation on the grounds it will place all our treaty obligations in a state of permanent doubt; prevent the United States from responding in even a limited way to protect the existence of friendly and strategically important countries such as Israel, with which we have no defense commitment specifically authorized by statute; and conceivably might drag the President into an unwanted expansion of hostilities, the presumption of the legislation being that the President has no power to contravene congressional directives. See my testimony before *Senate War Powers Hearings, supra* note 12, at S5637-47 (daily ed. Apr. 26, 1971).

On the latter point, it must be remembered that historians generally concur that it "was the War Hawks—members of Congress all—who aggressively sought the War of 1812," and that in 1898 it was "the press and Congress" who pressured President McKinley into requesting a declaration of war. Nanes, *Congress and Military Commitments: An Overview*, CURRENT HISTORY, Aug. 1969, at 116. In this connection, it is also important to recall how congressional leaders sought in 1962 to talk President Kennedy into a military attack or invasion of Cuba, rather than a blockade. *See* R. KENNEDY, THIRTEEN DAYS 53–54 (1969).

[166] Mr. George Ball, who has served his country well on five separate occasions in the executive branch, testified during the war powers hearings that he has been around long enough to have seen other legislation which was supposed to assure that the United States would not be drawn into another major conflict. He recalls that by passing a series of neutrality laws in the 1930's, Congress believed it would forestall a repetition of World War I. And yet, Mr. Ball points out that this very legislation might have been instrumental in leading to war:

We all remember the somber history of these Congressional acts, and what an impediment they imposed to participation by the United States in the timorous politics of Europe which paved the way for Hitler's conquests and another world catastrophe—a catastrophe which, as recent disclosures have made quite clear, could have very probably been averted if the United States had lent a steadying hand to reinforce the will of the flatulent statesmen then guiding European destinies.

Testimony of the Honorable George S. Ball, *Senate War Powers Hearings, supra* note 12, at S12621 (daily ed. July 30, 1971).

DENIAL OF U.N. ACCREDITATION TO REPUBLIC OF CHINA

Mr. DOMINICK. Mr. President, the continuing degradation of the principles on which the United Nations was founded was further exemplified in the action of the Secretary General on December 17, 1971. On that day, the Central News Agency of the Republic of China was denied further accreditation at the U.N. Those of us who support the concept of free speech and free press deplore that action by the United Nations. For that reason, I welcomed an editorial published in the Washington Post on February 5, 1972. The editorial urges the new Secretary General to reconsider the action expelling the journalists of the Republic of China, because of a conviction that it is the right of all people and nations to learn the news.

I urge Senators to read the editorial. To afford them the opportunity to do so, I ask unanimous consent that the editorial, entitled " 'Free' Press at the U.N.," be printed in the RECORD.

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

"FREE" PRESS AT THE U.N.

At 10 a.m. last Dec. 17, aides of then-Secretary General U Thant informed T. C. Tang and Chenchi Lin, who had represented the Central News Agency of China (Taiwan) at the United Nations for 26 and 15 years respectively, that their accreditation had been revoked and that they must turn in their passes, close their offices and depart the premises by the close of business that day. Their ouster, subsequently upheld by the new Secretary General Kurt Waldheim, was and is an outrage.

The purported fact of the matter, so asserted by the U.N. Secretariat is that since Central News is the official press agency of Nationalist China and since the General Assembly resolution of Oct. 25 admitting Peking called for expulsion of all "representatives of Chiang Kai-shek," the agency had to go.

The actual fact of the matter, we suspect, is that the new delegation from Peking insisted on a mean and gratuitous gesture further humiliating Taiwan and that the Secretariat, not to put too fine a point on it, caved. In doing so, the Secretariat turned its back on the values of freedom of information which were supported, in this particular instance, by parties as disparate as the United States Government and the United Nations Correspondents Association, including Pravda and Tass.

We would urge Mr. Waldheim to reconsider. There is no question but that Mr. Tang and Mr. Lin are journalists who were covering a legitimate and important news activity. In deciding that one claimant rather than another deserved the single "China" seat at the United Nations, the General Assembly surely did not mean that the losing claimant should be deprived of news about the U.N. In a formal sense the two journalists may have "represented" the Nationalist government but in a real sense they represented the right of all peoples and nations to learn the news. That is the appropriate basis, we believe, on which their accreditation should be restored.

ADELA AND PRIVATE FOREIGN INVESTMENT

Mr. JAVITS. Mr. President, it is one of the signs of the times and one of the philosophical contradictions of the day that the role of private enterprise and specifically private foreign investment increasingly is under attack domestically as well as abroad.

Often overlooked in the sterile battle of words, half-truths and empty slogans are three basic facts:

First, that the continued transfer of capital and technology is urgent if the developing world is to progress and fulfill the raising aspirations of its people and if the dangerous gap between the have and have-not nations is to be narrowed;

Second, that shortfalls in the transfer of public funds through bilateral or multilateral aid programs will have to be compensated for by increased efforts of the private sector; and that

Third, new instruments are being forged to help effect these transfers which show imagination if not genius.

I invite the attention of Senators to one such institution that is making a significant contribution to Latin American economc development in the context of the private enterprise system. I refer to the ADELA Investment Co., which has now completed its sixth year of operations and which by its own conservative estimate has resulted in an additional capital input of $1.7 billion into Latin America through the multiplier effect of its programs of minority equity investments, technical assistance and loans.

The operations of the ADELA are the operations of a forward-looking multinational corporation in its best and fullest sense. The original capital stock of ADELA is drawn from capital subscriptions from corporations in both the developed and developing world—the stockholders presently total 243 from 23 nations with no stockholder holding more than 2 percent and no country group holding more than one-third of the shares. ADELA in turn has cooperated with publically financed developed agencies such as the International Finance Corp., the Overseas Private Investment Corp., and the development banks in the host countries of Latin America.

It is a conscious policy of the ADELA to limit its equity participation in any one enterprise to 20 percent or less and it has evolved a well designed divestiture program which may serve as a future model for this area if not the world.

The success of the ADELA both as a development tool and as a profit-making institution have led to the establishment of similar multinational private investment corporations working in Asia and Africa. It is my hope and expectation that a similar organization will soon be established in the Middle East and accelerated economic development may be one of the factors that would help ease the tensions in this troubled area of the world.

I ask unanimous consent that the letter of the past chairman of the ADELA, Howard Peterson to the shareholders, be printed in the RECORD along with excerpts from the report of the president Ernest Keller. This material has been selected from the annual report of the ADELA for the fiscal year ending June 30, 1971, which has just been released. It is my hope that these excerpts will provide a welcomed addition to the debate concerning the role of private foreign investment in Latin America.

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

LETTER FROM THE CHAIRMAN

To the SHAREHOLDERS:

In its sixth year, ADELA continued its progress, its growth and its effectiveness. From its conception by far-sighted men, to its birth and crawling stages, it has come to its present stature as a young but mature and important factor in the development process in Latin America. This must give satisfaction to those who saw in it the possibility of a substantial demonstration and contribution by private enterprise to one of the most complex problems of our times.

Not that the way has been easy or the economic climate free from storms—storms which strike here and there—never all at once—some cataclysmic—at least for a short span—others only dampening. In this kaleidoscope the foreign investor is too prone to think of the black clouds of a particular country as blotting out opportunities over a diverse area of 21 countries embracing 220 million people.

ADELA, on the ground, working in virtually all countries, can perceive the ebbs and flows of these weatherfronts, and, perceiving, has continued to help economic development by equity investments, by working with local entrepreneurs and by lending all forms of technical assistance to local managements. This is ADELA's avowed purpose; this is its business. And this difficult business goes well. As expected, it is not free from problems, some of which have become somewhat more pronounced in the past months and years.

Everyone is aware of the mounting problems and uncertainties in the world economy this past year and of some adverse trends in a few countries in Latin America. This and the sale during the year of five profitable investments led to some deterioration in the over-all performance of ADELA's equity investment portfolio. In view of the nature of ADELA's business and its designed purpose to be a venture capital investor in Latin America, and taking into consideration a recommendation of our auditors, it seemed prudent to the Board of Directors to forego the payment of a dividend in favor of substantially increasing the company's reserves. This was done. $1.9 million was added to the reserve for possible losses on specific investments and loans which to date has proved ample to cover possible write-offs as estimated by management. The remainder of $3.44 million of the year's consolidated earnings and $2 million of previously earned surplus were used for increasing the consolidated legal and general reserve to $6 million. This action of the Board of Directors is in keeping with the resolution adopted in 1967 whereby the company's reserves should be brought to 15% of its paid-in capital. The provision made this year achieves that goal. Of the wisdom of this action taken by the Board of Directors, I have no doubt and all I can ask of our shareholders is their understanding and forebearance.

As the President's report, following this brief comment, details: Adela has $39.8 million equity investments in 92 companies in 20 countries and, in addition, is currently lending Latin American enterprises $216.6 million. With paid-in capital of $61.2 million, enhanced this past year by 61 additional capital subscriptions of $8.7 million, Adela is now utilizing resources of $76.8 million, and has additional lines of credit of $244.2 million at its disposal.

Granted these are small sums in contrast to the capital needs of this vast area, but they will grow and their influence on private development is of much greater magnitude than the sums involved. First, by the example the employment of these funds sets in the enlistment of local capital investment and local managerial initiatives. But more importantly, Adela's minority contribution has had a great multiplier effect since its inception. Adela's infusion is conservatively estimated as having resulted in a capital input into this vast continent of $1.7 billion. This well serves Adela's purposes.

The great majority of the Latin American countries, including the nations with the most rapidly growing markets and economies, continue to recognize and encourage foreign investment as an essential input on which growth is dependent. In contrast, a few countries have adopted policies which tend to discourage and reduce this external input, including mandatory withdrawal of foreign investment. I and probably all of the investors in Adela deplore this trend, because it is against the best interest of developing nations and results in stagnation and setbacks in a badly needed socio-economic advancement.

Adela's sponsors have equipped the company from the beginning with policies which are compatible with the legitimate aspirations of developing countries to determine their own destiny, make their own plans, and assume the responsibility for their economic development. Adela is a minority investor. It seeks and encourages local partners. It assists them in the conduct of their enterprises through Adelatic and its own management skills. It has the announced purpose, even as a minority investor, of rotating its portfolio by selling off its investments when they reach maturity and thus free funds for further equity investments of a more entrepreneurial character. To do this, it is importantly engaged in a program to develop local capital markets.

Adela today is a truly multinational enterprise with 243 stockholders from 23 nations, including 35 shareholders from Latin America, with no stockholder holding more than 2% and no country group holding more than one third of the shares. Although it is a Luxembourg corporation, its principal operating offices are in Lima (Peru), with offices throughout principal cities in Latin America. Its staff is multinational as well as multilingual, with the largest contingent being Latin Americans. In a real sense, Adela is not a foreign investor.

I have been associated with Adela since its formal organization—first as Vice Chairman of the Board, and for the last two years as its Chairman. As I leave this position, may I record my personal sense of satisfaction at the success Adela has achieved; and, speaking for the Board of Directors, our indebtedness to Ernst Keller and his fine staff for their accomplishments on difficult terrain; and, of course, my hope, sustained by past performance, for greater attainments in the future. It has been a pleasure and an honor to have had an opportunity to contribute to Adela.

HOWARD PETERSON.

FROM THE REPORT OF THE PRESIDENT

INVESTMENT DEVELOPMENT

Investment development comprises opportunity identification and the study, promotion and implementation of new projects. It is essential to our development role, and distinguishes ADELA from other investment companies which are restricted only to providing money. Rather than investing the limited resources that we have available for long-term investments in investment opportunities that are presented to us, our investment development capabilities permit us to take the initiative in identifying, structuring and implementing projects with maximum economic impact potential. They also allow us to develop investment opportunities which can then be implemented by third parties without ADELA capital. It is this capability which keeps us from becoming passive investors *reacting* to isolated investment situations, and allows us to *create* investment opportunities responsive to the economic and social needs of the area. The area knowledge, know-how, and entreprenurial and professional expertise we have within the Group, combined with the capability to enlist financial and technical support from the industrialized countries gives us a unique faculty for achieving the purposes that prompted the organization of ADELA. In addition to the continued identification and development of new opportunities, the past year marked the beginning of the implementation phase of a number of large projects that had been earlier identified and promoted by us, particularly in the tourism and agribusiness sectors.

During the fiscal year ended June 30, 1971, 48 assignments for outside clients were completed, including 4 assignments of regional dimensions covering all of Latin America. As in the previous year tourism development continued to receive high priority, followed by work on the agribusiness sector and in the specialized and urgent area of programming and industrializing low-cost housing construction.

The *promotion company* as a vehicle for investment development activities continued to prove its usefulness as a mechanism for marshalling the support and participation of local investors in new projects. The promotion company concept was pioneered by ADELA for providing a programmed approach to the identification, development and implementation of investment opportunities and enlisting the support and active participation of potential local investors at an early stage of a project's development. Projects identified and developed by the promotion companies are normally implemented by separate companies, specifically organized for each new investment, in which the promotion company participants may provide part of the initial risk capital. At this time, ADELA participates in 6 promotion companies, to which ADELATEC provides technical, and in some cases full management services. ADELA's participation is limited to a minority holding, normally not exceeding 20%. The companies are supervised and operated by their own boards of directors.

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Another longer range program with continentwide perspectives in which we took the lead is in the field of *human resources development*. ADELA has long felt that executive placement and training, programmed learning and other knowledge related fields are an essential complementation to the growth and development of business enterprises in Latin America and consequently, directly related to ADELA's principal role. As a first step in a continent-wide program in this area, TASA de Mexico S.A., an ADELA joint venture with other investors, opened its offices in Mexico City during the year and is now expanding into other countries.

As of June 30, 1970, the investment development activities of the ADELA Group combined with the resources invested under its entire investment program have contributed to a total of approximately $1.7 billion of new investments recommended and/or implemented in Latin America. Even more significant perhaps, are the long-range con-

tributions resulting from the pioneering of new areas of investment activity in a number of countries. Equally noteworthy has been the technique used of stimulating the participation of local investors in investment development through the promotion company mechanism, thereby, implanting locally the knowledge and techniques of project development and implementation.

* * * * *

DIVESTITURE

In accordance with ADELA's Investment Policy which calls for the sale of equity holdings in order to free equity investment funds for new ventures, share holdings in five companies were sold during the fiscal year for an aggregate net realization price of $5.7 million, compared to an acquisition cost of $2.1 million, resulting in net capital gains of $3.6 million. These latest sales bring the total number of companies in which ADELA has sold its holdings since its inception to 8, for an aggregate net realization price of $9.4 million, compared to an acquisition cost of $3.3 million (9.2% of total disbursements in equity), resulting in aggregate capital gains of $6.1 million. Of these sales, the holdings in the two largest investments were sold to the general public through local stock exchanges. In the absence of public placement possibilities, the shares of the other 6 investments were sold to Latin American partners in the projects and other local investors.

* * * * *

The absence of active capital markets in most of Latin America, often makes the placement of shares with a wider circle of local investors, as contemplated in our Investment Policy, difficult. In response to this situation, the Capital Market Development Committee was organized as a committee of the Board of Directors to counsel management on divestiture of long-term investments and as a corollary thereto, assist and advise management on plans for developing and strengthening capital markets in Latin America. During the past year, the Committee endorsed a proposal whereby ADELA will undertake, jointly with local and other international institutions, to develop more active capital markets. This program will be concentrated initially on a few countries rather than diluting the effort by endeavouring to start on a continent-wide basis. The expertise developed in a few pilot projects will then be used as a basis for similar programs elsewhere.

* * * * *

FUTURE PRIORITIES

As a private investment and development company, we cannot and will not deviate from the basic principles which govern the activity of private enterprise and the functioning of the free market economy. A sacrifice of basic principles because of a changing environment would be short-sighted and would defeat our purposes and objectives. It would also be contrary to the best interest of the countries in which we work and invest. Adaptation, therefore, cannot mean to abandon or change sound basic principles, it can only consist of a shifting of emphasis as between countries, economic sectors, and the areas of our activity, so as to best serve development objectives and provide encouragement and support to private enterprise.

For the *immediate* future our priorities include:

A further increase of our technical and financial services activity leading to greater effectiveness in the pursuit of sound development plans and to a larger volume of feasible investment projects in the countries of Latin America;

The implementation of several large projects developed in past years and the transfer to other geographic areas of the specialized knowledge gained in specific economic sectors and projects; and

Increased emphasis on the important objective of divestiture from investments which have matured and can be placed, where possible by public offerings, through a systematic medium-term program of selecting investments and preparing them for placement.

For the *medium- and long-term* our priorities have not substantially varied but have experienced a change in emphasis. Private enterprise in Latin America will need greater assistance in meeting the challenge of economic integration, in changing its philosophy and organization from domestic-market-oriented import substitution to one of competitive export marketing, and in operating within economies of greater scale. Foreign investors will need our advice and assistance in coping with the mounting requirements for adaptation to a rapidly changing environment which in some countries is characterized by rules and limitations entailing major changes in policy and operating procedures. With the growing scarcity of, and even keener competition for, long-term investment capital, the mobilization of capital *within* Latin America will significantly gain in importance for the realization of the area's development objectives and investment plans. Thus, the stepping-up of efforts to develop active capital markets in Latin America in cooperation with national, regional and international institutions, has become of greater urgency and must be assigned highest priority.

* * * * *

Divestiture is, therefore, not only of importance for self-financing an ever larger portion of new investments, but also from an organizational viewpoint. We have long ago organized ourselves for the monitoring and follow-up of our numerous investments, but we also have realized that despite continuously improved control methods and systems, the number of investments which we can effectively hold, and in case of emergencies assist, is limited. The answer to this limitation lies not in adding more manpower but in rotation of our portfolio and divestiture of mature investments, including those which have failed to produce satisfactory results within a reasonable time after overcoming the customary preoperating and start-up difficulties.

A well designed divestiture program must be combined with a further strengthening of ADELA's equity capital, in part by a continued effort to mobilize additional equity or quasi-equity from existing or new sources, and in another substantial part through retention of an increasing percentage of our earnings. We must be cognizant of the fact that because of the nature of our business and of geographical and other limitations imposed on us, together with the risks and uncertainties inherent therein, it may become more difficult for us to raise long-term capital in the keenly contested international markets. This means that further strengthening of our own resources may have to come primarily from within and indicates the need for a conservative approach to retention of earnings.

Despite fluctuations and setbacks, despite the unavoidable cycles of prosperity and stagnation or recession to which the economies of the developing countries are exposed, and despite the uncertainties injected into future projections by the effect of necessary but painful socio-economic changes and by errors in concept and policy, Latin America as a whole continues to offer vast opportunities to private enterprise. In the light of today's available advanced technology, these opportunities far exceed those which existed in the development period of the now industrialized countries. To cope with the cycles, to help overcome the immediate effects of necessary changes and of errors, and to assist private enterprise and Latin American governments in taking advantage of the great development potential and opportunities, continue to be the primary assignment of ADELA and of those who work with us. Based on what we have learned in the past and of what we have assembled in experience and in talent, I am confident that our contribution to the tasks before us will continue to grow in the same measure as our confidence in Latin America and as ADELA has grown since 1965, when we began our work on what then was termed "an experiment."

ERNST KELLER.

MAURICE ABRAVANEL, CONDUCTOR UTAH SYMPHONY

Mr. MOSS. Mr. President, in Utah we are celebrating Maurice Abravanel's 25th year as musical director and conductor of the Utah Symphony. I would like to call this remarkable man, and his contribution to the world of music, to the attention of the Senate.

Utah has a rich musical heritage. Many Utah pioneers brought musical instruments with them across the plains, and music has always been an important part of our lives. Between 1855 and 1940 there were nine attempts to organize and sustain a symphony orchestra—all of them fine and creditable efforts.

But not until Maurice Abravanel became its gifted and tireless conductor in 1947 did Utah begin to build the type of musical organization which could lay claim to being one of the foremost orchestras in the country. The orchestra which Maurice Abravanel now conducts unquestionably can make such claim; The Utah Symphony is irrefutably one of the top-rated city orchestras in America.

An American citizen of Spanish-Portuguese ancestry, Maurice Abravanel was born in Salonika, Greece, and was reared in Lausanne, Switzerland, where he first conducted at 16. He studied in Berlin with Kurt Weill before he was 20, conducted the Berlin State Orchestra, was a guest conductor at the Paris National Operata, and was so successful conducting in Australia that he extended a 3-month engagement there into 2 years. He came to Utah on a 1-year contract, and has stayed for 25 years.

The symphony he built is essentially a local product, run by Utahns, with Utah citizens as musicians. Of its 85 members, only 15 came to Utah especially to play in the symphony. A large majority were born in Utah. But, it travels over 10,000 miles and plays some 170 concerts to a combined audience of over 300,000 people annually.

The Utah Symphony has been on international tour, playing in Europe and South America, and to a number of American cities. It has played also in many of the small towns in Utah, Montana, Idaho and other western States exposing people to live symphony who have little opportunity otherwise to hear it. Its conductor has involved hundreds of students in choral and orchestral concerts, bringing them into intimate contact with great music.

During these years Maurice Abravanel has been honored for his artistry in all parts of the world. Harold Schonberg in the New York Times perhaps caught the essence of his greatness when he characterized him as "superior conductor, more interested in music than in himself."

The dedication of the orchestra to its conductor, and its spirit of loyalty was noted by another critic, who wrote:

What really distinguishes this orchestra is its sense of identity. A listener gets the impression that each of the musicians is playing his heart out because he is convinced what he is doing is good and important.

And finally a critic in London summed up his praise in this way:

By any standard the Utah Symphony is a first class ensemble. Make no mistake, this is a great orchestra.

And so it is a pleasure here today, while Maurice Abravanel is in Washington as guest conductor of our National Symphony Orchestra, to call to the attention of Senators the work of this sensitive and innovative musician who stands out among his peers as a conductor of enormous talent, who is reaping high artistic rewards and personal recognition everywhere, and who has given Utah one of the Nation's singularly fine symphony orchestras.

SENATOR MUSKIE'S PLAN

Mr. SCOTT. Mr. President, Crosby S. Noyes, in an excellent editorial in Tuesday's Evening Star, has described the recent actions of one of our "presidential Senators" to a tee.

I commend this interesting and well-thought out piece to the attention of my colleagues and ask that it be inserted in the RECORD.

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

MUSKIE'S PLAN CALLS FOR A SELLOUT IN VIETNAM

(By Crosby S. Noyes)

Sen. Edmund S. Muskie of Maine has indeed staked out a position on a Vietnam settlement that goes beyond the peace plan outlined by President Nixon. He is proposing nothing less than complete surrender, the betrayal of South Vietnam and the delivery of that country's 15 million people to Communist control in the shortest possible period of time.

Muskie complains that the administration plan for peace in Vietnam is cluttered with too many conditions. His own plan is beautifully simple. It boils down to two propositions: Get the hell out and then force the Saigon government to surrender to Communist terms.

The front-running Democratic candidate for President doesn't say it quite that way. In his own words:

"First, we must set a date when we will withdraw every soldier, sailor and airman and stop all bombing and other American military activity, dependent only on an agreement for the return of our prisoners and the safety of our troops as they leave.

"Second, we must urge the government in Saigon to move toward a political accommodation with all elements of their society. Without such an accommodation the war cannot be ended, and it is clear that the American people will not support an indefinite war, either by our presence or by proxy."

The words are weaselly but the meaning is perfectly clear. After we are safely out (assuming, of course, that the Communists will buy the simple prisoner-for-pullout deal) we will then inform the leaders in Saigon that unless they settle with the Communists we will withdraw all further support.

In these circumstances, for "accommodation" read "capitulation." And for "all elements of their society" read the Provisional Revolutionary Government of the National Liberation Front which would inevitably and speedily emerge as the real and undisputed master of South Vietnam.

After all the promises that have been made to the South Vietnamese, the billions that have been spent and the thousands of lives lost, it all adds up to a beautifully simple, homespun, forthright sellout. As for Muskie, who is selling his candidacy as a man to be trusted, one wonders how much trust he inspiries in, say a South Vietnamese soldier.

In some ways, in fact, the Muskie proposals are harsher than the latest demands of the Viet Cong. They at least still are calling for a political settlement that theoretically would give the South Vietnamese a chance at the polls.

If President Nguyen Van Thieu gets out, they say, and various other elements of the war are stopped, they will "immediately discuss with the Saigon administration the formation of a three-segment government of national concord with a view to organizing general elections in South Vietnam, to elect a constituent assembly, to work out a constitution and set up a definitive government in South Vietnam."

In earlier proposals the Viet Cong have defined a three-segment government as including "political, social, and religious forces in South Vietnam aspiring to peace, independence, neutrality and democracy," reserving to themselves the right to pass judgment on the extent to which individuals possess these qualities.

At best, it is not a very hopeful proposition, but it may not be entirely hopeless either. As between what the Nixon administration is proposing in the way of a political settlement and what the Viet Cong is demanding, it is at least conceivable that an accommodation could be found.

Obviously, the timing of Thieu's resignation is open to negotiation. And the differences between the Viet Cong proposal for a provisional government and the Nixon concept of an election commission "representing all political forces in South Vietnam" may not be unbridgeable. The major business of government in the interim period, after all, would be the organization of elections.

There is, therefore, some hope, however faint, in the course that the administration offers. There is none at all in what Muskie is proposing.

A government in Saigon, threatened with the withdrawal of American support, would be in no position to negotiate about anything and the Communists, for their part, would have no inducement to make the slightest concession. They could impose their terms in the certain knowledge that South Vietnam, without American support, would quickly collapse, while they can continue to count on the most massive support and supply from the Russians and Chinese.

It is incredible that Muskie, as an aspiring president of the United States, would pledge himself to deliberately engineer what his country has fought for seven bloody years to prevent. It is even more incredible that his plan for a sellout should commend itself to very many American voters. If a candidate can sell himself on this kind of platform, the country and the world are indeed in a sorry condition.

SENATOR SPESSARD HOLLAND

Mr. MOSS. Mr. President, it was a privilege to have known and worked with Spessard Holland in the U.S. Senate. I was here only a few months before I recognized him as one of the giants of the Senate. His benchmarks were honor and integrity. Though he was mild and courtly in manner, he was obviously a fighter in spirit. I think it could be said without challenge that he was "a gentleman of the old school"—and most certainly he was always a gentleman in asserting his strong views and standing for the things he believed.

Few men had a more illustrious career. Awarded the Distinguished Service Cross for his exploits in World War I, he returned to his native Florida to serve as county prosecutor, county judge, State senator, and finally Governor before coming to the Senate. He served 24 years in this Chamber until declining health forced him to retire.

Probably he will be best remembered as the father of the 24th amendment to the U.S. Constitution by which the poll tax was abolished. This alone would be monument enough for most men, but it was by no means his only accomplishment. I remember particularly working with him on protection of the environment, and particularly on saving and expanding Everglades National Park and establishing Biscayne Bay National Monument. He was a sound ecologist long before ecology became a household word.

Spessard Holland passed away quietly in his sleep after a relaxed afternoon spent with his family and friends at his home in Bartow, Fla. He spent his retirement days making himself available to friends and providing, when asked, his serene advice, drawn from this wisdom and his love of people.

I extend my deepest sympathy to his lovely wife, Mary, and to his two sons and two daughters, and their children.

SENATOR CARL HAYDEN

Mr. MOSS. Mr. President, last week when the death of our beloved colleague, Carl Hayden, was announced, I was in the Chamber and spoke then a few words of the grief I felt. I attended his funeral service in Arizona. Today I should like to say a little more about what Carl Hayden meant to the country—and to me.

It is not easy to put into words the depth of my admiration for this quiet, soft-spoken, but enormously influential man who was here in our midst such a short time ago. His presence will always be felt here. His indomitable spirit will linger on after most of the rest of us have gone, to be marvelled over by those who come after us.

Carl Hayden served in Congress longer than anyone else in history. As President pro tempore of the Senate he was third in line for the Presidency, and after the assassination of President John F. Kennedy, he was second in line—the Nation's Acting Vice President. He belongs among the important men of our times.

Yet he was among the most self-effacing of men, totally unaffected by the arrogance of power. He wielded his great influence in a quiet, unassuming manner, striving always to be fair and impartial, and to see that those things were done which should be done to move America forward. He was instrumental in establishing the modern formula for the Federal aid to highway programs, and he consistently backed legislation to assure the full and wise development of the Nation's natural resources—our land, our water, our forests.

It was my pleasure to work with him in achieving his greatest legislative goal for his State of Arizona—the central Arizona project. I chaired hearings on this project during the long and arduous drive for his passage, and rejoiced with him when his bill was enacted only a short time before he retired.

There is not one of us who served with Carl Hayden who is not endebted to him in some way. He drew from his wisdom, his skill, his vast knowledge of Senate traditions and rules and rules to help us. He always had an open and inquiring mind when I talked with him, and if he found a project to be of value or a request to be valid, he never stinted in his assistance. I considered him my great and good friend and I mourn his passing.

Carl Hayden spoke seldom in the Senate. He did not consider himself an orator. But I think none of us shall forget the words he spoke on May 6, 1968, when he announced his retirement. Paraphrasing the words of the Old Testament, he said, simply:

> There is a time of war and a time of peace, a time to keep and a time to cast away, a time to weep and a time to laugh, a time to stand and a time to stand aside.

He knew his time had come to retire, and he knew how to say that it had. If tears welled up in his eyes, they welled up in the eyes of many of his colleagues also.

As I said earlier, my only compensating thought in contemplating the death of Carl Hayden is that he had 94 years of full living, and half a century of tremendous service to his country. He left his imprint on our times, and he will never be forgotten. The standards of public service he set will be a shining goal for many in the years to come. America is fortunate to have had a man of the greatness and dedication in the U.S. Congress for 56 years.

A LOOK AT BUSINESS IN 1990

Mr. SCOTT. Mr. President, on February 15, Secretary of Commerce Maurice Stans will resign from the President's Cabinet. Today, Secretary Stans addressed the White House Conference on the Industrial World Ahead on the outlook for our economy in 1990. I ask unanimous consent that Secretary Stans' remarks be printed in the RECORD and commend them to the attention of my colleagues.

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

A LOOK AT BUSINESS IN 1990

(Address by the Honorable Maurice H. Stans, U.S. Secretary of Commerce, before the White House Conference on the Industrial World Ahead)

Thank you, Mr. Chairman.

I am delighted to be back with you this morning to conclude this White House Conference on the Industrial World Ahead.

In these three days you have heard many speakers, and you have discussed many points of view—both with great gusto and with profound intelligence. Some of what has been revealed is promising and exciting, some of it perhaps confusing and discouraging.

But the words you have heard undoubtedly contain many elements of the history to come. We are left with the problem of how to distill from the voices the essential judgment that will show us how to achieve the most of the promising and to avoid the most of the discouraging.

The program calls upon me to summarize the Conference. But to summarize all that has been said here in these three days—on what the technicians call a real time basis—is manifestly impossible. Any casual effort to do it could be very unfair to the obviously serious viewpoints of all those who participated. The record of the Conference will be published soon and will provide data for leisurely and full analysis by students of the future, and I hope that includes all here today.

OBSERVATIONS

But there is something I can do to give meaning to all the efforts here and that is to try to point out what I believe to be some overriding observations to be drawn from what has been said. I would hope they might represent a consensus but in the absence of a measurement of opinion in this body I merely set them up before you as my own ideas of what the Conference adds up to—and what should happen next.

These points are outstanding:

1. The potentials for a better America in the coming period of less than 20 years are, to say the least, astounding.

2. Most of the internal and external difficulties that challenge our industrial society today can be resolved in that period of time, if we work at it.

3. To avoid a destructive impact of new confrontations to our industrial system we seriously need to improve our long-range planning and the means of anticipating new emerging imbalances.

4. To make things go more smoothly and surely, we need a new rapport between the elements of the economy — especially business, labor and government—based on statesmanship in the common interest.

5. Above all, we need a more sophisticated public, with a better understanding of how our economic system works, how productive it is, and how much it benefits the individual and the society.

LIFE IN 1990

The panorama of probabilities ahead in the American economy is enough to excite any believer in a free society. According to information presented by various sources we can have in 1990:

A gross national product of almost two and one-half trillion dollars.

A 36-hour workweek.

60 percent of all families with incomes over $15,000.

Six out of seven families owning their own homes.

With and as a result of this income performance can come a much increased amount of leisure, a higher level of educational attainment, a far greater overall wellbeing of the people, and a substantial reduction in the numbers of those now in low income.

These are some yardsticks of what our industrial economy can achieve. Certainly these are goals worth aspiring for. The question is: How can we be sure to get there, in the face of present and potential public dissatisfaction with elements of the business world?

We have to believe that the domestic confrontations that exist in the economy today will be resolved in the years before 1990. Principal among these are the necessity to improve the living environment, the need to bring about a higher degree of consumer satisfaction, and the urgency of bringing up to a satisfactory level the income and living standards of the poor and under privileged. The evidence is clear that these are problems that must be addressed, and that if they are addressed sensibly and with understanding on all sides they can be overcome.

But the American society is woefully poor in anticipating its troubles, and sadly lacking in common sense in coping with them. This is certainly the case in environmental matters, evident to a lesser degree in the consumer issues, and sadly true in its failure to provide equality in economic opportunity. We need to find more orderly ways of measuring, understanding and dealing with such problems in the society if we are to avoid emotional and frequently irrational and very costly attacks on the productive mechanism.

I think we must conclude what so many have concluded before, that the means of communication in our economic system are very inadequate, and that few people understand well how it works and how well it works. The misunderstandings, for example, which we have been deploring for decades, regarding excessive ideas of business profits, still prevail.

The idea that business and the consumer are adversaries—which ignores entirely the fact that corporate goodwill is the main ingredient of business success—is constantly advanced. The belief that what is good for business is bad for labor is still propagated. Above all, the magnitude of the benefits and values of the American competitive business structure are little understood by its own beneficiaries.

I have some further thoughts as to what we might do about some of these things and, having put them on the table, I'd like now to go back and analyze them in more detail, but from another angle, and in a series of illustrative questions.

ALTERNATIVES

We have now spent three days discussing a wide range of very complex issues, any one of which could have warranted a three-day conference of its own.

We have learned that we have alternative ways of approaching each one. Whether the matter is labor relations or pollution control—whether it is the management of capital or the management of inflation—we have learned that we can approach each one in different ways.

One way of expressing the fundamental choice to come out of this Conference, on matters affecting the industrial world of the future, is this—will we address each problem in an orderly way, or in a disorderly way?

EXAMPLES

We do have a choice in the direction we go on each of these matters, depending upon how hard we want to work for solutions, and what we want the solutions to be.

We have learned, for example, that we can have orderly improvement of our environment, or a continuation of panicky, helter-skelter methods of attacking environmental problems—at horrendous cost—all paid by the consumer who ultimately will get the bill for environmental reform.

We have learned that business can accept a degree of social responsibility, and make an orderly contribution to society, or it can have social responsibility forced upon it by the public and government.

We have learned that labor relations can be orderly, or they can continue in the tangled, contentious expensive pattern of the past.

MORE CHOICES

We have learned that we must regain an orderly growth in productivity, or the other major industrial countries will take over American jobs and American markets.

We have learned that we can have orderly policy discipline in a free enterprise economy, or face the disorderly chaos of runaway inflation, runaway taxes and runaway controls.

We have learned that we must maintain orderly international competition, or live in a disorderly world of hostile trading blocs and protectionist nations.

These are just some of the points of this Conference.

QUESTIONS

Having learned that we have such choices down the road, we now need to ask:

Are we going to sit and let these individual matters drift or are we going to apply a hand to their direction and give some guidance in the way we want them to go?

I think of some potential answers in the form of more questions:

For example, must we continue to have the bitterness and the costly losses of crippling strikes? In this computerized age, isn't it possible for experts to develop just and acceptable formulas for adjusting compensation from time to time—formulas that recognize productivity, efficiency and creativity, cost of living, the relative character of work involved and other proper factors.

ENVIRONMENT

On the environment, there is no fundamental disagreement between any elements of our society that pollution must be reined.

Can we not find a way to remove extremism and emotionalism from the subject, and the absurd assumption that anything done in the name of the environment must automatically be right and good?

Can we not devise a way to lay out a careful matrix of actions and timetables to achieve results on a progressive basis over a period of years, at a cost far less than we are incurring by hasty and ill-conceived legislation and ill-devised regulations, all with massive price tags?

YOUTH

In connection with our nation's youth, the question is: Can we devise a way to insure them entry into the productive system when they want it?

For example, would a lower minimum wage for teenagers serve to make them earners and participants in the economy, instead of victims of the streets and crime and drugs?

Can't we also take effective steps to make our educational effort more effective in teaching the values of our economic system, as well as the flaws, and awakening young people to the benefits and the hopes that can be theirs if they work within the system?

TECHNOLOGY

Can't we overcome the lingering fears that better technology threatens jobs?

In this Conference it has become clear that our strongest hope for economic fulfillment—for constant improvements in our standard of living—lies in our continued development and leadership in technology.

Yet we face a growing hostility to technology by some of our people, largely, I believe, because they do not yet understand or realize its potential for better living.

For example, the SST was killed—and our technological leadership began to shrink—and our aircraft leadership moved abroad—and unemployment moved up a big notch.

How do we avoid repetition of this kind of pattern on the way to 1990?

PROFITS

Are we going to drag the profit system into 1990 as a kind of beleaguered survivor—with profits under constant attack from cynics who have never known the world of risk capital—or will we stimulate the acceptance by the public of a profit level adequate to induce new maximums in creativity, productivity, and the output of material goods?

ATTITUDES

And very important is the question of what kind of public attitudes will prevail toward our industrial world eighteen or twenty years from now.

As we know from this Conference, we have already undergone a sharp decline in the public attitude toward business.

Will we see that the severe critics of our system regain their perspective on how much is good in American business and right with American industry? Or will we allow them to shatter public faith in the system itself, rather than just pointing to faults?

FORMULAS

Out of all these questions, and all the others you have considered, two fundamental answers become clear.

First, if we are to achieve solutions to our problems and meet our needs, we must—as I have said—approach these matters in an orderly, planned way, and reject the disorderly unplanned ways of the past.

STATESMANSHIP

Second, it is clear as a result of your discussions here—as I have also tried to indicate—that we need quiet dialogue more than we need loud voices..

We need education more than we need intransigence.

We need statesmanship and cooperation between all the classes of our society, setting aside the old belief that the sectors must be in constant conflict. The time has come to recognize that, since we are all in this economy together, what benefits one can benefit all.

It is a time for all the elements of our country to work with greater unity, and speak with one voice—a time for new statesmanship in the relations between business and labor—recognizing that the more each does to solve the country's problems, the less each will feel the heavy hand of government.

SOLUTIONS

So if I were to condense into a few points what I believe ought to be done, it would be along these lines:

1. Private business needs to develop a new unity of purpose and of action, so that it will be better able to cope collectively with emerging national demands.

2. Labor needs to produce new statesmanship in its leaders willing to abandon antagonism toward business and accept a cooperative role in the common interest.

3. Business and labor leaderships need to plan the future together in a way to produce a harmonious maximization of results that are recognized as mutually desirable.

4. The public, and especially youth, need to be educated to the facts and the superiority of our competitive economic system, to dispel the obvious misinformation that now exists.

I don't presume to say precisely how these things can be achieved. That must be the challenge to be left with you, for more study in small and large future conferences.

Once broad commitment to greater common foresight and greater planning is made, the next step is to consider how we might go about dealing with the specific matters we have discussed here.

At the beginning on Monday, I said there would be no resolutions, no instant solutions out of this Conference—only questions.

The solutions—and how you go about achieving them—are now up to you. We urge you to take your views of this conference back to your labor unions, back to your trade associations, your Chambers of Commerce and your communities, and discuss this meeting with them.

Solicit their cooperation—and more than that, their statesmanship—in building toward a better industrial world by 1980, 1990 and all the years of America's future.

As an example of what can be done, the United States Chamber of Commerce already has committed to take the concept of this White House Conference out to the grass roots of America in an effort to stimulate local conferences by individual chambers along the lines of this one.

You may also want to consider the possibility of future national conferences like this one—perhaps at five year intervals—to keep the guidelines fresh and the goals clear.

CONCLUSION

This Conference can be useless if its long-range panorama is lost or forgotten when you go back to the immediate world with all of its deadlines. I hope that will not happen.

This Conference can be the beginning of new initiatives by American enterprise and American labor, and I hope that the record here will be well read by your peers in business, labor and the academic world—and especially by the younger men and women who will succeed you in the management of American enterprise by 1990.

You are able to influence the direction of things to come—able to help build an improved economic system in which business and labor will thrive and prosper together—in which government will be a productive partner with the private economy, not an adversary—in which we can approach cooperative solutions to all the problems of the Industrial World Ahead.

Finally, thank you for coming. Because you have done so, I find that I can look ahead, rather than back, as I leave the Cabinet and most important, I can look forward with great hope for the future of the American Dream.

SMALL SOFT DRINK BOTTLERS

Mr. COOK. Mr. President, there are 67 soft drink producing plants in Kentucky in 36 different communities. These plants employ over 3,000 Kentuckians with a payroll in excess of $25 million per year. The combined gross sales for these plants is approximately $60 million per year.

However, what is most important is that 64 of these soft drink bottlers are defined as "small business" by the Small Business Administration. The recent Federal Trade Commission action requiring intrabrand competition, as opposed to interbrand competition, will destroy these small businesses. The large producers will become larger at the expense of the small ones. These small businesses in attempting to compete will be placed in an unfavorable position relative to financial assistance. Years of financial investments will be ruined for these small owners and soft drink manufacturing will be concentrated in a small group who have the financial wherewithal. Far from encouraging competition the FTC action will result in a monopoly for a few, including the grocery chain stores.

In Kentucky, the number of soft drink plants could be reduced to as low as 10. Much of the business of these 67 small bottlers would be taken over and integrated into the food chain system. Louisville and Cincinnati are the major food distribution centers at present should the FTC prevail, their position would be greatly enhanced at the expense of the 60 small bottlers outside of Louisville.

Mr. President, as many as 35 communities in Kentucky could lose their local bottlers resulting in loss of taxes and jobs.

Therefore, I urge the Senate to act on this legislation introduced by Senator EASTLAND and myself which would nullify the FTC action.

I ask unanimous consent that a list of bottlers in Kentucky appear in the RECORD.

There being no objection, the list was

ordered to be printed in the RECORD, as follows:

KENTUCKY

ASHLAND

J. B. Beverage Co., H. L. Broh, Pres., 606/324–2422.

BAXTER

Harlan Coca-Cola Bottling Works, Mrs. J. B. Gatliff, Jr., President, 606/573–4313.

BEAVER DAM

Royal Crown Bottling Co., Inc., Marshall Barnes, Pres., 502/274–3251.

BOWLING GREEN

Bowling Green Coca-Cola Bottling Works, Inc., O. V. Clark, Jr., Pres., 502/842–2422.

Nehi-Royal Crown Botg. & Distributing Co., Inc., C. R. Middleton, Pres., 502/842–8106.

CAMPBELLSVILLE

Coca-Cola Bottling Co. of Campbellsville, Inc., Mrs. J. G. Repscher, President, 502/465–4157.

CENTRAL CITY

Central City Coca-Cola Botg. Co., Inc., N. B. McRee, Pres., 502/754–2323.

CORBIN

Pepsi-Cola Bottling Co. of Corbin, Ky., Inc., Mrs. J. A. Day, Pres., 606/528–1630.

Seven-Up Bottling Co., F. A. Tucker, Pres., 606/528–6876.

DANVILLE

Blue Grass Coca-Cola Botg. Co., Inc., Warren B. Terry, Pres., 606/236–2373.

Dr. Pepper Bottling Co., Charles Sharp, Manager, 606/236–3660.

Royal Crown Bottling Co. of Danville, Inc., Mrs. Helen G. Bogard, President, 606/236–5320.

ELIZABETHTOWN

Coca-Cola Bottling Co., William B. Schmidt, President, 502/769–3323.

FULTON

Fulton Coca-Cola Bottling Co., Mrs. Martha M. Pitzer, President, 502/472–1471.

Pepsi-Cola Botg. Co. of Fulton, Charles E. Reams, Mgr. 502/472–3770.

GLASGOW

Glasgow Coca-Cola Bottling Co., O. V. Clark, Jr., President, 502/651–5126.

GREENSBURG

Greensburg Bottling Company, Inc., Joseph DeSpain, Pres., 502/932–5061.

HAZARD

East Kentucky Beverage Company, Inc., Ethel C. Hatmaker, President, 606/436–3155.

HENDERSON

Nehi Bottling Co., Inc., Leo King, Jr., Pres., 502/826–2631.

HOPKINSVILLE

Coca-Cola Bottling Co. of Hopkinsville, Ky., Wm. M. Carson, Pres., 502/885–8134.

Dr. Pepper Bottling Company, Paul Barnes, Manager, 502/885–8717.

Pepsi-Cola General Bottlers, Inc., E. E. Beisel, Pres., 502/885–8413.

Tom's, Inc., W. M. Carson, Pres., 502/885–8134.

JACKSON

The Royal Crown Botg. Co. of Jackson, Ky., Edgar Ison, President, 606/666–5047.

LEXINGTON

Blue Grass Coca-Cola Bottling Co., Inc., W. B. Terry, Sr., Pres., 606/252–2281.

The Pepsi-Cola Bottling Co. of Lexington, Ky., Walter L. Gross, Pres., 606/255–3375.

LOUISA

Louisa Coca-Cola Bottling Company, Inc., Charles T. Britton, Jr., President, 606/638–4554.

LOUISVILLE

Canada Dry Botg. Co. of Louisville, John H. Boyle, Pres., 502/368–2529.

Coca-Cola Botg. Co. of Louisville, J. Tyler Taylor, Pres., 502/776–4651.

Dr. Pepper Botg. Co., Inc., R. T. Roark, President, 502/896–8713.

Interstate Canning Co., W. S. Mowry, Sr., Pres., 502/368–1631.

Pepsi-Cola Louisville Bottlers, C. T. Yann, Manager, 502/368–2581.

Royal Crown Bottling Co. of Louisville, Inc., W. S. Mowry, Pres., 502/368–3361.

James Vernor Botg. Co. of Louisville, Ky., Horace J. Bryant, Mgr., 502/636–3635.

LOYALL

Harlan Nehi Botg. Co., Beckham Carmical, President, 606/573–3938.

MADISONVILLE

Carson, Inc., W. M. Carson, Pres., 502/821–5412.

Coca-Cola Botg. Co., Inc., W. M. Carson, Pres., 502/821–5412.

Dr. Pepper Botg. Co., L. B. Hoover, Jr., Mgr., 502/821–5537.

Royal Crown Cola Botg. Company, Laura H. Knight, Mgr., 502/821–7180.

MAYFIELD

Dr. Pepper Botg. Co. of Mayfield, James W. Standifer, Jr., President, 502/247–1364.

Sun Drop Bottling Co., Rudolph Kemp, Owner, 502/247–1755.

MIDDLESBORO

Middlesboro Coca-Cola Botg. Works, Inc., Mrs. J. B. Gatliff, Jr., President, 606/248–2660.

Royal Crown Bottling Company, Inc., Edward M. Dooley, President, 606/248–2721.

MOUNT STERLING

Blue Grass Coca-Cola Botg. Co., Inc., Warren B. Terry, Pres., 606/498–3065.

OWENSBORO

Owensboro Coca-Cola Bottling Co., Inc., William L. Fulton, Jr., President, 502/684–2336

PADUCAH

George Jacobs Beverages, George Jacobs, Sr., Owner, 502/443–7346.

Paducah Bottling Co., Dr. Clyde W. Peel, Jr., Manager, 502/443–1758.

Paducah Coca-Cola Botg. Co., Inc., W. M. Carson, Pres., 502/443–3601.

Royal Crown Nehi Botg. Co., S. H. McNutt, Manager, 502/443–3647.

PAINTSVILLE

Royal Crown Botg Co., J. Fred Hale, Pres., 606/789–4262.

PARIS

Grapette Botg. Co. of Paris, Ky., Inc., Boyce Carpenter, Pres., 606/987–3701.

PIKEVILLE

Coca-Cola Botg. Co., of Pikeville, Ky., Miss Julia V. Hatcher, President, 606/437–4071.

East Kentucky Beverage Company, Inc., John B. DuPuy, Mgr., 606/437–6271.

RICHMOND

Blue Grass Coca-Cola Botg. Co., Inc., Larry Stull, Manager, 606/623–2969.

RUSSELLVILLE

Russellville Coca-Cola Botg. Co., S. Jay Freeman, Pres., 502/726–6038.

SHELBYVILLE

Coca-Cola Botg. Co., of Shelbyville, Ky., Inc., Calvin T. Schmidt, Pres., 502/633–2653.

SOMERSET

Blue Grass Coca-Cola Botg. Co., Inc., Larry Stull, Mgr., 606/678–8136

TOMPKINSVILLE

Pepsi-Cola Botg. Co., of Tompkinsville, Inc., Jessie E. Owen, Pres., 502/487–6271.

WHITESBURG

Coca-Cola Botg. Works, Whitesburg, Inc., G. D. Polly, President, 606/633–2168.

Royal Crown Botg. Co., Inc., Bradley Bentley, Pres., 606/633–2526.

WILLIAMSBURG

Dr. Pepper "Mr." Cola Bottling Co., Caleb L. Davis, Pres., 606/549–1160.

Royal Crown Botg. Co. of Williamsburg, Kentucky, Homer B. Davis, Pres., 606/549–0515.

WINCHESTER

Ale–8–One Bottling Co., Frank A. Rogers, Jr. President, 606/744–3484.

Pepsi-Cola Botg. Co. of Winchester, Ky., Walter L. Gross, Pres., 606/744–2611.

VIETNAM

Mr. SCOTT. Mr. President, in this week's Newsweek magazine, Stewart Alsop writes about what he refers to as "the real issue" in Vietnam. I commend it to my colleagues for their consideration and ask unanimous consent that it be printed in today's RECORD.

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

VIETNAM: THE REAL ISSUE

(By Stewart Alsop)

WASHINGTON.—It is now entirely clear that Vietnam will be a major issue in this Presidential election year, despite the fact that all Americans are tired unto death of the very name of the place.

The real, underlying shape of the issue is emerging, moreover, from under a cloud bank of rhetoric and political semantics. Sen. Edmund Muskie's speech on Feb. 2, unveiling his "peace plan" for Vietnam, and the Administration's fierce response to the speech, make it certain that the basic issue will be fought out, eyeball to eyeball, between the President and the Democratic front runner.

The underlying issue is this: given the fact that the Russians and the Chinese are providing the North Vietnamese with plentiful logistic and economic support, should the United States force the South Vietnamese into a settlement acceptable to Hanoi, using the threat to cut off American logistic and economic support as the chief instrument to that end?

Senator Muskie's reply to that question is, in effect, "yes"—although he would doubtless word the question differently. His position, as summarized by The New York Times, is that this country must "make it clear to South Vietnam's government that it must seek a political accommodation with the Communists or lose even indirect United States military support after American forces withdraw."

PRESSURE ON SAIGON

Senator Muskie, reached by telephone by this reporter, was asked whether this formula did not mean that we should put pressure on Saigon to accept a Communist-front government. The suggestion seemed to irritate him. He simply wished to indicate to Saigon, he said, that the American public would not go on paying for "an indefinite supply line for an indefinite war." He did not want to "impose a political settlement or draw a blueprint . . . of course, if they want to go on fighting, they can do so with their own resources."

But wasn't it obvious that the South Vietnamese could not defend South Vietnam "with their own resources"? Those tanks and long-range guns the North Vietnamese were using weren't made in North Vietnam, after all.

Again, Muskie seemed annoyed. "Look, all I say is that Saigon has to be made aware of the political reality of American public opinion today. You should hear the applause, from any audience, conservative or liberal, when I say just one line: 'We must get out of the war.'"

Ed Muskie's one line is certainly popular,

and President Nixon, who is not a fool, is aware that this is so. He is also aware that any reasonably honorable settlement of the war would make his own re-election almost inevitable. Moreover, the difference between what he has already offered the North Vietnamese and what Senator Muskie would offer them is—except in the one vital respect—largely semantic.

SURPRISE

This reporter read to Senator Muskie Henry Kissinger's description of the offer made to the Communist side last spring: "On May 31, we proposed . . . to set a deadline for the withdrawal of American forces in return for a ceasefire and the exchange of prisoners." The senator had apparently never heard of the May offer, and he was clearly surprised. "Then what are they knocking me for?" he asked. "That's just about what I proposed."

The senator is being knocked for the one difference between his position and the President's which is decidedly *not* semantic—the issue of continued logistic support for the South Vietnamese. It was because of this issue that the North Vietnamese flatly rejected the May 31 offer. The offer, they said, lacked "political elements." The chief "political element" asked by the Communist side was defined by Henry Kissinger:

"They [the Communists] have asked us to withdraw all equipment, all future military aid, all future economic aid, and the practical consequence of that proposal, while they are receiving close to $1 billion worth of foreign aid, would be the indirect overthrow of the government of South Vietnam, something about which there can be no question."

No question, at least, in Mr. Nixon's mind. The President instructed Kissinger to refuse even to discuss this "indirect overthrow," and it was on this issue that the talks finally broke down. There was a time, between Oct. 25 and Nov. 17, when the President, Kissinger and the handful of officials who knew about the secret talks had high hopes that they would succeed.

At a secret meeting on Sept. 13, the Communist side, instead of insisting on the formula for "indirect overthrow" of the South Vietnamese Government, promised to be "forthcoming" if the United States was "generous" on two points. They wanted assurances that the American withdrawal would be "total," with no residual force; and that the Saigon government would not be in office in case of an agreed election. An American message in early October met both points—there would be no residual force, and Thieu would resign before an election. On Oct. 25 a courteous message from the Communist side proposed a meeting on Nov. 20. Then, on Nov. 17, came the brush-off: "special adviser Le Duc Tho is suddenly taken ill."

What happened between Oct. 25 and Tho's diplomatic illness? The answer seems obvious. On Oct. 28, the Senate very nearly passed the Cooper-Church amendment, which would surely have caused the "indirect overthrow" of the South Vietnamese Government. On Oct. 29, in the most irresponsible vote in modern times, the Senate voted to cut off *all* foreign aid.

HANDING IT TO HANOI

No one can prove it, of course, but it is an article of faith in the White House that these votes queered the negotiations. If the Senate was ready to hand to Hanoi what Nixon and Kissinger had refused to discuss, why negotiate further? Why not, instead, mount an offensive to make the pressure on Nixon intolerable, as the first Tet offensive had made the pressure on Lyndon Johnson intolerable?

Another offensive is now in prospect, and it may strengthen Senator Muskie's hand. The senator is an honorable man, and he may well be right, moreover, about "the political reality of American public opinion today." And yet, are we Americans *really* ready to force a "political accommodation with the Communists"—for which read a Communist-front government—on a small ally, by threatening to cut off that ally's means of defending itself?

Perhaps we are. Perhaps South Vietnam will fall to the Communists anyway, because the South Vietnamese lack the will to defend themselves. But for this country to deny them to means, thus forcing a Communist regime on them, would be an act of crass betrayal, the crowning tragedy of a tragic war, and a long farewell to all our greatness.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The ACTING PRESIDENT pro tempore. Under previous order, the Chair lays before the Senate the unfinished business, which will be stated.

The assistant legislative clerk read as follows:

A bill (S. 2515) to further promote equal employment opportunities for American workers.

The Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The pending question is on agreeing to the amendment offered by the distinguished Senator from Nebraska (Mr. HRUSKA). Time for debate is limited to 2 hours, to be equally divided between the proponent of the amendment and the manager of the bill.

Who yields time?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there may now be a quorum call, without the time being charged against either side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ALLEN. Mr. President, acting for the distinguished Senator from Nebraska (Mr. HRUSKA), I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 6 minutes.

Mr. ALLEN. Mr. President, I favor the amendment offered by the distinguished Senator from Nebraska (Mr. HRUSKA) but I will not comment on it in order that he may make the opening statement for his amendment.

However, I do wish to comment on an article published in the New York Times this morning which I ask unanimous consent to have printed in the RECORD.

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

SENATE LIBERALS YIELD IN DISPUTE OVER JOB RIGHTS

(By David E. Rosenbaum)

WASHINGTON, February 8.—Unable to break a Southern filibuster, liberal Senators gave up today on their fight to give the Equal Employment Opportunity Commission the power to order employers and unions to stop discrimination in jobs.

Senators Jacob K. Javits, Republican of New York and Harrison A. Williams Jr., Democrat of New Jersey, offered a compromise proposal today, along the lines favored by President Nixon, in an effort to obtain action on legislation that has been before the Senate since it convened Jan. 18.

Rather than authorize the commission to issue "cease and desist" orders against companies and unions that it found to be discriminating, the Javits-Williams proposal would merely allow the commission to go into Federal court to prove discrimination and ask the court to prohibit it.

COULD CERTIFY DISCRIMINATION

The Nixon Administration has recommended all along that the commission be given the authority to institute court suits, and the House approved a measure to this effect last year.

The Javits-Williams plan would give the commission's findings additional weight in court proceedings, however, by empowering the commission to hold hearings on cases of alleged job discrimination and to present certification of discrimination to the court, much as a bankruptcy referee presents his findings to a court.

According to Senator Javits, the courts could be expected to uphold the commission's findings most of the time under this procedure, since most of the evidence would already have been heard by the time cases reached a judge.

DOMINICK IS OPPOSED

Senator Peter H. Dominick, Republican of Colorado, who has been the principal spokesman for the Administration in the battle over giving enforcement power to the commission, said that he would oppose the Javits-Williams plan.

Senator Dominick, whose amendment to allow the commission to go into Federal court instead of issuing cease-and-desist orders was rejected two weeks ago by 2 votes, plans to offer his amendment again as a substitute for the Javits-Williams proposal.

A vote on these measures is unlikely to come before next week.

The commission was created by the Civil Rights Act of 1964. It was empowered to hold hearings and to try to obtain voluntary conciliation from employers who discriminate but was given no means to enforce its findings.

Senator Javits acknowledged that he was "giving away a lot" by his compromise but said that there was no other way to get any bill past the Southern filibuster.

He said he believed that with his proposal he could obtain the necessary two-thirds majority vote needed to cut off the debate. Two attempts to halt the filibuster have failed.

In another concession to the Southerners, the Senate agreed, 56 to 26, today to a compromise on the size of companies and unions that fall under the commission's jurisdiction.

At present, a company must have at least 25 employes and a union of at least 25 mem-

bers before the commission has jurisdiction. The pending legislation would have lowered the ceilings to eight. The Senate agreed to lower it to 15 next year.

Mr. ALLEN. Mr. President, the article states that Senate liberals yielded in the dispute over job rights, indicating that the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from New Jersey (Mr. WILLIAMS) plan to offer an amendment which they state is yielding in the matter of cease and desist.

On yesterday, the distinguished Senator from New York (Mr. JAVITS) did state that they were going to get rid of the expression "cease and desist."

Well, Mr. President, just as a rose by any other name would smell as sweet, so "cease and desist" by any other name would be just as bad.

I submit that the amendment to be offered by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from New Jersey (Mr. WILLIAMS) will still have cease and desist in the bill if their amendment is adopted even though the words might be missing. It would permit the Commission, as provided in the bill and in the committee amendment, to receive the complaints, file the charges make the determination, and then they would certify to the district court the fact of discrimination and all the district court would do would be to serve as a cat's paw or a rubber stamp for the action of the Commission.

Thus, Mr. President, this is certainly no compromise and I would like to serve notice now that it will not solve the question of whether the bill should be allowed to come to a vote. It will not remove the objections of those of us who object to this Commission's being judge, jury, and prosecutor, as that element will still be in the bill.

Mr. President, I call on all Senators who have been voting to allow this debate to continue, not to be taken in by this strategy by which the proponents of this measure say that they are yielding on this vital point.

There is no yielding. We all know that this is an old game and an old practice by which proponents of a measure which is in sharp dispute will indicate they have made a great concession in order to stop some of the opposition, or to lessen some of the opposition to the bill, thereby allowing the guard of those Senators opposing a bill to be lowered.

I predict that if this amendment is adopted and the bill, as amended, is passed, those saying they are making a great concession in order to get this bill passed will make great claim and will take great self-satisfaction from having passed the bill without any material change.

Thus, Mr. President, I hope that those who have been opposing the idea of cease and desist will see in the Javits-Williams proposed compromise the pernicious cease-and-desist provisions still there in actuality, if not in actual words.

Mr. President, I serve notice that this amendment is not satisfactory. It will not end the debate. I hope that other Senators will not lower their guard and allow the amendment which, I understand, is to be presented to the Senate on Monday next by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from New Jersey (Mr. WILLIAMS), to be agreed to.

It will not remove opposition to the bill.

It will not remove cease and desist from the bill.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. HRUSKA. The pending amendment has for its purpose the elimination of the possibility of a multiplicity of actions when an employee who feels that he or she is aggrieved commences proceedings.

One of the more glaring defects of S. 2515 is that it would permit a multiplicity of actions to be instituted against a respondent before a number of separate and distinct forums for the same alleged offense.

The present situation is quite a hodgepodge. As a matter of fact, it is not to the interests of the employee, nor of the employer, nor of the public that this persist as a condition. It is a disservice to the employee, because of the lack of expeditiousness which should be a very important element in any provision for dealing with a complaint on the basis of discrimination or unfairness in employment practices. It is a disservice to the employer not only on the question of expeditiousness, but also because of the burdens forced on an respondent who is called upon to defend the same case in numerous forums. And it is a disservice to the public which should be entitled to quick, clear, and certain resolutions of these questions.

Because of the number of remedies now available and those provided by this bill, there would be imposed unfairness, a great burden, and expense upon a respondent because simultaneously he could have—and there have been such instances—three or four proceedings before as many different forums pending at the same time. Each of them has the power of subpena. Each of them has the power to gather information from the employer's records and to ask for abstracts of different information, causing a heavy demand on his manpower, on his time, and on his resources. The result is often a disruption within his own business, in addition to the attorney's fees and costs involved.

This whole situation reflects badly upon the effort to induce a respondent to enter into a conciliation proceeding with a view of reaching an agreement either with the State agency or with the EEOC or with the employee himself or herself. Because of this situation we find that the benefits of the procedures that are provided are dissipated in a large degree.

Now, to correct these defects, the amendment at hand would provide that with certain named exceptions a charge filed with the Commission shall be an exclusive remedy for any person claiming to be aggrieved by a particular unlawful practice.

The amendment would remove from the scene the possibility that an individual employee can utilize the possibility of litigating two or more of the multiple actions as to a single offense, as it is now available, whether they are based on a meritorious or a non-meritorious factual situation. Without such a provision there could conceivably be a presenting of several actions with the effect of blackmail on one or perhaps on all of them on the basis of nuisance value. That is not a good arrangement in a matter of this kind.

Mr. President, I should like to outline what can be done under the present situation in a particular case, because by doing so we can see the necessity for eliminating multiplicity to which reference has been made.

Suppose in the event of a black female employee, there is a denial of either a promotion or pay raise and there is an allegation made that it is because of her color or because of her sex. The first thing she can do is to complain to the union that it is a violation of the collective bargaining agreement. The union will file or can file a grievance in her behalf. If the union decides that it is not meritorious, it is disallowed.

Then, of course, the employee may file charges against the union and employer with the State fair employment practice agency that invariably has the power of subpena and can call for records, correspondence, papers, and so forth.

Identical charges can simultaneously be filed with the EEOC, and the Commission holds the complaint in abeyance for 60 days following the filing of the complaint with the State agency. However, with the expiration of the 60 days, the EEOC can move in with a similar demand for records and documents.

Even after the State agency dismisses the complaint, the EEOC can move in and file a complaint against either or both respondents—that is, the union or the employer, or both. If the EEOC dismisses the complaint, or if it takes no action within 6 months, then the respondent may file suit under title VII.

And even if the respondent and the employer have entered into an agreement with the EEOC, she can still file suit. That is because of the provision in the pending bill that the employee is not bound by such agreements unless he or she actually signs the conciliation agreement.

So, we would have two avenues down which the parties are traveling, parallel in character, with no terminal facility.

After that would happen and while these charges are pending before the State commission and the Federal commission, the employee could additionally file a charge with the National Labor Relations Board.

Under recent Board and court rulings, the Board would not only have jurisdiction to investigate a claim based on a union's refusal to demand arbitration, but it would also have jurisdiction to de-

termine whether the employer violated the Taft-Hartley Act by adhering to "a policy and practice of invidious discrimination on account of race."

In the event the Board found merit to her charge, it would also issue a complaint and would not be precluded from doing so merely because an identical complaint was outstanding before the commission—whether State or Federal—or before a Federal court in a title VII action.

So, we would have a third parallel road that would be traveled by both parties involved, possibly at the same time.

Then, the employee could in addition to and while the foregoing proceedings were pending, file a complaint in Federal or State court under section 301 of the National Labor Relations Act based upon the union's alleged breach of its duty of fair representation in the handling of her grievance and upon the employer's alleged contract breach in denying her a promotion or employment, or whatever the issue happened to be.

In addition to concurrently pursuing each of these foregoing remedies, the employee could completely bypass both the EEOC and the NLRB and file a complaint in Federal court under the provisions of the Civil Rights Act of 1866 against both the employer and the union. In addition, she could file a complaint with the Labor Department against her employer in the event she believed she was receiving less pay than was being received by male employees performing like or comparable work. Of course, that would be under the Equal Pay Act of 1963.

Concurrently with all of the foregoing, Mr. President, the Attorney General could also be pursuing a "pattern and practice" investigation against the employer and union, either on its own initiative or as the result of a referral from the Commission. And, at the same time, in the event the employer is a party to a Government contract exceeding $50,000, the Office of Federal Contract Compliance could be conducting its own investigation on its own initiative, or as a result of a complaint by the employee, to determine whether the employer's or union's action violated their commitments under the appropriate executive order.

The PRESIDING OFFICER (Mr. HUGHES). The time of the Senator has expired.

Mr. ALLEN. Mr. President, I yield the Senator from Nebraska 5 additional minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 additional minutes.

Mr. HRUSKA. Mr. President, when one considers this vast scope, this vast spectrum, of all the proceedings, the collateral proceedings and the independent proceedings in half a dozen forums that could be conducted simultaneously on the same alleged offense, then, of course, one's sense of fairness is challenged. It simply is not fair. It is not fair to the employee who is entitled to an expeditious handling. It is not fair to the employer who is entitled to a place where he can legitimate a claim and have it over with, rather than waiting for 30 days, and then another 60 days, and the 60 days becoming 6 months, and simultaneously other arrangements having a similar timetable in other litigations on the same alleged violation of breach of the law.

Mr. President, it is to correct these foregoing defects and to boil this down to sensible and adequate proceedings that we would have this amendment.

The amendment would simply say that the multiplicity of suits would be dealt with in the following fashion: When a proceeding would be filed under section 706 of title VII, then that remedy would be exclusive. The employee, he or she, could not go to any of the other and additional channels to which reference has been made and commence proceedings there simultaneously. There would be certain exceptions to this procedure, certainly as to section 707 of the Civil Rights Act, the so-called "pattern and practice" suits instituted by the Attorney General, inasmuch as they partake of the nature of a class action. That class action could proceed notwithstanding the pendency of an employee's individual suit in a proceeding under section 706.

A second exception would be the Equal Pay Act of 1963. That should be allowed to go along on its own and within the purview of that act of 1963 to assure that an employee would not be discriminated against on the basis of receiving less pay than is being received by a male member of the organization for the same or equal quality of work.

Then, there would be a further exception and that would be proceedings in a State agency. Those proceedings could continue notwithstanding the pendency of an employee's action under section 706 of title VII. It seems to me and others that this is only fair.

This is not something that is discriminatory against the employee but it bars the employee from exploiting a situation which allows for the type of multiplicity of actions, and confusing and chaotic conditions that prevail when a large number of forums are available and oftimes that many of them are used simultaneously all for no purpose except to visit harassment, harshness, and unnecessary expense on all concerned.

Therefore, I hope that this body will consider the equities and the circumstances and agree to the amendment so that we may do away with this situation in its burdensome and unfair aspects.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. 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. JAVITS. I yield myself 5 minutes in opposition to the amendment.

Mr. President, the amendment which has been proposed by the Senator from Nebraska involves an issue in which the Department of Justice stands directly opposed to the position taken by the Senator. I should like to refer, in that regard, to a hearing before the Committee on Labor and Public Welfare held October 4, 1971, in which we had the testimony of David Norman, an Assistant Attorney General, stating the Department's position.

I refer the Senate precisely to pages 162 and 163 of the hearings record, where Mr. Norman deals with the issue which has been brought up by the Senator from Nebraska, with an exception or two which I shall indicate, which do not interfere with the argument I shall make.

The amendment which the Senator from Nebraska seeks to insert into this measure is a sentence included in the bill as passed by the other body in a somewhat more restricted form; that is, as to the singleness of the remedy which is available to a complainant. The restriction in terms of its form was as follows: In the House bill, there is no exception made for individual suits if the Commission decided not to sue itself, and there is no exception made for the so-called Equal Pay Act, relating to equal pay as between men and women. These exceptions are contained in the amendment before us, but they do not affect the argument made against the substance of the amendment by the Department of Justice, and, referring to the House bill that I have just described, this is what the Department's representative, Mr. Norman, said with reference to the House bill provision that I have just described, beginning at page 162 of the hearings:

> Section 3(b) of H.R. 1746 provides that charges filed with the EEOC and lawsuits brought, either by EEOC or by private individuals pursuant to Title VII "shall be the exclusive remedy of any person claiming to be aggrieved by an unlawful employment practice of an employer, employment agency, or labor organization." This could be interpreted as eliminating the use of provisions of federal law other than Title VII in the attack on employment discrimination.
>
> We will be happy to work with the Committee staff in clarifying the language in both instances.

He continues, as shown at the top of page 163:

> In sum, although we favor the granting of judicial enforcement authority to EEOC, we are concerned that at this point in time there be no elimination of any of the remedies which have achieved some success in the effort to end employment discrimination. In the field of civil rights, the Congress has regularly insured that there be a variety of enforcement devices to insure that all available resources are brought to bear on problems of discrimination. For example, housing discrimination may be the subject of suit by the Attorney General, a private suit by the party affected, or a conciliation effort by the Department of Housing and Urban Development. Again, in the field of education, remedies for discrimination are available to private persons, the Attorney General and the Department of Health, Education and Welfare.
>
> At this juncture, when we are all agreed that some improvement in the enforcement of Title VII is needed, it would be, in our judgment, unwise to diminish in any way the variety of enforcement means available

to deal with discrimination in employment. The problem is widespread and we suggest that all available resources should be used in the effort to correct it.

That is the entire quotation, Mr. President, showing the opposition of the Department of Justice to this type of provision. It is in the House bill, as I say, in an even more restricted form.

With the attitude of the Senate toward this legislation, we oppose including it in the Senate bill.

What is allowed by the present legal situation? For one, Mr. President, it permits a range of actions under the National Labor Relations Act and the Railway Labor Act and before the National Labor Relations Board where an unfair practice can be charged by a worker against discrimination in a union or even by an applicant to join a union. We consider this opportunity to test out these questions in that forum as an extremely important one, and obviously the Attorney General does as well.

It would permit, for example, the decertification of a union for engaging in discrimination which is contrary to the provisions of title VII of the Civil Rights Act of 1964.

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

Mr. JAVITS. I yield myself 3 additional minutes.

One other aspect of the matter which is cut off is the possibility of using civil rights acts long antedating the Civil Rights Act of 1964 in a given situation which might fall, because of the statute of limitations or other provisions, in the interstices of the Civil Rights Act of 1964. This is rather infrequent, but it is a valuable protection. The Attorney General feels that it is desirable to maintain it, and we agree with him. The idea is to enforce the law and not let people drop between two stools where they are actually violating the law.

Therefore, we believe that this enforcement should not be hobbled in this way. It is bad enough that we have such very long backlogs and that it takes long enough to get a case considered. We should not cut off the range of remedies which is available.

The only argument that is used—and I now read from Senator HRUSKA's memorandum which has been distributed to all Senators—is this:

> The purpose of the amendment is to avoid the potential situation whereby a respondent is faced with the requirement to defend multiple actions arising from a single offense. Such multiplicity of suits could result in undue burdens in the gathering of evidence and trial expenses as well as harassment and even a form of blackmail.

Mr. President, drawing on our experience with the longest enforcement of civil rights, which is our experience in the State of New York, which goes back to 1945, we may have many other complaints, but under these statutes we certainly have had no complaint of harassment, which business feared 26 years ago but, in its experience since that time, is not valid.

Furthermore, there is the real capability in this situation of dealing with the question on the basis of res judicata. In other words, once there is a litigation—a litigation started by the Commission, a litigation started by the Attorney General, or a litigation started by the individual—the remedy has been chosen and can be followed through and no relitigation of the same issues in a different forum would be permitted.

In balance, in view of the fact that the mover of this amendment puts up for us the possibility that there could be abuse, let us remember that this matter has been standing for the past 7 years; and I am not aware of a case—perhaps the Senator from Nebraska can point out cases to us—in which there has been claim of abuse. I am not aware that this is a major problem.

So all we would be doing, balancing what is sought to be avoided with what would be cut off, would be very limited in a way which the Attorney General of the United States opposes for the remedies which are available in unjust discrimination cases.

For all those reasons, so far as I am concerned—and I believe it is the attitude of Senator WILLIAMS also—we are compelled to oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield myself 3 minutes.

Mr. President, the testimony of David Norman on behalf of the Department of Justice, to which reference has been made, is directed to very unyielding language in the House bill which is not at issue in the pending amendment. Three aspects are spelled out in the pending amendment which were not in the language considered by Mr. Norman, in that part of his testimony which was just read by the Senator from New York.

There is an exclusion in that pending amendment as to pattern and practice suits. There is an exception as to the Equal Pay Act of 1963. There is an exception for proceedings before State agencies. Any proceedings before State agencies could proceed, and this exclusion would not affect those three classes.

So that Mr. Norman was testifying on something totally different. He did say in his testimony, on page 162:

> We will be happy to work with the committee staff in clarifying the language in both instances.

He had some doubts in his mind as to how far the availability of other actions would go.

The fact is that the amendment would not cut off class suits, because the amendment is directed to an individual. The language of the House amendment is that except as provided elsewhere, a charge filed hereunder shall be the exclusive remedy of any person claiming to be aggrieved by an unlawful employment practice of an employer, employment agency, or labor organization. Mr. David Norman was concerned with the cutting off of the class action, and he said he would be willing to work with the committee to develop language which would clarify the situation in that regard.

It is the contention of this Senator that the language of the pending amendment does not cut off that class action. It would be a remedy pertaining to individuals only. Federal action on behalf of citizens would not be curtailed. It would not pertain to class actions that would affect a class. That removes it from the inhibitions of the amendment we are now considering.

I have every sympathy for varied approaches to enforcing one's employment rights as against discrimination. But the point of this amendment is, let us get them in one proceeding and not go to as many as a half dozen different forums and try simultaneously to confuse the proceedings and to make them more expensive, in terms of money as well as in terms of time and personnel.

Furthermore, it would be much more expeditious to do it this way, and that would be something in which every employee would be interested.

Mr. President, the Justice Department in Mr. David Norman's testimony, was objecting to the possible narrow interpretation that could attach to the House approved language. The amendment that has been proposed by this Senator takes into consideration the objections to the wording in H.R. 1746. It is much more narrow than the House provision and provides for certain exceptions not mentioned in the House bill.

It is a refinement over H.R. 1746 which takes into account the problems found therein. I believe the pending amendment should be approved.

The amendment is not designed to eliminate remedies for unfairly treated employees, but only to provide that they be litigated in one rather than a multitude of forums.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield back the remainder of my time if I have not taken the 5 minutes.

Mr. JAVITS. Mr. President, with Senator HRUSKA's approval, I again suggest the absence of a quorum, with the time to be charged against both sides.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 1163) to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a joint resolution (H.J. Res. 190) designating February of 1972 as "American History Month," in which it requested the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 190) designating February of 1972 as "American History Month," was read twice by its title and referred to the Committee on the Judiciary.

MESSAGE FROM THE PRESIDENT

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

U.S. FOREIGN POLICY FOR THE 1970'S—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. GRAVEL) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As I prepare to set out on my summit trips to Peking and Moscow, it is especially timely for the American people and the Congress to have available a basis for understanding the Government's policies and broad purposes in foreign affairs. That is the function of this, my third annual report.

These annual reports trace the evolution of our policies over the years of our term of office and describe our responses to new problems and issues as they have arisen. They provide an insight into our philosophy of foreign policy and our new approaches to peace.

The broad framework presented here will be filled out in two other major documents: the Secretary of State's second annual report, which will describe in detail our relations with individual countries and set forth the major public documentation of our policy, and the annual Defense Report of the Secretary of Defense.

RICHARD NIXON.

THE WHITE HOUSE, *February 9, 1972.*

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum under the same conditions as the previous quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT OF THE TWO HOUSES FOR THE LINCOLN BIRTHDAY PERIOD

Mr. MANSFIELD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

S. CON. RES. 61

Resolved by the Senate (the House of Representatives concurring), That, when the two Houses adjourn on Wednesday, February 9, 1972, the Senate stands adjourned until 12 o'clock noon on Monday, February 14, 1972, and the House of Representatives until 12 o'clock meridian on Wednesday, February 16, 1972.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (S. Con. Res. 61) was considered and agreed to.

QUORUM CALL

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

The PRESIDING OFFICER. Under the same conditions?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. Under the same conditions?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. 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. WILLIAMS. Mr. President, the purpose of this bill is to correct certain deficiencies in title VII and strengthen the national policy against employment discrimination. It is not our purpose to repeal existing civil rights laws.

The amendment which has been offered by the Senator from Nebraska would make title VII and the Equal Pay Act the only Federal remedy available in cases of employment discrimination. It would severely weaken our overall effort to combat the presence of employment discrimination.

The existence of extensive employment discrimination is a well-established fact. Testimony before our committee has shown the pervasive nature of this problem. The burgeoning workload at the EEOC, as well as the increasing number of employment discrimination cases in our Federal courts, further reinforces the fact that employment discrimination is far from eliminated. There exists, therefore, an ample need for a concentrated effort to eliminate the presence of this national blight.

Our present effort to strengthen the EEOC through S. 2515 is a major step toward this goal. However, our goal cannot be achieved by repealing other laws already on the statute books.

As originally passed in 1964, title VII provided an administrative procedure before implementing the individual's right to sue directly in court under the constitutional guarantees against discrimination. S. 2515 corrects many of the shortcomings of that original 1964 act, but it is an improvement which is premised on the continued existence and vitality of other remedies for employment discrimination.

By strengthening the administrative remedy, Mr. President, we should not also eliminate preexisting rights which the Constitution and this body have accorded to aggrieved individuals.

The paramount national interest embodied in the elimination of employment discrimination is both an expression of congresisonal intent and judicial interpretation. While we have generally denounced employment discrimination, the courts, which have been in a better position to view the devastation which this type of discrimination wreaks upon our social framework, have been even more adamant. One need only read the recent decision by Mr. Chief Justice Burger in Griggs against Duke Power Co., to see the concern that the courts have. In describing the scope of the act the Court stated:

> The Act proscribes not only overt discrimination but also practices that are fair in form but discriminatory in operation.

Accordingly, the courts have repeatedly proposed a multifaceted approach to employment discrimination, to bring to bear the full force of the law on this problem.

The law against employment discrimination did not begin with title VII and the EEOC, nor is it intended to end with it. The right of individuals to bring suits in Federal courts to redress individual acts of discrimination, including employment discrimination was first provided by the Civil Rights Acts of 1866 and 1871, 42 U.S.C. sections 1981, 1983. It was recently stated by the Supreme Court in the case of Jones v. Mayer, that these acts provide fundamental constitutional guarantees. In any case, the courts have specifically held that title VII and the Civil Rights Acts of 1866 and 1871 are not mutually exclusive, and must be read together to provide alternative means to redress individual grievances.

Mr. President, the amendment of the Senator from Nebraska will repeal the first major piece of civil rights legislation in this Nation's history. We cannot do that.

In addition, the effect of this measure would be to repeal the validity of a longstanding legal doctrine that labor organizations under the Railway Labor Act and under the Labor Management Relations Act have a duty to fairly represent all employees in a collective bargaining unit. Cases to reforce such a duty may conceivably not be reached in

title VII. The adoption of this amendment, therefore, might have the affect of depriving these workers of a most important legal remedy.

Furthermore, Mr. President, this amendment can be read to bar enforcement of the Government contract compliance program, at least, in part. I cannot believe that the Senate would do that after all the votes we have taken in the past 2 or 3 years to continue that program in full force and effect.

Mr. President, I believe that to make title VII the exclusive remedy for employment discrimination would be inconsistent with our entire legislative history of the Civil Rights Act. It would jeopardize the degree and scope of remedies available to the workers of our country.

To lock the aggrieved person into the administrative remedy would narrow rather than strengthen our civil rights enforcement effort. While I do not believe that the individual claimant should be allowed to litigate his claim to completion in one forum, and then if dissatisfied, go to another forum to try again, I do feel that where one form of relief proves unresponsive or impractical, or where the claimant has a particular preference to bring his claim in a forum other than that which is most commonly used for claims of his kind, he should have that right. This is especially true where the legal issues under other laws may not fall within the scope of title VII or where the employee, employer, or labor organization does not fall within the jurisdictional confines of title VII. These situations do exist, and I am sure that it is unnecessary to spell them out at this point.

The peculiarly damaging nature of employment discrimination is such that the individual, who is frequently forced to face a large and powerful employer, should be accorded every protection that the law has in its purview, and that the person should not be forced to seek his remedy in only one place.

For all these reasons, Mr. President, I urge the rejection of this amendment.

I point out to Senators the testimony that was presented before the committee on behalf of the Department of Justice. The Assistant Attorney General, Mr. Norman, said this, speaking for the administration:

> In sum, although we favor the granting of judicial enforcement authority to EEOC, we are concerned that at this point in time there be no elimination of any of the remedies which have achieved some success in the effort to end employment discrimination. In the field of civil rights, the Congress has regularly insured that there be a variety of enforcement devices to insure that all available resources are brought to bear on problems of discrimination. For example, housing discrimination may be the subject of suit by the Attorney General, a private suit by the party affected, or a conciliation effort by the Department of Housing and Urban Development. Again, in the field of education, remedies for discrimination are available to private persons, the Attorney General and the Department of Health, Education and Welfare.
>
> At this juncture, when we are all agreed that some improvement in the enforcement of Title VII is needed, it would be, in our judgment, unwise to diminish in any way the variety of enforcement means available to deal with discrimination in employment. The problem is widespread and we suggest that all available resources should be used in the effort to correct it.

In my judgment, Mr. President, it could not be put more forcefully and more precisely.

We are dealing with a problem in this country that needs all available resources to wipe from our land the terrible condition in which a human being can be and is discriminated against because of nothing that he had anything to do with—a discrimination that is based on race, color, religion, sex, or national origin. All available resources should be available to that individual. I say it. I am sure a majority here say it. I say that all the Members of Congress say it. Our difference is in how we reach it. One way to reach it is not to strip from that individual his rights that have been established, going back to the first Civil Rights Law of 1866. We say it most forcefully. The administration has said it, through its Department of Justice and its Assistant Attorney General, Mr. Norman.

Mr. HRUSKA. Mr. President, how much time remains to the respective sides?

The PRESIDING OFFICER. Four minutes remain before all time expires. The Senator from Nebraska has 1 minute, and the Senator from New Jersey has 3 minutes.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. There is not enough time for a quorum call.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. When there is not enough time for a quorum call to be requested, how much time is required under controlled time, under the rules, to request the call of the roll?

The PRESIDING OFFICER. It would take approximately 15 minutes for a quorum call.

If the Senator will yield back his time, he can request a quorum call under his own right, which would occupy roughly 15 minutes.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Nebraska yield back the remainder of his time?

Mr. HRUSKA. I do.

The PRESIDING OFFICER. All time has been yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

All time on the amendment has now expired.

The question is on agreeing to Amendment No. 877, offered by the Senator from Nebraska (Mr. HRUSKA).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GAMBRELL (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Virginia (Mr. SPONG), the Senator from California (Mr. TUNNEY), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) and the Senator from Wyoming (Mr. McGEE) are absent on official business.

I also announce that the Senator from Idaho (Mr. CHURCH) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senators from Washington (Mr. JACKSON and Mr. MAGNUSON), the Senator from California (Mr. TUNNEY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from South Dakota (Mr. McGOVERN) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Kentucky (Mr. COOPER) and the Senator from Texas (Mr. TOWER) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Florida (Mr. GURNEY) is paired with the Senator from Massachusetts (Mr. BROOKE). If present and voting, the Senator from Florida would vote "yea" and the Senator from Massachusetts would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Texas would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 33, nays 33, as follows:

[No. 41 Leg.]

YEAS—33

Aiken	Dole	Jordan, Idaho
Allen	Dominick	Long
Baker	Eastland	McClellan
Bentsen	Ellender	Randolph
Bible	Ervin	Roth
Buckley	Fannin	Smith
Byrd, Va.	Griffin	Sparkman
Byrd, W. Va.	Hansen	Stennis
Chiles	Hollings	Talmadge
Cotton	Hruska	Thurmond
Curtis	Jordan, N.C.	Young

NAYS—33

Bayh	Hughes	Pell
Beall	Inouye	Proxmire
Boggs	Javits	Schweiker
Burdick	Mansfield	Scott
Case	Mathias	Stafford
Cook	McIntyre	Stevens
Cranston	Mondale	Stevenson
Eagleton	Moss	Symington
Fulbright	Nelson	Taft
Gravel	Pastore	Weicker
Hart	Pearson	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Gambrell, for.

NOT VOTING—33

Allott	Gurney	Miller
Anderson	Harris	Montoya
Bellmon	Hartke	Mundt
Bennett	Hatfield	Muskie
Brock	Humphrey	Packwood
Brooke	Jackson	Percy
Cannon	Kennedy	Ribicoff
Church	Magnuson	Saxbe
Cooper	McGee	Spong
Fong	McGovern	Tower
Goldwater	Metcalf	Tunney

So Mr. HRUSKA's amendment (No. 877) was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 12067) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PASSMAN, Mr. ROONEY of New York, Mr. LONG of Maryland, Mr. ROYBAL, Mr. HATHAWAY, Mr. GALIFIANAKIS, Mr. MAHON, Mr. SHRIVER, Mr. RIEGLE, Mr. MCEWEN, Mr. ROBINSON of Virginia, and Mr. Bow were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bill and joint resolution:

H.R. 12488. An act to change the name of the Columbia Lock and Dam, on the Chattahoochee River, Ala., to the George W. Andrews Lock and Dam; and

S.J. Res. 153. Joint resolution to designate the week which begins on the first Sunday in March, 1972, as "National Beta Club Week."

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore (Mr. ALLEN).

HOUSE BILL REFERRED

The bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes, was read twice by its title and referred to the Committee on Rules and Administration.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

AMENDMENT NO. 878

Mr. JAVITS. Mr. President, I call up an amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 38, line 7, strike out through line 18 on page 47 and insert in lieu thereof the following:

(f) (1) In the case of a respondent not a government, governmental agency, or political subdivision, if the Commission determines after attempting to secure voluntary compliance under subsection (b) that it is unable to secure from the respondent a conciliation agreement acceptable to the Commission, which determination shall not be reviewable in any court, the Commission shall so notify the General Counsel. The General Counsel may initiate a formal hearing before the Commission by issuing and serving upon the respondent a complaint stating the facts upon which the allegation of the unlawful employment practice is based. The General Counsel, if he issues a complaint, shall also file the complaint with the United States district court for the district in which the unlawful employment practice in question is alleged to have occurred or in which the respondent resides or transacts business. Except as hereinafter provided, all further pleadings shall be filed with the Commission.

The district court shall have jurisdiction during the Commission proceedings upon motion of any party to the Commission's proceedings to review, at its discretion, any action of the Commission which involves a controlling question of law, if it finds that such review would materially advance the ultimate termination of the litigation.

After the Commission has filed its findings and recommendations with the court as provided in subsection 706(h), the court shall have jurisdiction to order the elimination of unlawful employment practices and to require such affirmative action, including reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), as will effectuate the policies of this title, except that (1) backpay liability shall not exceed that which accrues from a date more than two years prior to the filing of a charge with the Commission and (2) interim earnings or amounts earnable with reasonable diligence by the aggrieved person or persons shall operate to reduce the backpay otherwise allowable. Such action may further require the respondent to make reports from time to time showing the extent to which it has complied with the court's order.

(2) In the case of a respondent which is a government, governmental agency, or political subdivision, if the Commission determines after attempting to secure voluntary compliance under subsection (b) that it is unable to secure from the respondent a conciliation agreement acceptable to the Commission, which determination shall not be reviewable in any court, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in such civil action. The provisions of section 706 (q) through (w), as applicable, shall govern civil actions brought hereunder. Related proceedings may be consolidated for hearing. Any officer or employee of the Commission who filed a charge in any case shall not participate in a hearing on any complaint arising out of such charge, except as a witness.

(g) The Commission, upon receipt of the General Counsel's complaint, shall issue to all parties a notice of a hearing before it or a member or agent thereof appointed in accordance with section 556 of title 5, United States Code, relating to hearing examiners, at a place therein fixed not less than five days after service of the compliant upon the respondent.

A respondent shall have the right to file an answer to the complaint against him with the Commission and, with the leave of the Commission, which shall be granted whenever it is reasonable and fair to do so, may amend his answer at any time. Respondents and the person or persons aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. The Commission may grant other persons a right to intervene or to file briefs or make oral arguments as amicus curiae or for other purposes, as it considers appropriate. All testimony shall be taken under oath and shall be reduced to writing. Any such proceeding shall be conducted in conformity with the rules of evidence applicable in the district court of the United States under the Rules of Civil Procedure for the district courts of the United States, and under rules of procedure that conform insofar as possible with the Federal Rules of Court Procedure for the district courts of the United States. Any officer or employee of the Commission who filed a charge in any case shall not participate in a hearing on any complaint arising out of such charge, except as a witness.

(h) If the Commission finds by a preponderance of the evidence that the respondent has intentionally engaged in or is intentionally engaging in an ulawful employment practice, the Commission shall file its findings of fact and recommendations concerning appropriate relief with the United States district court having jurisdiction of the case. If the Commission finds that the respondent has not engaged in any unlawful employment practice, the Commission shall file its findings of fact with the clerk of the court and shall dismiss the complaint. Copies of such findings and recommendations shall be served by the Commission upon the parties.

(i) After a charge has been filed and until the record has been filed in court as hereinafter provided, the proceeding may at any time be ended by agreement between the Commission or, after the filing of a complaint, the General Counsel upon approval of the Commission and the respondent for the elimination of the alleged unlawful em-

ployment practice and the Commission may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or recommendation by it. An agreement approved by the Commission shall be enforceable under subsections (l) through (n) and the provisions of those subsections shall be applicable to the extent appropriate to a proceeding to enforce an agreement.

(j) Findings of fact and recommendations concerning appropriate relief made under subsection (h) or (i) of this section shall be determined by a preponderance of the evidence on the record as a whole. Sections 554, 555, 556, and 557 of title 5 of the United States Code shall apply to such proceedings.

(k) (1) Any party aggrieved by a recommendation of the Commission may file in the United States district court having jurisdiction of the case sixty days after the receipt of such findings and recommendations a written motion proposing new findings and recommendations or seeking such other relief as may be appropriate under this title. A copy of such motion shall be forthwith transmitted by the clerk of the court to the Commission and to any other party to the proceeding before the Commission, and thereupon the General Counsel shall file in the court the record in the proceeding in the same manner as provided in section 2112 of title 28, United States Code. The court shall have power to grant to the moving party or any other party, including the Commission, such temporary relief or restraining order as it deems just and proper; and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree granting or denying, in whole or in part, appropriate relief. Any party to the proceeding before the Commission shall be permitted to intervene in the court.

(2) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or its agent, the court may order such additional evidence to be taken before the Commission, its member, or its agent, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. On the basis of such modified or new findings the Commission may modify its recommendations concerning appropriate relief. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the court of appeals as provided in section 1291 of title 28, United States Code. Motion filed under this subsection shall be heard expeditiously.

(l) The General Counsel, upon the recommendation of the Commission, may move in the United States district court having jurisdiction of the case for the immediate consideration of, and the entry of a decree to carry out, the Commission's recommendations concerning appropriate relief, and for appropriate temporary relief or restraining order, by filing in such court a written motion seeking the appropriate relief. The General Counsel shall file in court with his motion the record in the proceeding in the same manner as provided in section 2112 of title 28, United States Code. Subsection (k) of this section shall apply to proceedings upon motions made by the General Counsel under this subsection.

(m) If no motion for review, as provided in subsection (k) is filed within sixty days after service of the Commission's recommendations, the Commission's findings of fact and recommendation concerning appropriate relief shall be conclusive in connection with any motion for enforcement which is filed by the General Counsel under subsection (l). The district court in which such motion for an enforcement order is filed shall forthwith enter a decree enforcing the recommendations of the Commission and shall transmit a copy of such decree to the Commission, the respondent named in the petition, and to any other parties to the proceeding before the Commission.

(n) If within ninety days after service of the Commission's recommendations, no motion for review has been filed as provided in subsection (k), and the General Counsel has not sought an enforcement of the Commission's recommendations as provided in subsection (l), any person entitled to relief under the Commission's recommendations may move for a decree enforcing the recommendations in the United States district court having jurisdiction of the case. The provisions of subsection (m) shall apply to such motion for enforcement.

(o) The Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court of the United States pursuant to this title. All other litigation affecting the Commission, or to which it is a party, shall be conducted by attorneys appointed by the Commission.

(p) Whenever a charge is filed with the Commission pursuant to subsection (b) and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to preserve the power of the Commission to grant effective relief in the proceeding, the General Counsel, upon the recommendation of the Commission shall, after he issues a complaint, bring an action for appropriate temporary or preliminary relief pending its final disposition of such charge, or until the filing of a petition under subsection (k), (l), (m), or (n) of this section, as the case may be, in the United States district court in which he filed the complaint pursuant to subsection (f). Upon the bringing of any such action, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper notwithstanding any other provision of law. Rule 65 of the Federal Rules of Civil Procedure, except paragraph (a) (2) thereof, shall govern proceedings under this subsection.

Mr. PASTORE. Mr. President, may we now have order so that we can hear the Senator.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. JAVITS. Mr. President, on this measure which I have called up, the Senator from New Jersey (Mr. WILLIAMS) is really the one who would have called it up. I ask unanimous consent that the Senator from New Jersey may appear in the RECORD as the sponsor of the amendment and I as a cosponsor. I had to act quickly because we seemed at the moment to be in a vacuum.

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

Mr. JAVITS. Mr. President, this amendment has been called up for both of us. It represents the present committee position on the bill. In other words, will or will not the enforcement be according to the plan specified in this compromise, which is what it is, or will it be something else. If the compromise is rejected, then we will revert to the provisions of the bill, to wit, the cease and desist provision.

Mr. ERVIN. Mr. President, will the Senator from New York yield?

Mr. JAVITS. Not yet. If the compromise is sustained, then there will be a new plan, which I described yesterday. If, on the other hand, the Senator from Colorado decides to substitute his plan, according to his printed amendment, and he should prevail, that will be the way the bill will stand.

I believe, Mr. President, that it is time to bring this matter to a conclusion. I feel deeply concerned in conscience about quickie votes on a matter as critical as this. It is no one's fault. It is just life and events.

I would hope very much that the Senate will act with responsibility in respect for our leader, whom we all love and respect, the Senator from Montana (Mr. MANSFIELD), and that we could fix a time that would give Members a moderate notice—it does not have to be long—so that Senators can present their case and vote.

I am sure that the Senator from Colorado will present his proposal as a substitute for the proposal we have laid before the Senate and that this issue will be decided with celerity. Then I believe we will have a clear and fair shot as to whether we can have cloture or not; whether this Senate is going to be run by a minority or by the majority.

That will have reconciled about all the points of view that can be reconciled, among those who are for some bill. With respect to those against any bill to change the powers of the EOC, and I respect them and that is their privilege, I do not believe, as the managers of the bill, that the Senator from New Jersey and I can do anything about that kind of opinion, but to those who want a bill, we are trying to step forward, to offer a plan that is feasible and makes sense.

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

Mr. JAVITS. I yield.

Mr. PASTORE. I understand this modification actually gives the court the original authority to issue orders.

Mr. JAVITS. It does. It is an open covenant, openly arrived at. We are up against two problems: First, the difficulty of the commission having no power to conclude these cases, and the second is court congestion. We give up that power of the Commission to issue cease and desist orders, which is important, but we retain the ability to get over the matter of court congestion because we give the Commission the ability to hear the case and make its recommendation and findings to the court.

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

Mr. JAVITS. I would be happy to yield to the Senator from Alabama, but I yield first to the Senator from North Carolina, if he wishes.

Mr. ERVIN. Which amendment did the Senator call up?

Mr. JAVITS. Number 878.

Mr. ERVIN. I thank the Senator.

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

Mr. JAVITS. I yield.

Mr. ALLEN. The Senator identified the amendment as a compromise amendment. Does the Senator allude to the "compromise" as being a compromise between the distinguished Senator from New York and the distinguished Senator from New Jersey? Who compromised the amendment?

Mr. JAVITS. I think the Senator from New Jersey will speak for himself, but I believe we have presented what we consider to be, jointly and together, a compromise of the point of view heretofore represented on the floor by the Senator from Colorado (Mr. DOMINICK) in presenting the succession of amendments that he has presented.

Mr. ALLEN. But both of you are already for the present bill, or the committee substitute. I wonder where the area of compromise is.

Mr. JAVITS. I said before I did not believe that this was any compromise with those against any EEOC bill of any meaning. So with all respect, I do not know what the Senator's position finally will be, but with all respect, it is my impression that that is the Senator's position. I know it and I respect it, as I said before.

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

Mr. JAVITS. I yield.

Mr. PASTORE. Is it correct for the Senator from Rhode Island to say this is a compromise stemming from action that has already been taken by the Senate? The amendment of the Senator from Colorado was rejected, and the compromise is between that and the filibuster we have been experiencing. What we are trying to do is to go half way so we can break up the filibuster. As the Senator from Montana brought out the other day this filibuster has been going on since this session began.

I want to say at this point that it is not the absence of various Senators that has caused the trouble; it is the fact that we have not been able to vote. The other day we recessed at 3 o'clock. I do not know whose fault that was. However, the fact remains we have had a quorum here and if we had not had the delays we would have disposed of this bill long ago.

I want to compliment the Senator from New York and the Senator from New Jersey because on their own initiative, realizing the frustrations that beset us, they have gone half way by moving original jurisdiction to the court to issue the order. I do not know how far reasonable men can go unless it is desired and demanded that the winners declare themselves losers and the losers declare themselves winners.

Mr. JAVITS. I thank the Senator.

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

Mr. JAVITS. I yield.

Mr. HRUSKA. I would like to ask the Senator to clarify the term "compromise." To me it has the connotation of agreement. Is there agreement between the views of the Senator from Colorado and the Senator from New Jersey and the Senator from New York on this matter? Or would it be more accurate to say the Senator from Colorado has a proposal and here is a different proposal? I do not want to quarrel about semantics but so far as the choice of words, "compromise" would seem to connote agreement between sides and perhaps that is not entirely applicable.

Mr. JAVITS. I might say to my friend that I am a lawyer, too, and have been for many years. I have proposed many compromises unilaterally.

Mr. HRUSKA. A compromise proposal, but "compromise" has a different connotation.

Mr. JAVITS. It takes two to be deceived.

Mr. HRUSKA. Correct.

Mr. JAVITS. I am sure nobody is deceived by my using the word "compromise" or believing the Senator from Colorado (Mr. DOMINICK) agreed. Yesterday he told the press he did not agree and it was widely published this morning.

I still say that the Senator from New Jersey and I proposed a compromise, which will be a compromise. I think the Senator from Rhode Island described it very accurately. It is what it does.

I shall be pleased to speak to that compromise during the course of this afternoon, beginning now.

If the majority leader wishes me to yield to him, I would like to do so.

Mr. MANSFIELD. I would like the floor in my own right, if the Senator will yield to me.

Mr. JAVITS. Of course. I yield the floor.

Mr. MANSFIELD. Mr. President, the vote showed 33 Senators for and 33 Senators against the Hruska amendment, with one pair. I am sure that the Senate knows enough about elementary arithmetic to know the difference between 100 and 67.

It is my understanding that the vote on the pending amendment will not occur until Tuesday next. That is 6 days away; another week wasted. I do not know what the Senate intends to do about facing up to its responsibility. I do not know how often they are going to to count who is here and who is not here.

All I want to say is you have a majority of the Senate here today and we are going to be in session all afternoon, whether we like it or not, because we are waiting to see what the House is going to do on the dock strike legislation which passed the Senate yesterday.

I do not intend to get down on my knees to this body because as a Senator from the State of Montana I am just as important as any other Senator in this body, just as important; but as majority leader, you have the joint leadership, including the minority leader, at your feet, and at your disposal. We cannot force you if you do not want to face up your responsibilities but you are doing a distinct disservice to the Senate and to the people whom you have the honor to represent. May I say, as I said yesterday, that no one forced any of the 100 Members of this body to become a Senator. We became Senators because we wanted to; we asked our people to vote for us and they sent us back here to represent them.

Sometimes I wonder just how much of a conscience this body has. Sometimes I wonder how they can delay, how they can postpone, how individual Senators can think of themselves foremost and the Senate secondarily.

We all happen to be lucky that we were elected to the Senate of the United States. There are thousands of people back home in our respective States who are smarter than we are, have more ability than we have, could do a better job than we do, but they have not had the breaks and the circumstances have not flexed to allow them to become Members of this body.

We are given a pretty good salary. We receive a goodly number of fringe benefits. And all we are asked to do is to come in to look after the interests of the people of our States, to expedite legislation, after appropriate debate.

And what do we do? We stall. We find excuses. Somebody is not here or somebody has to be there. We need our troops or we might lose.

Well, this country and this Senate are supposed to run on a majority basis. The Senate is supposed to function when a quorum is present, and a quorum is present. What this Senate is degenerating into—and use the word advisedly—is a 3-day-a-week body. We are all becoming members of the Tuesday to Thursday club, inclusive. And I think we are marking by our own actions here the apathy and the malaise which are affecting this Republic today.

If we cannot attend to our duties, how do we expect the people of this Nation to attend to theirs? What kind of an example do we furnish them? What sort of inspiration?

If this were an industry, we would pay a price for not being here, and if we did not produce we would be fired.

So I do not know what to do, frankly, because the power is not, and never has been, in the hands of the minority or the majority leaders. The power is in the hands of each Senator singly and the Senate collectively. And if you will not face up to your responsibilities, there is nothing—not a thing—that the leadership can do to force you.

So, as far as I am concerned, all I am interested in is getting the appropriation bills out of the way, and I would suggest to my colleagues, both those who are present and those who are absent, that we forget the rest of this business—authorizing legislation or continuing legislation needing new authorizations—and maybe in so doing we will be doing the country a favor. Maybe we will save a lot of money and a lot of strain. But, as far as I am concerned, I do not intend to lose any more sleep, as I have this past month, over the conduct of this body, which is supposed to be made up of mature people, people who can exercise sound and sober judgment, but people who are lacking, in my opinion, in the attributes which should be the hallmark of this body and which should contribute to the morale and to the welfare of this Republic.

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

Mr. MANSFIELD. I yield.

Mr. PASTORE. First of all, I do not wish to quarrel with the majority leader, for the simple reason that I agree with everything that he said; in the second place, I make no apologies for myself. for the equally simple reason that the senior Senator from Rhode Island has been here every day since the time that this session opened, with the exception of one afternoon. It was an afternoon when I had to fly to Rhode Island to attend the ordination of the new bishop of Providence and even then I flew back here immediately without attending the special reception in the Bishop's honor. So I do not need to make any apology for absence from this floor. What I want to suggest to the majority leader is that his admonition, which is quite strong, in my humble opinion, should have been made some time ago. For I remember only too well that when the Senator from Colorado brought up his amendment, he brought it up on a Thursday. Then because he had counted his troops and he did not have the votes, the word was spread around the floor of the Senate that there would be no vote until Monday, and a concession was made by the leadership to vote on that Monday. That was the time when the leadership of the Senate should have stood its ground and said, "You cannot do this. Your amendment is pending. Stay here and talk about your amendment until we vote on it."

We are caught in this unfortunate situation because there is a maze of strategy going on on the floor and a lot of manuvering as to what amendment is going to come up and at what time in order to defeat what the Senate has already achieved.

Naturally, the Senator from New York is very apprehensive that this strategy will emasculate the bill, so he has called up his amendment and said, "I will talk on this amendment until the Senator from Colorado brings up his amendment." But the minute he sits down, a motion is going to be made to lay his amendment on the table, just as sure as God made little green apples. That is the strategy that we are faced with.

The question is, Do you want an equal employment opportunities bill or do you want to defeat an equal employment opportunities bill? That is the question before the Senate, and those of us who are interested in having a good bill have every right to use every parliamentary procedure to see that the American people are not cheated out of the expression of the will of the majority. That is the question that is pending here. If they are going to abandon this to the minority maneuver and let it become a tool for parliamentary strategy, the senior Senator from Rhode Island, as long as he has a breath in his body, will not stand for it.

I could agree that it may be about time that a lot of these candidates for the Presidency of the United States should return to the Senate, but we have gone through that experience before. One of the greatest Presidents of the United States was John F. Kennedy, and I remember that if he had not gone around shaking all the bushes of this country, we might not have had him as President, and the people of this country would have been cheated of the fine leadership he gave us for 3 years. He was absent from the Senate because he felt he was on a vital mission for the American people no less than for himself.

The people we are talking about are running for the Presidency of the United States, and what is wrong with that? What is wrong with that? And because they are out on their high mission, because they are doing what they feel they must do in their hearts, minds, and consciences, they are absent. Maybe they ought to be here, but I do not buy the idea that it is abominable that they are not. I think that is pretty strong language to apply in the Senate.

Last Monday or Tuesday—I do not remember which day it was—we quit the session at 3 o'clock in the afternoon. Three o'clock in the afternoon. Why, with this bill pending? That is our fault, and let us get down to the genesis of the problem.

Another thing, too: We tried cloture twice, and we did not quite make it. We did not quite make it. Do you know why? Because the cloture rule is written for the rule of the minority, and that is the reason why we did not make it. The majority of the Senate voted for cloture, but we will not get cloture.

Now, what did the Senator from New York do? What is this horrible thing he did?

He brought up, on his own initiative, a unilateral compromise, knowing full well that unless he compromises he cannot get a vote and the bill is dead, and everybody in this body knows it. The bill is dead with the provision as it stands now, and I dare say that even if it goes to conference, it might be knocked out. So, realizing the practical situation, being realistic as they are, the Senator from New York and the Senator from New Jersey did what?

They stood up and said, "All right, you have lamented the fact up to now that we are giving the agency the power of cease and desist, which is a judicial power, and you do not like it." So all right, the Senators from New York and New Jersey say we will amend the amendment on our own initiative, even though we have won the first round. On our own initiative, we will amend the amendment and give the court that original jurisdiction.

How awful is that man from New York. Do Senators think he is going to stand there and let somebody put in a sneak motion to lay on the table, and crucify the bill this afternoon? Mr. President, he is not worth his salt, he is not worth a nickel to the people of New York, if he permits that. And that is all I have to say.

Mr. MANSFIELD. Mr. President, may I say this is the first I have heard about the possibility of a motion to table, although, of course, that is always in order.

Second, as far as the Senate adjourning at 3 o'clock last Tuesday is concerned, there was absolutely nothing to do in this body at that time, and if we had stayed here, there would have been nothing but talk, no votes. That is what confronted the leadership.

I would hope that these factors would be kept in mind, and may I say to my distinguished friend from Rhode Island, a man for whom I have great affection and whom I admire tremendously, that there are only five Members of the 33 absent today who are running for the nomination for the Presidency of the United States; so I would say they have been unfairly singled out in the overall picture, and I would like the record to be clear in that respect.

I now yield to the distinguished senior Senator from Maine.

Mrs. SMITH. Mr. President, it had been my intention to make a statement in the Senate today on the subject now being discussed, the subject of absenteeism. But the distinguished majority leader has so forcefully and so ably expressed my views on this subject that I ask unanimous consent that my statement be printed in the RECORD at this point, and I advise the Senate that a copy of the statement is on each Senator's desk, and I would urge each Senator to consider cosponsoring my joint resolution.

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

STATEMENT OF SENATOR MARGARET CHASE SMITH

Mr. President: The very able, distinguished and dedicated Majority Leader yesterday made a very strong personal appeal on this Floor against absenteeism. Among other things he said:

We have almost completed a month of labor, and produced nothing—not even a mouse . . . I would make a personal plea to every member of this body to not ask the leadership to delay on . . . any legislation this year . . . I would hope that the Senate would face up to its responsibilities; that each Senator would act with maturity, so that we can do the job which the people are paying us to do. . . Every single Member of this body sought this position, and with the position goes a duty, a responsibility, which means not only facing up to the schedule in this year of conventions and elections, but also facing up to attendance on the floor of the Senate. *The record of this body over the past month is, to put it mildly, abominable.* . . . there will be no sufferance, no exceptions made as far as any Senator is concerned regarding votes or a date certain on legislation. . . .

The Majority Leader's patience on abominable absenteeism is at an end—just as mine was when I made my statement two months ago on December 20, 1971 and stated I would introduce a constitutional amendment to curb absenteeism. I am attaching my statement of December 20, 1971 at the conclusion of my remarks.

I introduced that legislation on January 31, 1972. I now reintroduce it with a very minor clarifying change and I am pleased to introduce it on behalf of myself and Senators Anderson, Bennett, Cook, Hatfield, Moss, Randolph, Stafford, and Thurmond.

Not only is the Majority Leader's patience at an end—but so is the patience of the American people for I have received thousands of letters from people throughout the nation—from every state in the union, except Alaska (and Senator Stevens tells me that many Alaskans have voiced their support of my anti-absenteeism constitutional amendment to him) expressing very solid support of my proposal and the hope that their Senators and Representatives will sup-

port it. Their only basic criticism is that the required attendance should be substantially higher than the 60 percent I propose.

In view of this widespread national support to curb absenteeism, I again invite the members of this body to join me in the sponsorship of this proposal.

STATEMENT OF SENATOR MARGARET CHASE SMITH (DECEMBER 20, 1971)

The United States Senate is in trouble. It is because growing numbers of its members no longer regard it as a high institution for dedicated and honorable service but rather only as a means to an end.

It has become a mere springboard to those who would use it—even abuse it—for their selfish interests, whether such interests be commercializing their position and title with the acquisition of high-price lecture fees or running for President.

I have no criticism of presidential aspirations as long as those presidential aspirations do not result in dereliction of Senate duties in representation of state and national constituencies. After all, having been a presidential candidate in 1964, who am I to criticize presidential ambitions? Yet, I never missed a Senate roll call vote while I was running for President.

A greater cause of Senate debilitation comes from the Senate "moonlighters" who regard the Senate as strictly secondary to their money-making activities is being offered high-paid lecture fees simply because they are Senators. As the Republican dean of the Senate recently said, "Being paid $2,500 for $50 speeches." Presidential aspirants should realize that if they succeed to the White House the high paid "moonlighting" days are over.

Too many Senators have chronic absences because they are on the lecture tour piling up annual lecture incomes that even exceed their Senate salaries—sometimes even doubling their Senate salaries. Their absences not only openly retard and postpone the progress of Senate business because of the difficulty of getting the necessary quorum present to do business—but as well, behind the scenes unduly delay the Senate schedule. Because repeatedly they go to the Majority Leader or the Minority Leader and beg them to call off a vote scheduled for a certain day simply because they can't be there as they are making a high paid lecture hundreds of miles from Washington.

So the Senate procrastinates for the convenience of "the Moonlighters". And what happens on the Senate Floor, to a lesser degree, happens behind the scenes in the Senate committees.

In addition to the chronic Senate absentees of presidential candidates and "moonlighters" on the high-paid lecture fee circuits, there are those Senators who are bent upon squeezing out every bit of Senate-paid world travel and entertainment they can while they are a Senator. They put this pleasureable world travel ahead of the official duty to which they were elected. And they, too, ask the Majority Leader and the Minority Leader to hold off the votes until they return from their world junketing at taxpayers' expense.

So when you put the several presidential candidate absentee Senators, the many "moonlighting" absentee Senators, and the chronic world-junketeer absentee Senators together, you inescapably come up with a sizable number of not only absentee Senators but as well Senators requesting the Senate to procrastinate on its official business and regular schedule in order to accommodate their personal conveniences.

The accommodation of their personal interests and conveniences is at the high price of detriment to the public interest and the national interest. Not only that, but it frustrates and discourages those Senators who are dedicated to the Senate as an institution and who stay in Washington on the job to *do* a job instead of just to *hold* a job.

This 1971 Congress ended in a sad state of affairs. No wonder the American public is so fed up with Congress. No wonder so many conscientious members in their frustration left before the end of the session in their disgust over the personal and petty differences on conference reports.

As the holder of the all-time consecutive roll call voting record (2,941 until stopped by surgery in September 1968), I suppose that I have rightly been accused of having too much of a fetish in this regard. On the basis of the many broken promises for earlier adjournment, I repeatedly rescheduled times for physical examinations, therapy and treatment.

But as I went through day after day of early-morning-to-late-evening sessions in November and December resulting from the procrastination caused by the candidate absentee Senators, the "moonlighting" absentee Senators, and the world-junketing absentee Senators—and the petty and selfish bickering of uncompromising members of the House and Senate, I finally decided to declare my own independence and go ahead with my own physical care already postponed for two months by Senate procrastination.

This is the same pattern year after year in the Senate—the pattern of procrastination and accommodation to those Senators who simply don't stay around to do their share of their official work and duty—to legislate—who instead campaign, make paid lectures, and junket around the world.

Every year we end up at the end of the year doing what we should have done at the first of the year and completed by the middle of the year. Not only that, we end up in a marathon of early-morning-to-late-evening sessions that produce not only bad frames of mind, contentiousness, and petty bickering, but as well, in dangerous physical condition that takes its toll of us and those who work for us. And the resulting irritable tempers, mental and physical fatigue produce bad legislation.

Is this the way to legislate? Is this the way to represent the people?

Congress needs several reforms. The greatest attack is that made on the seniority system. Yet, it is the senior members who stay in Washington on the job.

But the greatest evil and weakness is "absenteeism". It is the breeder of procrastination. It is the delayer of orderly action. It is the greatest disgrace of the Senate.

Why then doesn't the Senate do something about "absenteeism" instead of piously wringing hands?

Because the Senate is a club of prima donnas intensely self-oriented—99 Kings and 1 Queen—dedicated to their own personal accommodation.

Consequently, the Senate is simply incapable of disciplining its members, whether it be violation of Senate rules of order and conduct, breach of national security, improper use or abuse of authority—or absenteeism. In the 23 years I have been a member of the Senate, only twice has the Senate reprimanded a member.

Because of the Senate's incapability for self-discipline on the problem of absenteeism and because of the serious responsibility of Senators to honor their obligation of staying on the job to which they were elected instead of being absent "moonlighting", campaigning or junketing, next month I shall introduce in the Senate a constitutional amendment requiring that a Senator be present and voting on record roll call votes at least 60 percent of the time or automatically expelled from the Senate.

Why did I select 60 percent? Because it is the same three-fifths majority that liberals and moderates have proposed many years for stopping Senate filibusters instead of the present requirement of a two-thirds majority.

The 60 percent requirement is relatively low. After all, usually 70 percent is required for passing or getting a low D in school.

And it is anything but restrictive on the absentee campaigners, "moonlighters", and junketeers!

For in the year 1971, the number of voting days was only 116, or at a rate of less than one out of every three days.

At a required rate of only 60 percent, this would mean that the requirement would be to refrain from absenteeism on roll call votes on only 73 out of the 365 days in the year—to be present and voting on only one out of five days.

Surely that is not a hardship on the "moonlighters", the "junketeers", and the campaigners—to let them "moonlight", junket, campaign or be absent from the Senate four out of every five days for whatever reason they might have!

I am not unaware of the probable resistance in the Senate to this self-disciplining constitutional amendment.

I will need the help of the news media to inform the American public and then the help of the American public to let the Senators know that they want this specific reform against "absenteeism".

MARGARET CHASE SMITH,
U.S. Senator.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana still has the floor.

Mr. MANSFIELD. Mr. President, I have had my say. It has not been easy to say what I have said, but I wanted the Senate to know that I think a lot more of the institution than I do of any individual Senator. To me, this body is my home, and what it stands for is my ideal. I do not want to see the Senate denigrated, and I am sorry that events have reached such a stage, in this most tumultuous year with so much contentious legislation confronting us, and with so little to mark as an accomplishment at this time.

I only wish to point out, before I yield the floor—because I assume that the Senator from New York wishes to obtain the floor—that it would be my hope, in view of the fact that we very likely will not be able to vote on the Javits amendment or the proposed Dominick amendment to the amendment today, that it would be possible to reach an agreement this afternoon to which both Senators as well as the Senator from New Jersey, the chairman of the committee, would agree, by means of which a vote on the Javits amendment and the Dominick amendment could be arrived at a time certain on Tuesday next, because I understand that that, in effect, could be considered D-day as far as these two legislative proposals are concerned.

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

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. I need not protest my respect for the Senator from Montana, he knows that. And the fact that notwithstanding Senator PASTORE's sage advice, I yielded the floor because the majority leader wanted it for himself, no matter what the risk in strategic terms, should certainly demonstrate that I am not asleep and I knew what it meant, that someone else could be recognized.

Mr. President, we do have—and I speak

really in a very personal sense; like the Senator from Montana, I have the Senate very close to my heart—a profoundly difficult situation which has divided our Nation for more than 100 years, and men feel very deeply about it. We have been through it before. I have been here myself since 1957, and have slept in my office all night and have endured all kinds of hardships in this fight. So I sympathize completely.

The Senator knows that I would like to get unanimous consent to wind this thing up immediately. The Senate knows that; it would be silly for me to protest any such thing. But with the deep feelings and emotions which have obtained, I say to my colleagues frankly it is almost beyond me that circa 1971, there should be any idea that if we do not pass this bill, we are going to kill off civil rights in employment or some other area. It is much too late for that.

Still, there are influences and feelings in this country that seem to think that we could do it. It seems out of the question to me, but there it is, and we have to live with it.

If people like Senator WILLIAMS and many others I could name, including the Senator from Rhode Island (Mr. PASTORE), did not keep them alive, these issues, precisely because they are so exacerbated by the differences, would go down the drain.

So I ask Senators to bear with us who have to wage this fight, because the Lord put us here to wage it. I do not ask the Senator from Rhode Island to temper what he said, nor the intensity of his remarks, but I beg him to understand us, that we do feel seized of a sense of mission which is an essential element of the ultimate freedom of our country according to our lights. As Senator PASTORE has said so eloquently, as long as we have breath, we, too, wish to do all we can, with decency to our colleagues—and the Senator has never found me lacking in that—to protect the things in which we believe.

Mr. MANSFIELD. Mr. President, I appreciate the Senator's remarks and the temperateness of the tone in which they were given. May I recall to his attention that I believe in the measure which is before us, and that I want to see it passed. But it appears to me that, because of the delay in facing up to the issue, we have perhaps somewhat damaged its chances of passage, which in the beginning were so much brighter than they are at the present time.

But that is beside the point. I did raise the question of the possibility of an arrangement for a time limitation for Tuesday next, and at this time I yield to the distinguished Senator from Colorado (Mr. DOMINICK) to see what his response is.

Mr. DOMINICK. I thank the Senator from Montana.

Mr. President, I arrived a little bit after the discussion had started, right in the middle of the impassioned address of the Senator from Rhode Island, which I was able to hear although Mr. PASTORE did not use a microphone.

I announced to the Senate yesterday that, as far as I was concerned, I would have voted on my amendment yesterday afternoon. I was told by the Senator from New York and the Senator from New Jersey that they did not think that was such a good idea. They had talked with me before about introducing a different form of their own position, with the understanding that such an amendment could be debated and that whenever I wanted to submit a substitute for it I would.

Their amendment was submitted late last night. It is perfectly apparent that it is impossible to get a vote on any of these issues unless Senators agree to it, or unless they have spoken their final piece. I have said before that as far as I was concerned, I was willing to submit my substitute amendment and vote on it at any time anyone wants to.

As far as the proposed amendment of the Senator from New York and the Senator from New Jersey is concerned, it does not meet any of the objections that I have raised, and I remain in total opposition to it. It constitutes cease and desist without using the words, and that, so far as I am concerned, is no offer of compromise at all.

If we use the court enforcement procedure—which, heaven knows, is an integral part of our whole system—we can get a bill, I believe. Otherwise many friends and opponents of mine have indictated otherwise that we are not going to get a bill. I, quite frankly share their assessment of the situation. The Senator from Montana ought to know how I feel about it and how a great many others feel about it, whether or not I feel that way.

I am willing to vote on my own amendment, but if we do not get anywhere with that, then I will probably be forced to try to search for another compromise. I have made two compromises to date, one of which was not satisfactory to either side. That probably means that it was a fair compromise, since it was not agreed to by either side.

My second compromise, amendment No. 871 provides for expedited hearings and determinations. It provides for a Supreme Court review of a three-judge court decision—in the very courts that have given the minorities their advances in almost every civil rights case we have had. I do not understand why people continue to vote against it, but they do. So all I can do is to continue my fight; because I am not going to settle for an agency enforcement if I can avoid it. A procedure which incorporates in one body the functions of investigation, judge, jury, and enforcer. It does not guarantee the respondent adequate due process rights and threatens to frustrate the aggrieved's rights with administrative snarls.

Mr. MANSFIELD. Would the Senator from Colorado consider the following proposal? I make it, because I understand that whatever he proposes will be as an amendment to the amendment offered by the distinguished Senator from New York.

Mr. JAVITS. It is really the Senator from New Jersey.

Mr. MANSFIELD. And the distinguished Senator from New Jersey—a joint proposal.

Would the Senator from Colorado consider a time limitation on his amendment or substitute, if it would be possible to arrive at a time certain, to vote on the Williams-Javits amendment now pending, in the interests of the Senate?

Mr. DOMINICK. I would be happy to agree on a limitation of time on my amendment and an agreed time to vote on my amendment. I am not in charge of those who oppose the Javits amendment. I have talked to a number of others who have said that they would not agree on a time certain for the Javits amendment. I am caught in that kind of bind. We can vote on my amendment. If it is agreed to, I pressume we can go ahead and vote on it. If it fails—and I do not know whether it will fail or not—then I suspect that a number of amendments will be offered to the Javits amendment.

Mr. MANSFIELD. Let me take a chance.

Mr. President, on my own, I ask unanimous consent to make this unanimous-consent request. I ask unanimous consent that a vote on the Dominick amendment, which I understand will be offered as an amendment or as a substitute to the Williams-Javits amendment, occur at the hour of 3 o'clock on Tuesday next, 6 days hence.

Mr. JAVITS. Mr. President, reserving the right to object, does the Senator intend to add to that a vote on the Javits proposal?

Mr. MANSFIELD. Yes. I would ask that immediately after the vote on the Dominick amendment or substitute, whichever it happens to be, a vote occur on the Williams-Javits amendment as amended or as not amended.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, Mr. President, as I understand the request of the distinguished majority leader, it is that a time limit be set on the vote on the Dominick amendment, and then, whether the Javits-Williams amendment is amended by the Dominick amendment or not, a time for voting on the Javits amendment would be set. Is that correct?

Mr. MANSFIELD. Immediately.

Mr. ALLEN. It is the judgment of the junior Senator from Alabama that we ought to take the steps one at a time and that we should not cut off the right to offer other amendments to the Javits amendment. Possibly some would not agree to the Dominick amendment but might want to perfect the Javits-Williams amendment.

As to this so-called compromise amendment, it seems to the junior Senator from Alabama that, while the distinguished Senator from New York said there are those who object to the words "cease and desist" and that they were going to get "cease and desist" out of the amendment, they got the words out of the amendment but they do not have the meaning out; because cease and desist is still there, and this is just another way of stating what is already in the bill.

So the junior Senator from Alabama would be delighted to agree to a time for voting on the Dominick amendment, even if that time is set 10 minutes from now, and then we will proceed as each

amendment comes up. I think that would be the way to handle it.

Mr. MANSFIELD. In the interests of the best procedure for the Senate, and with the indulgence of the distinguished Senators from New York, New Jersey, and Colorado, would the Senate consider, in addition to the previous unanimous-consent request, that, instead of the vote occurring on the Williams-Javits amendment, whether amended or not immediately, pending the disposition of the Dominick amendment, there be a half-hour limitation on all other amendments to the Williams-Javits amendment, the time to be equally divided between the sponsor of the amendment and the manager of the bill or whoever he would agree to designate?

Mr. ALLEN. Mr. President, I would be constrained to interpose the reservation of an objection to that request, for the reason that, if we set a time limit on the Javits amendment, the Dominick amendment having failed, it would just be a matter of time before a vote was reached, and we would end up with the very same bill we have before us now, in effect; because it occurs to the junior Senator from Alabama that the Javits-Williams amendment really makes a rubber stamp or a cat's-paw out of the Federal district court, rather than to allow it to try these charges de novo and not merely from the record.

Taking it step by step, I would certainly agree to a vote on the Dominick amendment immediately.

Mr. MANSFIELD. If the Senator will yield, there would be no time certain to vote on the Williams-Javits amendment. It would appear to me that a half hour on other amendments, equally divided, depending upon the outcome of the Williams-Javits amendment, would allow plenty of time. Besides, even after the Williams-Javits amendment as amended, if it is amended, was disposed of, there still would be opportunity for the offering of other amendments.

So, in the hope that we could expedite the business of the Senate, I make this proposal at this time, because it would not begin to take effect until 6 days hence. That is a long way off. At that time, a good portion of this session of Congress—the conventions and the election considered—will be out of the way and irrecoverable.

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

Mr. MANSFIELD. I yield.

Mr. DOMINICK. I want to reiterate that I am willing to vote on my amendment today.

Mr. MANSFIELD. But there are others, I understand, who would not wish to have the vote today, because of circumstances over which they have little or no control, but which are understandable to all concerned.

Mr. DOMINICK. I would like to remind the Senator from Montana that a large group—I am not one of them—is going to the Interparliamentary Union in Canada on Wednesday next. The day after that, a number of Senators will be absent, for the reason that they did not realize that any more votes would be occurring that late in the week. I am not excusing them. I am saying that we will be constantly faced with a large number of absentees.

Mr. MANSFIELD. Well, the Senator has been a Member of this body long enough to understand that no one can foretell with any degree of accuracy, unless he uses a computer, as to who will be here and who is not here. But I wish we could get away from the policy which seems to have developed so much in recent years, this matter of counting the troops, and let a majority of the Senate decide. If absent Senators are interested enough, they will not go to Canada, they will not go here, or they will not go there. They will be in this Chamber because, after all, that is where they are supposed to be. That is where they are paid to be. That is where their responsibilities lie.

So I would hope that the distinguished Senator from Alabama would find some leniency in his heart so that we could get on with this legislation which has been so long delayed and the next part of which we cannot face for 6 days from now—almost a week.

Mr. ALLEN. Mr. President, reserving further the right to object, the junior Senator from Alabama would say that he feels sure the majority leader would say that the junior Senator from Alabama has not sought to delay the vote on a single amendment pending before the Senate. The junior Senator from Alabama is willing to vote right now on the Dominick amendment if it is offered; but he feels that it is his duty to his convictions to insist on having a look at the situation after a vote has been taken on the Dominick amendment.

That does not preclude the possibility of any agreement being reached after the vote has been had on the Dominick amendment. It might be adopted. I think that would be the best way to solve this impasse and would bring us quickly to a vote on the bill itself. That might be the best way out of this impasse, if we could agree at this time to an immediate vote on the Dominick amendment, when, as, and if offered.

Mr. MANSFIELD. Mr. President, I would make the request but I think it would be futile. I would anticipate an objection and I would not want to embarrass anyone. I will repeat my unanimous-consent request and I ask unanimous consent to make this unanimous-consent request, that is, that the vote on the Dominick amendment, or a substitute thereof to the Williams-Javits amendment, occur at the hour of 2 o'clock on Tuesday afternoon next.

Mr. JAVITS. Mr. President, does that just apply to the Dominick amendment?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Then I would be constrained to object again. If I may explain, the majority leader said he did not want to embarrass anyone——

Mr. MANSFIELD. I meant on a vote this afternoon.

Mr. JAVITS. I understand that. The majority leader said he would not make the unanimous-consent request. I think, in all fairness, it is not fair to ask for a vote on a substitute and not ask for a vote on the main amendment and put us in the position of being the bad fellows and objecting, as we would be irretrievably prejudiced.

Mr. MANSFIELD. The Senator is aware of the fact that the Senator from Montana tried to get that into an agreement but was unsuccessful, so——

Mr. JAVITS. Then the Senator should not present it as a unanimous-consent request, and I say that with all respect. We should not be compelled to be the bad fellows and object, when it is a one-sided proposition.

Mr. MANSFIELD. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. JAVITS. Mr. President, I think that what has transpired here this afternoon is clear evidence of where we are. Feelings are deep. Convictions are profound. We are all adults. Apparently this matter is not in any shape to be resolved.

So far as the distinguished Senator from New Jersey (Mr. WILLIAMS) and I are concerned, we are ready for a vote on the basic proposition. I really am speaking at great risk here now, but I believe that once the Senate disposes of the question on this occasion, so far as we are concerned, it is ended and I would expect, in all fairness to the Senate, and, after all, this advances the proposition of the Senator from Montana the furthest, that that would be so from the opposition side, too.

But we will be at hazard on this basic proposition on which Senators have voted already twice at least. That is all right. I am perfectly ready to accept that, and the results. But let us give a little notice to those who are proceeding on the theory that this matter was not coming up, as the majority leader said, under circumstances we cannot control, and give them the opportunity to appear here, cast their vote, as is their duty so to do, rather than to be caught by surprise. I do not want to deal in surprises in this situation. But I do not want to accept a one-sided unanimous-consent request which puts us at hazard when the other side loses nothing—if it wins, fine, if it loses, it still has plenty of time to go—and the bill is still nowhere.

I cannot see that at all. I cannot see that that is fair in any way, so far as we are concerned.

Mr. GAMBRELL. Mr. President, will the distinguished Senator from New York yield for the purpose of making or entering a motion to reconsider?

Mr. JAVITS. This Senator will not so yield, as this Senator is not apprised of the consequences of yielding for that purpose. This Senator has no reason whatever for any discourtesy, and will evidence none, but as soon as this Senator has a minute to satisfy himself as to the consequences of that motion, then the Senator would be prepared to yield, but not now.

Mr. President, as I said a minute ago, I believe that we are deadlocked in a serious situation. It evidences for the country a matter, really, of the greatest importance to all Americans; that is, who runs our country.

Mr. President, since 1957, when I first came here, I have supported motions to

amend rule XXII. We have had rulings, and apparently it almost seems to be established now, even without a ruling, that rule XXII is susceptible to amendment only at the beginning of a new Congress.

So far as I can remember, we have pressed that every 2 years, whenever a new Congress came into being. We have always argued that by the operation of this rule it was not a majority of the Senate which determined the actions of the Senate but two-thirds, and that by the rules of the Senate a completely nonconstitutional devolution of power to one-third of the Senate had been granted.

We have been told in successive years constantly—especially in the past 10 years—that this is no longer a civil rights struggle and that all our concerns about the filibuster's being used—that is, used as a weapon to throttle civil rights legislation—were misplaced and ill advised, that no longer was the filibuster weapon going to be used against civil rights legislation.

But, Mr. President, I am glad that I was not taken in by that. I never have been. Here is the complete validation of that fact, the power of the minority—to wit, one-third—under rule XXII, to compel—and I use that word advisedly—the majority to accept what it wants rather than what the majority has voted. That is naked and clear.

It seems to me that very long-range interests are again at stake for the United States. If this power is to be utilized nakedly—as it is—it can be utilized in any quarter. It is a fact, and the country should know it, that one-third of Senators present and voting can veto any action by this country. That could include a declaration of war. It could include appropriations for the Armed Forces. It could include any solemn engagement made by the United States, or on anything necessary to its security. That is the way we are organized.

Every once in a while, something comes along to show it in all its pristine power. That is where we are now.

Mr. DOMINICK. Mr. President, will the Senator from New York yield for a question?

Mr. JAVITS. I yield.

Mr. DOMINICK. I just want to ask the Senator whether he really feels that a majority of the Senate voted against the Court enforcement especially when the plurality vote represented just a one-vote shift. That is not a majority of this body or anywhere else.

Mr. JAVITS. Mr. President, a majority of those present and voting have voted that way on two occasions, and whether it is a one-vote shift or not, they did not impeach a President by one vote. That would be a pretty important vote. It would be the first impeachment of a President. A lot of other measures are carried by one vote.

The evidence is that 60 percent of the Senate the last time out voted for cloture. I am talking about cloture; 60 percent of the Senate voted for cloture notwithstanding the presence of cease and desist power in the bill.

The Senator from New Jersey (Mr. WILLIAMS) and I believe that under those circumstances, with a majority vote, whether by one or two votes against the Dominick amendment or 60 percent of the Senate voting for cloture of debate with a cease and desist power in the bill, we think we certainly have more of a right to have it than the other side has to negate it because the Senate wants this measure and should not be denied the opportunity to enact it by the minority.

Indeed, the minority leaves us in no doubt of that because it says very plainly, "Unless you give us what we want, you are not going to have a bill."

There is nothing more clear than that. There is no more naked application of power than that. And that is what we are faced with.

The question is whether the Senate can summon the resources to deal with that situation or whether it will demonstrate itself to be powerless to deal with it.

Mr. President, I respectfully submit—and I have great affection and esteem for the majority leader—that this proposition is much more important in the gradation of importance than the proposition that we are taking more time than we should on this bill. I agree that we are taking time, but we are not taking more time than we should.

This subject is of such importance to the future of our country as to whether a minority can compel the majority to meet its terms simply by virtue of the fact that it can prevent majority action. It is the kind of thing on which grave social and political upheavals are compounded. I do not say that it will happen now. I hope and pray that it does not.

No matter what happens to the pending bill, it has the capability of being a measure which can really be a trial to the people of this country and one which the people think serious enough for this particular bill.

I deprecate the position in which we find ourselves. However, I take very seriously at heart and am comforted by the assertion by the Senator from Rhode Island (Mr. PASTORE). I think he is right. He said that a Senator would hardly be worthy of the name if he caved in to this kind of a situation.

Mr. WILLIAMS. Mr. President, will the Senator yield for an observation?

Mr. JAVITS. Mr. President, I yield to the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I certainly applaud the ability of the Senator from New York, who has been on the ramparts in this battle and in the battle concerning the dock strike. It has wholly occupied his time all day and all night. He has carried the burden with magnificance.

That is my first observation. The second observation is that I would think that if I were out in the country and not a Member of the U.S. Senate, I would wonder what this great American body is all about. I would say, "They have an issue. They have had a vote. They have decided the issue. Then they decide that they have to decide it again and again and again."

This particular issue of cease-and-desist power has been voted with full dignity, not on motions but up or down three times?

Mr. JAVITS. The Senator is correct.

Mr. WILLIAMS. Mr. President, in 1970, the vote was in the neighborhood of 41 to 27 in favor of this method of enforcement on this bill.

Since we have come back, as the Senate majority leader has said, we have not done anything. We surely have not done anything finally. However, twice we have voted on this and voted in favor of cease and desist.

The Senator from New York and I have joined in an amendment to finally come to a decision. We have offered to step back and use the judiciary, which was all that we heard about during the debate.

We said that cease and desist was the effective and fair way. We are stepping back to the judiciary with this amendment. We have stepped back, and for the life of me I would think that if I were out in the country and not a Member of the Congress, I would say, "What are these men all about? In this society of ours, I thought we made up our minds in a democratic way, and that ultimately if the majority says this, this is it under the law." And that is what it is all about on this issue.

Again coming back to my opening observation, I have great applause for the Senator from New York for the way he has been carrying a substantial part of this debate.

Mr. JAVITS. Mr. President, I am grateful to my friend, the Senator from New Jersey. He, too, has shown enormous fortitude in the face of great difficulties in respect to this matter.

While we assess what we are doing, let us remember that from the point of view of any member of the minority in this country—and it is the minority who are affected by this measure, and especially the black minority, 11 percent of the people of the country—it all depends on whether one has a job. People like myself who live in enormous cities are so cognizant of that fact.

This is the most important of all civil rights bills. It may not appeal to someone so vividly if a small child is taken away from a good school or if a family is embarrassed by not being able to rent an apartment or buy a home. However, in the final analysis it is the man with the job that has the dignity, and it is the man with the job who can buy different things.

The deplorable conditions in the neighborhoods of many of the great cities, such as my own city of New York, are attributable very heavily to the fact that 25 or 30 percent of the males are unemployed and their families are on welfare. That is a very serious condition. There is no man in the house because the man has not had dignity and has not been able to earn a living or to get a job.

It has been said in the most colloquial way that——

Mr. DOMINICK. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Mr. President, I yield to the Senator from Colorado for a question.

Mr. DOMINICK. Mr. President, I feel

just as sympathetic as does the Senator from New York for the people who have been discriminated against, as he knows.

We are faced purely with a practical enforcement issue and it seems to me in these circumstances that there is nothing so wrong with court enforcement that it should threaten the total bill. We can accept my amendment and go on with the bill. And in that way we would get a job discrimination-enforcement bill. Otherwise I am really afraid that we are not going to get one.

Mr. JAVITS. Mr. President, I must make two comments with respect to the statement of the Senator from Colorado.

It would be a remedy long deferred by very extended court calendars that are already heavily overloaded. The Senator proposes by his amendment—which he thinks is an improvement—to make it a three-judge court, sitting on the nisi prius basis, which means taking evidence. Considering the problems we have with court congestion already, I am appalled to think of what would happen if we provided for three judges on these trials, with a prolonged trial in a case of this character, involving discrimination. If we were going to go that route, I have very grave doubt that what the Senator has now proposed is not a regressive step rather than a progressive one.

Mr. DOMINICK. Mr. President, will the Senator yield further?

Mr. JAVITS. In a minute, if I might finish. I might say that what we have done is, we believe, a very marked effort to make the remedy meaningful. The way we propose to make it meaningful is by really supplying a separate court, a special master, or a referee. Really, the procedure we have outlined is pretty much what special masters and referees in bankruptcy do. It serves to divert from the court a great body of hearings, evidence, and so on, which is terribly time consuming and would only be aggravated by the congestion on the calendar. In New York, where we have such a terrible narcotics problem we are establishing a narcotics court. We have established rent courts. In other jurisdictions, not only my own, efforts have been made to deal with the grave problem of court congestion in that way, by adapting the court system to the situation.

For all those reasons I believe we are very materially effecting the remedy. One other thing I say to my friend in all fairness. He has always voted for civil rights measures. He is not an anti-civil-rights person. I meant him and others when I said there is a difference between us in method but certainly no difference in the fact that the Senator wants to get this bill passed. The Senator joined in letting the bill be reported from the committee where he could have filibustered it. The Senator voted for cloture and for civil rights. I have no challenge of that in any way. As a matter of fact, I said some people we cannot reconcile, but one of those is not the Senator from Colorado.

The other thing I ask the Senator is this. He has spoken with great assurance about the fact that all we have to do is go his way; that, if we could, and I do not believe we can, the bill would be passed.

Does not the Senator feel that he is out there adventuring in the wild blue yonder, too? After all, the Senator does not control those who absolutely oppose it; there is a hard core—even if we should get it through. I have done my utmost as has the Senator from New Jersey to walk the extra mile.

We really, honestly, genuinely thought we were making a material compromise, a concession, in eliminating the cease-and-desist power. Remember, this is the legend on the package and it is what all the civil rights groups have been agitating for, what the unions have been agitating for—and look at the publicity this morning. Be fair to us. What did the publicity say this morning? It said we had given away a great deal. We did not write that; they did.

I beg the Senator to do that, in view of his devotion to the civil rights cause for so long, which I confirm, and the feeling he has that we have not tried to walk down the road toward it.

Mr. DOMINICK. I appreciate the kind compliments from the Senator from New York. I know how devoted he is to civil rights and the great leadership he has exhibited. I have only one observation concerning his last comment with respect to the media. I remember yesterday when he introduced amendment No. 878. He said: "No, we have not given up on cease-and-desist; we have just changed it around." I replied to the media that his amendment is purely cease-and-desist with the words changed. The media thinks this is a great compromise which will pass. I do not think so.

I would be happy to go back to my first proposal and put the dispute in district court, but I honestly thought by bringing it in the form contained in amendment No. 871 I was expediting the court proceeding. This is the procedure utilized in other civil rights law including voting rights and public accommodations. It is an area where it might be helpful, and if it is not I would be happy to go back to my original proposal, which is the district court trial and regular appellate proceedings. I want to accommodate the Senator from New York on this matter if I can, but I cannot compromise this irreconcilable view where he wants the major work done through an Executive agency which is responsible to no one.

Mr. JAVITS. This Executive agency is responsible to the courts and the court will issue a decree.

I would feel that we were answering one big thing and that is the question of the power of the agency to brand a respondent as guilty. I do think that is a big thing.

In terms of the procedural situation respecting the courts I believe hearing the case and certifying the record is an important power and it is a compromise.

But I really feel their inability to issue an order against a respondent, which is yielded by our amendment, is a very big thing, and it is my belief—and not necessarily that of the Senator from Colorado, he rebutted that; but those who espouse the court position generally took that point of view; that is, they felt that the power which was granted by cease and desist was the power to brand the respondent as a person who had done wrong, had discriminated, that this was so potent a power they did not want the Commission in zeal to exercise it.

So I think in our way, by giving only the court power to issue such an order—I want the Senator to understand that the power to contest it before the court issues an order is a very imporant point for the respondent. Under a cease-and-desist power he could have made his case, then the Commission would issue a cease-and-desist order; but under the way we have it now the Commission would have made its recommendation before there was a condemnation, as it were, of the respondent, and the respondent still could have his day in court in opposition to that before a judge actually rules.

I think that is a very important power. I can conceive of many cases in which it is important to get the reversal, if that is what one wishes to call it, before an order is issued, rather than after a cease-and-desist order is issued, considering employee relations, trade union relations, and relations with the public in terms of sales, and so on. So I think it is very important.

Mr. DOMINICK. Will the Senator yield to me for just a moment so I may comment on this matter?

Mr. JAVITS. I yield.

Mr. DOMINICK. I shall submit a statement later concerning my views of amendment No. 878, but in the meantime I rise to criticize what happens under the Senator's amendment. According to amendment No. 878 the Commission issues findings of fact and recommendations upon which the court issues its order, unless the respondent within 60 days asks that the court review the record. Previous to this the parties do not have any hearing before the court. The only new item as far as I can see, is the fact that the court itself would have jurisdiction over the admissibility of single pieces of evidence as they go into the hearings. Other than that the courts are virtually powerless because the court has practically no discretion insofar as entering its order after the Commission issues its recommendations.

Mr. JAVITS. If I may reply to that, because I think it points up the case, in the first place, there has been much argument by those taking the Senator's position that Lord knows what rulings on the evidence, and so forth, would be made by the hearing examiners for the Commission; that the Commission could write a cease and desist order on that; but under this proposal the court is able to make interlocutory rulings on the controlling questions of law in the course of proceeding before the Commission. So I think that is an important concession.

The other important concession is one I mentioned before. The respondent is not branded, as it were, as a violator of the civil rights law, with all that implies in public relations, and so forth, by the Commission, but the Commission's recommendations have to be dealt with by the court, and it is only the court that makes the order.

Of course, if a respondent is going to default, if he is not going to appear, if he is not going to contest, then a court,

even on the complaint, on default could enter an order. The court is not going to have a trial if there is no defense or if there is no answer; but if the respondent is going to answer and is going to contest, it seems to me we put him in a much more advantageous position to do so before the court.

In addition, the court may determine that it requires more evidence, in which case it can send it back to the commission to get more evidence, if it desires to get more evidence.

Mr. DOMINICK. Mr. President, will the Senator yield further?

Mr. JAVITS. If I may just finish.

So I think the rights which are conferred in terms of the respondent are very real and that there is not an automatic progression, the steamroller which the opponents of this idea have so strongly argued, of a commission rolling over a respondent and coming down with a cease and desist order. I think the commission can be stopped by way of a court intervening in an interlocutory way while the proceedings are going on, and, second, that nothing issues by way of determination until the court has not only considered the record but the opposition to the record interposed by the respondent. On those grounds, I think that there is a real difference.

I now yield to the Senator.

Mr. DOMINICK. The amendment as the Senator from New York has written it now is that the district court considers the findings of facts and recommendations only if the recalcitrant respondent makes a motion that the court do so. Otherwise the court just automatically affirms an order, which is the same as a cease and desist order—really just an administrative act.

Second, if the courts do decide to review the case, the district court duplicates the examination of the Commission issued findings of facts and recommendations, and then the case goes through the whole appellate procedure.

The net effect is—that such duplicative procedure is just going to delay the enforcement beyond anything my proposal would do.

Mr. JAVITS. No, because the big delay comes from the congested court calendar.

Mr. DOMINICK. Would the Senator oppose an amendment to return findings of fact responsibilities to the court?

Mr. JAVITS. No, I would not be in favor of that, because that is where the calendars are jammed. What I have tried to do—and the Senator has brought it up—is to make the Commission a special master or referee, which the court could appoint anyhow. That is all we are doing. We are enabling the Commission to act in the same way that a referee or special master could act.

Mr. DOMINICK. Will the Senator yield for one more question?

Mr. JAVITS. I yield.

Mr. DOMINICK. The Senator just brought up an interesting point. Suppose—and I do not think we should attempt this on the floor because we do not know where it will lead us—we included in the district court procedure language giving the district court judge the right to decide whether he wanted to try it himself or appoint a hearing examiner or a special master to hear the facts?

Mr. JAVITS. The court has that right, anyway. I do not know of any of these cases which have been referred to them, but I have no doubt they can do it. As the Senator knows, it is hard to decide these matters while one is standing on his feet debating the issue, but I believe the rules of civil procedure in the Federal district courts permit the appointment of a master to take the evidence.

Mr. DOMINICK. Then, under my amendment, one could do exactly what the Senator wants to do, only the court would be appointing him.

Mr. JAVITS. Except that they do not do it.

Mr. DOMINICK. There is no reason why they should not do it.

Mr. JAVITS. Let me ask the Senator, in return, just by way of speculation—and none of us knows what this means, because we need to check back on it—but under his amendment, would he care to give the court the right to refer the issue to the Commission as a special master?

Mr. DOMINICK. No, not to the Commission.

Mr. JAVITS. There we are.

Mr. DOMINICK. Not to the Commission.

Mr. JAVITS. I do not see why not. I say that poses the issue, as I see it.

Mr. President, I now deal with the differences between the Williams-Javits amendment and the bill, and also the differences between the Williams-Javits amendment and the so-called Dominick amendment, in order that Members of the Senate may be able to quickly gather the situation.

Under the bill, the complaint is filed in the commission. Under our amendment No. 878, the complaint is filed in the commission and in the district court.

Item No. 2: Under the bill, there are no interlocutory appeals for motions in the courts as of right to test questions of law which might arise—so that the normal rules of procedure would apply which say that there will be no interlocutory appeals or motions except in cases of clear illegality or unconstitutionality, in which case an application for injunction would lie.

Under the amendment, interlocutory court rulings are permitted on controling questions of law.

This is one of the things I have cited to the Senator from Colorado (Mr. DOMINICK) as being a very important point which changes substantively the provisions of the bill.

The third item is that cease-and-desist orders are issued by the EEOC under the bill, and the EEOC must petition for enforcement of the order in the court of appeals and the review of the findings is on the basis of the so-called substantial evidence test.

Under our amendment as now submitted, there is no cease-and-desist order issued. I have pointed that out. A cease-and-desist order would not issue, and the respondent's case is not terminated by the commission, but he still has the opportunity to test out the commission's findings of facts and recommendations as far as the court is concerned, so that the review, also under the substantial evidence test, comes before any order is issued.

That is very important, for this reason: Enforcement is a matter of discretion, and a respondent might very well be bound by the substantial evidence test in terms of a finding of fact, to wit, that he did or did not discriminate in employment. But as to enforcement in terms of back pay or anything of that character, I think there will be a very real opportunity for the intercession of the court in those situations.

Hence I think, Mr. President, there, too, the way we have drafted this amendment becomes a very critical aspect of the concession which we have made and the compromise which we have offered.

The last item, which I think bears repetition in terms of this comparison, is that the rules of evidence applicable in district courts apply to the EEOC hearings. That is provided by the bill now. Under our amendment, not only the rules of evidence, but the rules of civil procedure, which are applicable in the district courts, will be applicable to the EEOC procedures.

It seems to me, Mr. President, that under all of these circumstances, we are making a very sincere and a very precise offer of compromise in a really literal sense.

In general, the amendment makes substantial concessions. Also, I would like to approach this from the point of view of the quality and climate of adjudication, which are so important, and are substantially enhanced by giving the district courts a closer supervisory role over the Commission proceedings than the courts of appeal have under the bill, in the sense that they can act in an interlocutory way while the proceeding is going on, and there is nothing operative until the court actually issues the order.

Also, as I have pointed out, the question of remedy becomes very heavily a matter of consideration by the court, and there the court is not bound by the substantial evidence rule. That is only to back up the findings of fact.

So I think we have taken a really great step toward what has been contended for in leaving the freedom the courts have in shaping a decree—and they always do have that—to the court, as to what will be the remedy, what will be the recovery of wages, or rehiring, or whatever other remedy might be employed. And the courts have been rather inventive in terms of remedies in order to deal with situations of unlawful discrimination.

So it seems to me, Mr. President, that the combination of aspects of the case which we have offered becomes the critical element in this situation.

The situation which has brought on this whole bill is also of critical importance to the Senate in its consideration aside from these procedural matters to which we have constantly referred. Why are we here, and what brought us here? Why has the power which the commission has had and has exercised for some years been found inadequate? Why has there been such a great campaign abroad in the land respecting the necessity for

strengthening this bill until it has become one of the most urgent aspects of reform in this country?

The reason is, Mr. President—and our committee report deals with that critical question—that while some progress has been made toward bettering the economic position of the Nation's minority population, which is the avowed goal of social and economic equality, it is still far from a reality.

For example, we find that the median family income for Negroes in 1970 was $6,279, while the median family income for whites during the same period was $10,236. There is support for this statement in the statistics of the Census Bureau, which show that blacks are concentrated in lower paying, less prestigious positions, and are largely prevented from advancing to the higher paid and more prestigious positions. Blacks constitute about 10 percent of the labor force, and yet they have only 3 percent of the jobs in the high-paying professional, technical, and managerial spots.

It is estimated, for example, that in those industries which have the highest earnings capabilities—and they are listed, according to the Bureau of Labor Statistics, as printing and publishing, chemicals, primary metals, fabricated metals, nonelectrical machinery, transportation equipment, air transportation, and instruments manufacture—blacks, instead of having 3 percent, the figure I mentioned before, are down to 1 percent of those in the professional and managerial positions in these, the best-paying industries.

On the other hand, when you look down at the bottom of the scale, in the lowest-paying laboring and service worker categories, you find that blacks account for roughly a quarter of all the jobs.

These figures show up again in respect to unemployment. The unemployment rate for blacks, especially for black teenagers, has been absolutely appalling. For example, the figures, here again available for 1970, show that while 4 percent of white males were unemployed and the unemployment rate for all whites was in the area of 5.5 percent to 6 percent, about twice that percentage of all blacks were unemployed, and even in the managerial and professional positions, the area with the lowest unemployment rate, black unemployment was roughly one-third higher than white unemployment.

Then when we compare these statistics—because they, too, are a minority sought to be reached by this measure—with the statistics on Spanish-speaking Americans, we do not have nearly as complete data, though there are 7.5 million persons in the United States in that category, but we find that their family income is even less than that of blacks for close to a comparable year, 1969 as against 1970; and we find also a higher incidence of the worst kind of poverty, with roughly one-seventh of those families having incomes of less than $3,000 a year, and again also we find a fairly heavy concentration of those families in the lowest paying occupations, with only a quarter of them in white collar jobs. That compares with over 40 percent for the general average in white-collar jobs in the United States, and with an overwhelming proportion, almost 60 percent of the males who speak Spanish in blue-collar occupations.

Then as to the unemployment rate: The last year for which we have figures, which is 1969 again, bears out the evidences—and the courts have held in discrimination cases that the ultimate facts can be used as evidence. The evidences of discrimination include, for example, the fact that the unemployment rate for the Spanish-speaking Americans is generally estimated at twice the national average.

Also, as this measure deals with the question of discrimination on the ground of sex, we have a situation which is no less serious so far as working women are concerned. The disparate treatment of women has been shown in studies which have been undertaken by the Women's Bureau.

Mr. MANSFIELD. Mr. President, will the Senator yield for a request, without losing his right to the floor?

Mr. JAVITS. I yield.

AUTHORIZATION TO CONSIDER A TREATY ON MONDAY, FEBRUARY 14, 1972

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that at 1:30 p.m. on Monday next, it be in order to take up the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed of the Ocean Floor and in the Subfloor Thereof. It was reported unanimously by the Committee on Foreign Relations today. It will be Executive H, 92–1, on the calendar. I ask unanimous consent that I may make this unanimous-consent request at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, it would be the intent of the leadership to ask for a vote on that noncontroversial treaty at 2 o'clock on Monday next. I ask unanimous consent that the vote be held at that time.

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

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. JAVITS. Mr. President, may I suggest to the Senator from Georgia, who has been waiting, that I have no desire but to express the greatest courtesy to him. But I do not wish to prejudice any rights we have, considering the existing situation. I say this publicly, because I have no other way of speaking to the Senator. If he would be kind enough to confer with Senator WILLIAMS, I would endeavor, based upon his talking with Senator WILLIAMS, to work out his time problem, as I gather that he is anxious to get away, and I am keeping him here.

Mr. GAMBRELL. I appreciate the courtesy of the Senator. I certainly do not wish to prejudice his right to the floor. I simply wish to enter a motion, which I understand I must enter in person. I would not prejudice the Senator's rights to the floor.

Mr. JAVITS. I do not understand what rights it would prejudice, and I beg the Senator to speak with the Senator from New Jersey.

Mr. GAMBRELL. I will do that.

Mr. JAVITS. Mr. President, to continue, this bill also affects sex discrimination in employment, and the situation for working women in the country is very serious. They, too, are being seriously discriminated against. I might say—raising my voice a notch—that I hope the women of the country will realize what they have at stake in this bill. There is a great deal of talk about the liberation of women, and they seek it in many ways; and in my judgment they are entirely justified in many of the objectives they espouse. Here is the whole tremendous issue of job discrimination as it affects 30 million employed women in the Nation. They have the power and effect of backing up the desire of the majority leader to get this bill done. If 30 million women really got agitated about the fact that here is a bill on the floor which affects them and is threatened with extinction, it would count. I hope very much that they will listen and will manifest their strength where it really would count tremendously—on this bill.

As I have said, there are approximately 30 million employed women in the country. That is close to 40 percent of the work force, and it has gone up tremendously. It has increased by approximately three-quarters since the end of World War II, about 1947, until the last recorded figure which came a few years ago. In the same period, the increase of men in the work force has been only about one-fifth of that. So this is a tremendously burgeoning area. Notwithstanding the tremendous place of women in the world of work, their rate of advancement has been much slower in terms of high positions and all the other activities they carry on.

For example, the figures still remain very low with respect to their income. The last time for which we have figures, the salary, for example, for women scientists was about one-third less than it is for men. Women earned, in terms of factory employment, only about two-thirds of what a male would make.

Also, it is very significant that most women earned less than roughly $5,000 a year the last time we had figures, which is a few years ago, in 1968, while only 3 percent of the women earned more than $10,000 a year, and 28 percent of the men, or roughly 10 times as many, earned more than $10,000 a year.

So here is an area of very great discrimination, correlated, because they do have similar characteristics to discrimination on grounds of color and faith, and really involving vast numbers of people—indeed, numbers as vast as the total of the minorities, who are always thought of in terms of discrimination. So women have a very critical role, and I hope they will begin to play it.

It is very interesting to me that in the

amendment which the distinguished Senator from Nebraska proposed today, on which we had a very close vote—as close as you can possibly make it—the exception was made of suits under the Equal Pay Act. That is an act intended to protect the pay of women, and it indicates a consideration of the problems which are brought on in terms of women, by the recognition that they had to be exempted from the operation of the amendment which the Senator proposed.

Mr. President, I repeat that women should interest themselves in this bill instead of thinking—as most do, I am sure—that it is something which does not directly concern them. It would make a great difference in the way this bill is being regarded here. You have women and minorities. You have a majority of the workers of the country, when you add the two, and even eliminate the duplication—or, at least half or close to half of the workers of the country—who would have a direct interest in a bill against discrimination in employment such as the one before the Senate. I regret that, seemingly, that has not been recognized or embraced as a critical, important element of what is here sought to be legislated.

Similarly—I think it is very important—the effect upon the total economy of the country of passing a measure such as this has been materially overlooked by employers. As employers are sellers of goods and of services, I see a critical importance to them in terms of their markets to have a more prosperous economy. Some years ago, when I was engaged in the civil rights struggle, there were large figures which were quoted as to the potential of the American economy if we eliminated employment discrimination both in hiring and in upgrading workers. As I recall the figures, they were originally developed by Oveta Culp Hobby when she was in the Cabinet of President Eisenhower. As I recall it, at that time, at those prices—under today's prices—but materially increased by perhaps as much as 25 percent, she had calculated the economic loss at $30 billion a year from failure to upgrade the minorities appropriately as they should be upgraded in respect both of having jobs and supervisory positions.

This is a critical matter as we approach the totality of the point we are making here, because $30 billion multiplied by, say, in round figures, one-third, would make a total of $40 billion which would mean a fat bulge in the Federal income tax "take," as most of the families who would be dealt with in that way come out of the lowest income brackets, or may pay no tax at all—many being welfare clients on a very large scale.

So what is involved here is critically important and very extensive.

Another aspect of the matter which I think is also significant is the burgeoning need of the American economic system for what are called the quasi-professionals.

If my memory is correct, and I think it certainly is correct on the order of magnitude of jobs which are expert or quasi-professional in character, right now they are something in the area of 15 percent of the total working force. I have seen many estimates that this will move up, in round numbers, to 25 percent before 1980. If that happens and it is bound to happen, I think almost the casual observer can see how it is happening almost under our eyes, there is a vast problem in training which faces all American business, because discrimination is discrimination not only in jobs, but also in the training that leads to jobs. So that we again have an opportunity for major utilization of this measure once we give it some teeth.

That brings me to the point which we have made constantly in respect to this agency, moving now from the general to the highly specific. Let us remember that the agency has a very limited power right now, and that that power is essentially the power of conciliation and that is about all. People do not like to be considered discriminatory. That is about as far as the Commission can go. Everything else depends on the individual, once we get by the prestige of the agency itself as an agency of the United States. That is, the individual who is discriminated against, to be able to sue, unless there is a pattern and practice of the Attorney General to sue—and that is by no means the prevailing case. The result has been a relative ineffectiveness on the part of the Commission. Worse than ineffectiveness, that ineffectiveness has been pyramided and proliferated by the buildup of a backlog so far as the Commission is concerned. That backlog is staggering, precisely because it found itself without any real power. So that it is simply ineffective and cases pile up and there is no place for them to go but into the courts—and that is expensive and slow. So they pile up and pile up and pile up.

When we dealt with this bill, our deep efforts in respect of the bill were to cut down the workload, which was intolerable, which simply arms the opponents of this legislation with more arguments and a constant number of arguments against the fact that we have piled up and pyramided a vast number of cases. So the cases pile up, because the Commission has no power. Then it is argued that the Commission is valueless, because the cases are piling up. One feeds upon the other.

Now the facts show, Mr. President, that since its inception, the Commission has received 81,000 charges. Of this number, the Commission has been able to achieve totally, or even partially, conciliation in less than half. This means that in a significant number of cases, the aggrieved individual was not able to achieve any satisfactory settlement of his claim through the Commission and was forced either to give up his claim or, if he found the necessary money and time, to pursue it through the Federal courts.

Now this becomes a very real problem because it piles up and piles up and piles up. For example, in fiscal 1970, 14,129 charges were filed with the EEOC. In fiscal 1971, the number increased to 22,920 charges. The Commission is now estimating that 32,000 charges will be filed this year alone.

Obviously, all we are doing is feeding the opponents of the Commission with arguments by simply denying to the Commission the opportunity to cut down its tremendous workload through effective enforcement power. They have no effective enforcement power. They are simply unable to progress in cutting down their workload. So it will grow and grow and grow and build up and arm those who are interested in knocking down the Commission with more ammunition to knock it down, precisely because they profit in that way from denial to the Commission of the opportunity to cut down its workload.

So, Mr. President, I believe that we have a situation which is, as I say, proliferating upon itself and is simply building up and building up the bad picture which we have, so far as the Commission is concerned.

These comments, Mr. President, I thought were a necessary background with respect to the reasons why we actually reported out the bill and why it is not fair to say, "Well, you have got a Commission and the Commission is functioning. We give it some money and a staff. What are you hollering about?"

We point out that, on that basis, we have got a complete breakdown in the Commission's possibilities for cutting down its workload or carrying on any of its business.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from New York yield, without losing his right to the floor?

Mr. JAVITS. I am happy to yield to the Senator from Montana.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I am about to propound a unanimous-consent request.

Mr. President, I ask unanimous consent that the distinguished Senator from New York (Mr. JAVITS) may yield to the distinguished Senator from Georgia (Mr. GAMBRELL) for the sole purpose of permitting Senator GAMBRELL to enter a motion to reconsider the vote by which the Hruska amendment was rejected earlier today; and further to propose that the Gambrell motion be put to the Senate Tuesday next at 1 p.m. and that a vote occur thereon at 2 p.m., with the time for deliberation thereon to be equally controlled and divided by the Senator from Georgia (Mr. GAMBRELL) and the Senator from New Jersey (Mr. WILLIAMS); and further that upon the making of the motion by the Senator from Georgia (Mr. GAMBRELL) the floor revert to the Senator from New York (Mr. JAVITS) without his right to the floor having been prejudiced.

Mr. ALLEN. Mr. President, reserving the right to object—and I shall not object—does this mean that the distinguished Senator from New York is going to occupy the floor from now until Tuesday and that the floor will be returned to him on Tuesday?

Mr. MANSFIELD. This is just for the purpose of making the request.

Mr. ALLEN. The Senator is not going

to be discussing this amendment of his until Tuesday, I trust.

Mr. MANSFIELD. No, it applies with respect to the agreement.

Mr. GAMBRELL. Mr. President, reserving the right to object, I have not agreed to this request, and I do not think the record should suggest that I have.

Mr. MANSFIELD. The Senator has not agreed. It was without his knowledge.

Mr. GAMBRELL. Mr. President, I did not propose this request, and I do not want to agree to it without a consultation with the Senator from Nebraska (Mr. HRUSKA).

It was my understanding that I was going to make a motion, with the understanding that it not be voted on this afternoon. So, I object.

Mr. MANSFIELD. Mr. President, I withdraw the request.

Mr. MANSFIELD subsequently said: Mr. President, I renew the unanimous consent request which I made, and I understand that it now has met with the approval of the main parties concerned.

Mr. JAVITS. Mr. President, that is quite satisfactory with me. There is one point, however, that I wish to be clear on. That is that we may move to table. We would not be cut off from that right.

Mr. MANSFIELD. It would be on the motion to reconsider.

Mr. JAVITS. That is right. However, I want to make sure that we are not precluded from moving to table that motion at the end of the time provided for its discussion. In other words, we could move to table before the vote on the motion to reconsider was had.

Mr. HRUSKA. Mr. President, if the Senator would yield, if it would be the sense of this unanimous consent agreement that a motion to table would not occur before 2 p.m., that would be agreeable with us.

Mr. JAVITS. I understand. It would be at the end of the time for debate.

Mr. HRUSKA. Yes. A motion to table would then be in order, and failing passage of that motion, we would then vote on the motion to reconsider.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GAMBRELL. Mr. President, under the agreement just made, I at this time enter the motion to reconsider the vote by which the Hruska amendment was rejected.

Mr. JAVITS. Mr. President, I yield for that purpose.

The PRESIDING OFFICER. The motion is entered.

Mr. JAVITS. Mr. President, I must apologize to the Senator from Georgia (Mr. GAMBRELL). He will realize now, I think, that I was not being arbitrary.

AUTHORITY FOR COMMITTEE TO REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees have authority to report during the hours of 10 to 1 on tomorrow, February 10, 1972, together with any additional views if desired.

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

DEATH OF LLEWELLYN THOMPSON

Mr. JAVITS. Mr. President, I call to the attention of the Senate the passing of a dear friend and great American, Llewellyn Thompson, former Ambassador to Moscow and top diplomat of the United States. I know I am joined by many Members of the Senate in extending deepest sympathy to his wife, Jane, whom my wife and I know so well and to his children.

I wish to convey publicly my appreciation and the appreciation of all the people of New York for Llewellyn Thompson's great service to our country. He was a unique leader in respect of our relations with the U.S.S.R. and I attribute to his gifted diplomacy much of the atmosphere in which progress was possible on disarmament, Berlin, Austria, and other major aspects of relaxation of tensions and peace in United States-U.S.S.R. relations.

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

[From the New York Times, Feb. 7, 1972]

LLEWELLYN THOMPSON DIES; FORMER ENVOY TO MOSCOW

(By Alden Whitman)

Perseverance, patience, a willingness to talk and a capacity for friendship were all qualities that served to make Llewellyn E. Thompson Jr. one of the nation's most effective diplomats in often-difficult dealings with the Russians during the cold war. As an exponent of the art of quiet diplomacy, he managed to keep open the channels of communications between the United States and the Soviet Union at times when the two super-powers were barely on speaking terms.

For almost 30 years, starting in 1940, Mr. Thompson was involved with the Russians. He was twice Ambassador to Moscow—from 1957 to 1962 and from 1967 to 1969. For 10 years, ending in 1955, he talked with the Russians about an Austrian State Treaty. There were 379 meetings before the accord was finally worked out, a feat of endurance for which he received the United States Distinguished Service Award.

Once asked how he managed with the Russians, Mr. Thompson replied:

"I am a great believer in quiet diplomacy. I think that in the long run it gives a better chance for finding successful solutions to our problems."

The tall, slim, rather reserved envoy might have added that he was a great practitioner of personal diplomacy. When he was in Moscow, a day seldom passed when he did not meet high-ranking Soviet officials in one social setting or another and engage them in conversation. He was on cordial terms with Andrei A. Gromyko, the Foreign Minister, and on friendly ones with Nikita S. Khrushchev, the Premier, often talking with him for hours on end.

EXONERATED BY KHRUSHCHEV

In the severe Soviet-American crisis in 1960 over the U-2 flight, Mr. Khrushchev publicly exonerated Mr. Thompson from responsibility for the incident. And during the Berlin crisis of 1961, the Soviet leader went out of his way to drink a toast to the Ambassador.

Soviet confidence in Mr. Thompson's integrity (which did not always extend to his Government) sprang in part from the fact that he spoke fluent Russian, that he took the trouble to see as much of Soviet life as possible and that he entertained thousands of Russians at Spaso House, his official residence.

Keeping himself at low pressure professionally produced manly strains on Mr. Thompson, who was widely known as Tommy. One evidence was the glass of milk and the package of graham crackers that were prominent amid the clutter of his desk and attested to his stomach ulcers. He also sought relief from his tensions in skiing, golf and poker.

"Tommy had the patience of a marble statue at the poker table," a fellow player recalled recently. "I've never seen anyone fold so many hands while waiting for the right cards. His judgment was superb."

HIS OWN ASSESSMENT

Although Mr. Thompson's achievements in Moscow were considerable—the cultural exchange agreement, paving the way for the nuclear test ban treaty, setting up the Vienna "summit" between Mr. Khrushchev and President Kennedy—he himself thought they were essentially negative.

"I don't think I ever made things worse, although there are great opportunities for causing harm here," he said at the end of his second Moscow mission in 1969.

As a Soviet expert, Mr. Thompson ranked with George F. Kennan and Charles E. Bohlen, who also served in Moscow. Unpretentious and conservative in dress and manner, Mr. Thompson was almost the reverse of the confident, elegantly casual Mr. Bohlen. And he was more down to earth than the rather intellectually arrogant Mr. Kennan, who was an author of the American containment policy toward the Soviet Union.

Discussing Mr. Thompson's ambassadorial role, Prof. Adam Ulam of Harvard, the Soviet affairs specialist, said recently:

"Within the limitations of American policy toward the Soviet Union, Mr. Thompson was the most effective of our Moscow envoys over the last 20 or 25 years. He understood Soviet motivations very clearly, as he demonstrated in the Cuban missile crisis of 1962. He recalled then that the Russians were not so much concerned with Cuba or missiles as with obtaining a bargaining position on other matters. His advice to President Kennedy was more profoundly based than that of many of his counselors."

BORN IN COLORADO

The son of a rancher, Mr. Thompson was born in Las Animas, Colo., on Aug. 24, 1904. As a youth, he worked on his father's spread, in a general store and in a logging camp in western Washington. On a boat trip from Seattle to Los Angeles, he met a retired consul, whose account of his life as a diplomat excited and inspired the young man. Back home, he enrolled in the University of Colorado and worked his way through.

After receiving his bachelor's degree in 1928, he attended the Foreign Service School of Georgetown University in Washington and was appointed a Foreign Service officer in January, 1929. He began his career as a vice consul in Ceylon, shifting to Geneva in 1933 and moving up to consul in 1937. Meantime, he served as an American adviser at conferences in Geneva of the International Labor Office. During most of 1940, when the war in Europe was escalating into World War II, Mr. Thompson attended the Army War College in the United States.

The following year he was posted to Moscow as second secretary and consul at the American Embassy. In the summer of 1941 the Germans were hammering at the gates of Moscow, and the diplomatic corps moved with the Foreign Ministry and most of the Soviet Government to Kuibyshev on the middle Volga. Mr. Thompson was assigned to stay in Moscow to look after the embassy and other United States property and interests.

"VERY GRIM PERIOD"

In what he later called "a very grim period," the diplomat studied Russian and attended the theater. The Nazi siege was

lifted in August, 1942, but the Russians did not forget that Mr. Thompson had shared their hardships in good part. Their special feeling for him traced to his having stuck it out in the menaced capital. From the United States he received the Medal of Freedom for handling the embassy "at the risk of capture" by the Germans.

In 1944, Mr. Thompson was assigned to London and two years later he was brought back to Washington. There he was given a series of increasingly important administrative jobs—chief of the Division of European Affairs, deputy director of the Office of European Affairs and Deputy Assistant Secretary of State for European Affairs. In his progression up the ladder, he acquired the professionalism that was to distinguish his diplomacy. He also gained a reputation for imperturbability, which was to help advance his career.

In June, 1950, Mr. Thompson was assigned to Rome as counselor of embassy, and two years later President Harry S. Truman sent him to Vienna, first as High Commissioner and then as Ambassador. Much of his time was occupied in negotiations for a Trieste settlement and with the Austrian State Treaty.

Both Italy and Yugoslavia claimed Trieste, the key port at the head of the Adriatic. It took nine years, ending in 1954, to divide the region between them on terms both could accept.

"EVEN RUSSIANS APPROVED"

He spent the climactic eight months of the talks in London, meeting regularly and quietly with Italian and Yugoslav representatives.

"It [the accord] was one of the few things we have done that even the Russians approved of," Mr. Thompson said at the time.

Simultaneously, he was working behind the scenes on the Austrian treaty, by which Austria regained her independence in 1955 in return for a pledge of neutrality. The military forces of the United States, Britain, France and the Soviet Union were also withdrawn under the treaty. Its final terms were worked out in 11 days of furious and arduous bargaining, during which Mr. Thompson lost 17 pounds.

The experience with the Austrian treaty and the Trieste accord reinforced his belief in the value of careful negotiation out of the spotlight of publicity. Mr. Thompson often referred to these pacts as "open covenants secretly arrived at."

At one of the peaks in the cold war in 1957, President Dwight D. Eisenhower chose Mr. Thompson as Ambassador to Moscow. Within a few months the Soviet leaders began to press for a summit conference, and the new envoy was called up to undertake the sensitive reporting and negotiating job that cautious United States policy required.

URGED KHRUSHCHEV TRIP

Although a formal summit did not eventuate, Mr. Thompson urged on the State Department the wisdom of inviting Premier Khrushchev to the United States. This trip, which required months to arrange, took place in 1959 and resulted in a notable relaxation of Soviet-American tensions. Mr. Thompson accompanied Mr. Khrushchev on his visit, which culminated in a meeting with President Eisenhower at Camp David, Md. "The spirit of Camp David," hailed by Mr. Khrushchev, was a fruit of Mr. Thompson's patient and tenacious diplomacy.

Mr. Thompson also helped lay the groundwork for the Paris summit of 1960, which was aborted after a U–2 overflight of the Soviet Union that was directed by the Central Intelligence Agency. The envoy's relations with Soviet leaders remained good despite the episode, and he was continued at his post for almost two years by the Kennedy Administration.

Having been made a Career Ambassador in 1960, he was retained as a State Department adviser when he left Moscow in the fall of 1962, and he was Acting Deputy Under Secretary of State for Political Affairs from 1964 to 1966, when President Lyndon B. Johnson appointed him to Moscow again. Arriving there in January, 1967, he helped to arrange the meeting later that year between the President and Premier Alexei N. Kosygin in Glassboro, N.J.

SECOND TOUR DIFFICULT

Mr. Thompson also sought to deepen the détente by keeping alive the possibility of limiting the Soviet-American nuclear missile race. But his second tour in Moscow was difficult, owing chiefly to the Vietnam war, and he never had a single serious talk with Leonid I. Brezhnev, the principal Soviet leader.

[From the Washington Post, Feb. 7, 1972]

LLEWELLYN THOMPSON, FORMER TOP ENVOY, DIES

Llewellyn E. Thompson, 67, U.S. ambassador to the Soviet Union during the Khrushchev era, died of cancer yesterday at the Clinical Center of the National Institutes of Health in Bethesda.

A career diplomat of 40 years service, Mr. Thompson was ambassador in Moscow from 1957 to 1962 and again from 1967 to 1969.

Mr. Thompson, known for his close relationship with Soviet leaders, was a presidential adviser when he was not serving as an ambassador.

He was "one of the outstanding diplomats of his generation," Secretary of State William P. Rogers said last night in a statement.

"President Nixon and I will miss (his) sage advice," Rogers added. "His counsel and skill helped guide our country through the difficult period with which it was suddenly confronted at the end of World War II."

Rogers also cited Mr. Thompson's "invaluable advice" during the Cuban missile crisis.

In addition, he praised Mr. Thompson's contributions to settling the dispute between Italy and Yugoslavia concerning Trieste and negotiation of the treaty that ended the post-war occupation of Austria.

The secretary further lauded the ambassador for his role in negotiation of the nonproliferation treaty and formulating policy on limitation of strategic weapons.

"The country has lost a wise and faithful counselor."

Mr. Thompson died shortly before 5 p.m., an NIH spokesman said.

LLEWELLYN THOMPSON—MASTER OF HIS JOB AT A CRUCIAL TIME

(By Marilyn Berger)

Llewellyn E. Thompson Jr., who died yesterday in Bethesda, was the right man in the right place at the right time when he was sent to Moscow in 1957 as United States ambassador.

It was a rare moment in history, when for the first and only time a Soviet leader was willing to open a dialogue with the American envoy to the Kremlin. And in personal dialogue, "Tommy" Thompson, as he was known to everyone, excelled.

Nikita S. Khrushchev was reaching the peak of his power. His political opponents were all but vanquished; he had exercised the title he had earned in 1956 as the "butcher of Budapest." Shortly after Mr. Thompson's arrival, Sputnik launched the Russians into near euphoria, and the volatile Khrushchev was promising to "overtake and surpass" the United States in consumer goods as well.

During his five years as the American ambassador, Mr. Thompson, who succeeded one of the greatest Soviet experts, Charles E. (Chip) Bohlen, developed an extraordinary personal relationship with Khrushchev. The Soviet leader trusted him because he knew he would get from Mr. Thompson a clear and accurate assessment of U.S. policy. Perhaps even more important, he knew that Mr. Thompson would convey his views precisely.

"He was the finest of the old type of confidential diplomat," said Richard T. Davies, a Sovietologist who served in Moscow during part of the Thompson term. "He was a man at his best in the kind of personal relationship that used to be more important than it is today."

Today's diplomats, and Mr. Thompson himself in his most recent service as a delegate to the Strategic Arms Limitation Talks, are endowed with little leeway, being under a constant requirement to check with the White House.

Mr. Thompson, an exceedingly gentle, warm, soft-spoken man of quiet charm that seemed a blend of old world and old frontier from his Colorado upbringing, attributed much of his success to the fact that he never gave an interview from the time he went to Moscow.

As a result, he felt, he not only had good relations with Khrushchev, but also preserved close ties with the Soviet ambassador in Washington, Anatoly F. Dobrynin. "Anatoly knew that Tommy wouldn't go blabbing about," said one admirer. Mr. Thompson, whose self-effacement was almost legendary, once said that if he did speak out he would want to say what he thought, and that would have surely reduced his ability to negotiate. Thus he preserved his anonymity and stayed far from the lecture circuit. As he once said, "My reticence cost me a lot of money."

He said he never had any interest in writing his memoirs either, because he was more interested in the here and now. "I'd be bored to tears going back over all the old stuff," he confided. But he did talk about picking up a tape recorder some day to reminisce about Khrushchev.

Officials who knew him at the time say that Mr. Thompson saw the Soviet leader at least twice a month, more than any other diplomat in Moscow—including those from Eastern Europe. Looking just after Khrushchev died, back on these years, he said: "He opened doors and windows that can never be fully closed again. He cut back the KGB (secret police) to size." He often wondered aloud whether the United States might not have done more to lead the Russians further down the Khrushchev path.

Newspaper clips are full of reports of his marathon talks with the Soviet leader. In 1961, for example, there was a four-hour session in Novosibirsk, where the Soviet premier was on a farm tour and where he invited the American ambassador to make an unprecedented journey. Before Mr. Thompson completed his tour of duty in 1962—which turned out to be the first of two as ambassador to the Soviet Union—Khrushchev kept him for a five-hour talk. They even took family sleigh rides together.

His expertise was relied on in the Cuban missile crisis in 1962 when the two superpowers came close to nuclear confrontation. It was to Robert F. Kennedy that he gave the credit for the proposal to answer the less-belligerent of Khrushchev's two letters, but Mr. Thompson's assessment of how Khrushchev would respond weighed in heavily.

Robert F. Kennedy, in his memoir of the Cuban missile crisis, "Thirteen Days," wrote that President Kennedy, seeking all views, "wished to hear from Tommy Thompson, former (and now again) ambassador to the Soviet Union, whose advice on the Russians and predictions as to what they would do were uncannily accurate and whose advice and recommendations were surpassed by none."

His sure ability to assess the Russians predated his years of service as ambassador in Moscow. When he was the U.S. ambassador

in Vienna, he was awakened one night with a report that Soviet tanks were headed for the Austrian border. What was the United States going to do about it if they didn't stop? he was asked. "Forget it," Mr. Thompson reportedly replied as he turned to go back to sleep.

Mr. Thompson was certain that the Russians would not let the Hungarian freedom fighters win; he was equally certain that the Soviets were not interested in spreading the conflict, particularly not into Austria, whose neutrality Mr. Thompson himself had helped to seal in the Austrian peace treaty.

During his years in the Soviet Union as ambassador to the turbulent Khrushchev, he and his wife, Jane, frequently entertained at Spasso House, inviting Russian artists, composers, educators as well as foreign ministry people to parties both large and small.

He saw the "Spirit of Camp David" come and go, saw the U–2 go down in Russian territory and suffered through a Berlin crisis. He accompanied Khrushchev on his visit to the United States—the one where he examined corn in Iowa and was deprived of his visit to Disneyland—and had his wife quietly pass the word to Nina Khrushchev that perhaps her husband shouldn't speak out quite so much on American domestic politics.

Mr. Thompson, whose Russian was fluent, was the first American ambassador ever to go on Soviet television in a Fourth of July prime-time appearance in which he urged a freer flow of information to remove misunderstandings between the American and Russian people.

Mr. Thompson's relations with the Russians started well before his appointment as ambassador. From 1940 to 1944, he was second secretary and consul in the American embassy in Moscow, volunteering to stay behind to report to Washington on the Nazi advance when the diplomatic capital was moved to Kuibyshev.

A bachelor in his 30s at the time, he spent the long, cold nights of the winter of 1941 perfecting his Russian and going to the one theater that had remained open. Mr. Thompson once estimated that he had seen the ballet "Swan Lake" and the opera "Eugene Onegin" about 50 times each. For remaining in charge in Moscow "at the risk of capture," he later received from the State Department its Medal of Freedom, the first of many honors he was to receive.

As he finished his first tour as ambassador to Moscow in 1962, he was praised by President Kennedy for "brilliantly furthering our country's foreign policy objectives during a period of international tension." He was given the highest honor the government can bestow on a civilian, the President's Award for Distinguished Federal Civilian Service.

In 1971, Mr. Thompson was honored by his colleagues with the Foreign Service Director General's Cup. This capped a 40-year career—he was fond of recalling that President Coolidge appointed him—that took him to Ceylon, Switzerland, Cuba, England, Italy, Austria, and Russia. Secretary of State Dean Rusk described him as "one of our great professionals," an assessment that was lifted in urging him to reluctantly accept a second tour of duty as ambassador to Moscow in 1967.

Two major achievements built Mr. Thompson's reputation as a negotiator: the Austrian State Treaty and the Trieste settlement. Friends would invariably link his skill at the negotiating table with his virtuosity at the poker table. The Sunday night game in Moscow became something of a legend. "He was one of the deadliest poker players in the United States," said one man who dared not play for fear that he'd "still be sending payments to Llewellyn E. Thompson."

Mr. Thompson calculated the odds, said one official who served with him, adding: "There's no doubt about it. That kind of mind is applicable to negotiations. When he pulls a bluff he counts on winning it. As for negotiations, there's an action-reaction. It involves presenting your position in such a way as to bring the other side along toward you. Tommy knew how to do that."

He also knew when to stand firm. He calculated when the Russians were prepared to make a move, and when nothing the United States would put into the mix would make any difference. For example, despite Soviet profession of interest in mutual force reductions, Mr. Thompson remained skeptical. He felt that detente would make it more difficult for the Soviets to control their Eastern European neighbors, which could mean trouble for them, and in turn for the United States.

Arms control was another matter. The Russians, he believed, had become convinced that spending more on weapons would not buy greater security. Thus, he reasoned, a deal might be arranged.

Mr. Thompson's feeling was that only one country in the world, the Soviet Union, could do lethal damage to the United States, and that foreign policy should therefore be concentrated on improving prospects for detente with Moscow. As a result of this belief, President Nixon's almost precipitous move toward China left him skeptical. Mr. Thompson's first question was: "Are we paying a price with Russia?"

Llewellyn E. Thompson was born in Las Animas, and worked as a young man on his father's small sheep and cattle ranch.

It is said that while returning home from another job, in Washington State, he met a retired American consul whose stories of the diplomatic service excited and inspired him. After working his way through the University of Colorado, he held a job briefly as an accountant until receiving an appointment as vice consul in Colombo, Ceylon, in 1928.

He served in increasingly responsible posts at home and overseas. During his term as high commissioner to Austria, Mr. Thompson slipped away in January, 1954, ostensibly for vacation.

Instead, characteristically avoiding publicity, Mr. Thompson went to London where he worked for eight months with a British colleague to resolve one of the most troublesome problems left over from World War II, the question of Trieste.

For nine years both Italy and Yugoslavia had claimed the Adriatic seaport. Finally, in a 1954 agreement, the region was divided between them. Mr. Thompson recalled that the entire work almost fell apart over a disagreement involving an area the size of one city block. By standing firm, he felt, an impasse was averted.

The next year, after 10 years of give and take between East and West regarding a treaty to end the post-war occupation of Austria, Mr. Thompson got an agreement hammered out in 11 days of intensive bargaining. In his view, the Russians had finally made the decision to conclude an agreement. When they come to that point and not before, Mr. Thompson used to say, they will negotiate and make concessions. Mr. Thompson's strength lay in recognizing when the right moment had arrived.

In the years between his two assignments as ambassador to Moscow, he served as an ambassdoar at large, and became briefly involved in the effort to open negotiations with the North Vietnamese.

Wherever he served, Mr. Thompson was popular. Nowhere was he more sought after as a dinner guest, however, than in Washington. When at the age of 44 the attractive bachelor finally married, the headline was: "Bad news for hostesses." The story noted the disappearance of that always needed "extra man" from Georgetown dinner tables.

Mr. Thompson met his wife, the former Jane Monroe Goelet of Boston, on a trans-Atlantic voyage. They were married in 1948. When they were in Vienna at the time of the Hungarian uprising, Mrs. Thompson organized a soup kitchen to feed 5,000 refugees a day.

Mrs. Thompson, an artist, has one daughter, Fernanda Goelet, from a previous marriage. The Thompsons have two daughters, Jenny and Sherry Anne, who spent the years in Moscow with their parents.

In recent years, Mr. Thompson was active in a mutual fund business, as an adviser to the Strategic Arms Limitation Talks delegation, and on CIA's Board of National Estimates, a group that keeps tabs on world-wide intelligence.

The Thompsons lived at 3915 Watson Pl. NW where the ambassador spent much of his time in a cheerful booklined study overlooking a small garden. Russian icons, in perfect state of preservation, and each with its own memory for the Thompsons, decorated the walls. Throughout his illness, which required several visits a week to the National Institutes of Health for radiation treatments, Mr. Thompson continued working and seeing friends, deferring to his condition only by taking afternoon naps. He traveled frequently to Minneapolis on business and to California to see his daughters.

Mr. DOMINICK. Mr. President, I would say along the same line that I am not sure if the Senator from New York knows it, but Mr. Thompson was a native Coloradan.

Mr. JAVITS. Really?

Mr. DOMINICK. He was a marvelous person. I was extremely fond of him. His loss is a loss deeply felt by this Nation and by our diplomatic branch.

I join the Senator in the expression of deep regret to his family.

EQUAL EMPLOYMENT OPPORTUNITIES ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

Mr. JAVITS. Mr. President, we felt, because of the plethora of cases and the inability to have any way in which those cases could be disposed of by virtue of the constant building up of a backlog in the absence of any ability to curtail the number of cases through the power of the Commission to decide, that we were in an impossible situation. Hence, Mr. President, there was the granting of the cease-and-desist power to the Commission which the committee voted for and reported in the bill.

Let us really analyze what this means. What is the cease-and-desist power which is granted to the Commission in the bill? We have heard so many comments about the fact that this is a case of the Commission being a prosecutor, a judge, and a jury all in one. We have heard that there is no accountability to anyone and that this is an absolutely autocratic procedure.

Mr. President, with all respect to those who have made the assertions, they are simply belied by the fact that, in the first place, cease-and-desist orders are issued by the Federal Trade Commission and by other agencies of the Government, including Government departments, not even commissions. And we have had the great body of law called the Administrative Procedure Act which gives procedural due process in such agency proceedings.

Mr. President, continuing now with the reasons why we gave the cease-and-desist power and a showing as to why the cease-and-desist power is not in any way a star chamber procedure, as it has been called, as I pointed out a minute ago, cease-and-desist power is in the hands of other Federal agencies. It is a power which other agencies have, including departments. Some 32 or 24 State commissions dealing with equal employment opportunity also have cease-and-desist authority. Again, I would point out that the procedures and the history of the situation in New York, of which I am extremely proud, shows that we have had under our law since 1945—26 years—the administration of the best antidiscrimination law in the United States, with Governors, particularly the present Governor, Gov. Nelson Rockefeller, and other Governors, regardless of parties, beginning with Gov. Tom Dewey, all of whom were absolutely devoted to this effort.

Mr. President, this therefore very materially reduces the charge which is made about the star chamber procedure. Also, Mr. President, the practice in respect to these matters is important to understand. In the first place, the cease-and-desist order, although it is a finding—and that is what I debated with the Senator from Colorado—it is not operative as a decree. There is really nothing that the respondent has to do about it, though he may be unhappy with it. There is nothing he has to do about it.

Mr. President, the only establishment and the only entity which can do anything about it is the court. And in this case, on the present basis the Commission must make the case in court on the record and a cease-and-desist order and a decree is entered. Only then does it have operative provisions and only then can it be enforced by contempt, civil or criminal, whichever may be the remedy that would be justified.

Mr. President, so that there will be no operation of the cease and desist except by decree, and within 60 days, the respondent can contest the cease-and-desist order and then the matter goes through the mill in terms of decision by the court, again without the cease-and-desist order becoming operative unless the court, after the contest, puts it into effect by decree.

So under these circumstances, protected with full procedure and due process under the Administrative Procedure Act, it seems to me that no oppressive action can arise or that the charge of star chamber proceeding can be made.

I hope Members will read what we have debated here today so that, on the one hand, those with me and the Senator from New Jersey in feeling we want to jump over the long delay in courts may be dealt with in an appropriate fashion, and also those who hold with the Senator from Colorado and feel we have not given anything up, will read the RECORD and our amendment with great care.

I really believe what I said in respect to the powers which are left in the Commission. That is a real statement. There are real powers left in the Commission, but also real powers are given up, and that real power is the greatest of all for public condemnation—the issuance of a cease-and-desist order. Such an order, being entered, if it is contested, cannot be enforced; but it is a finding—and an authoritative finding—and he is ordered to cease and desist. When one is dealing with companies that spend millions of dollars in public relations that is not a very happy thought.

Mr. DOMINICK. Mr. President, is the Senator from New York about to yield the floor? I would like to comment on the amendment. The Senator has now talked an hour or more. I know the Senator does not often engage in this practice but, as long as the rule exists, it might as well be used. I do not intend to stop the Senator. But if no one else can get the floor there will be no opposition in the RECORD to the amendment.

Mr. JAVITS. The Senator knows I would never hold the floor as long as I have except for a reason. I was deeply disturbed by Senator PASTORE's assertion that there might be a motion to table our amendment.

Mr. WILLIAMS. Will the Senator yield?

Mr. JAVITS. Coming now, that would be most embarrassing.

Mr. DOMINICK. I had not heard a vague rumor of that until I was outside the door.

Mr. JAVITS. It is the same with me.

Mr. WILLIAMS. There was a misunderstanding. There was developing the thought that there would be a motion to reconsider the Hruska amendment and there would have been a motion to reconsider that. It has nothing to do with our amendment.

Mr. JAVITS. I thank the Senator. Under those circumstances, with that feeling of assurance, I would be prepared to yield the floor in a moment so that the Senator from Colorado can speak.

I think the Senator from Colorado is correct. I hope he would, without straining himself, introduce his views in the RECORD in a fairly elaborate way. No matter how many people may say we are running it, we are not running it. Our colleagues will come here and vote yea and nay whether they have heard the debate or not, and that will settle our hash in a very definitive sense.

I hope the Senator will make his case as fully as he thinks he should because we have a few days and Senators will be able to read the essential elements in the RECORD. I hope very much we can work out our problem and vote with reasonable promptness. I think we should vote on the substance and then there should be adequate opportunity to amend the amendment of the Senator from New Jersey and me; then, we should vote on that. I do not wish in any way to cut off that. I believe both can be accomplished with reasonableness if we are of a mind to vote on two questions.

There are those who will oppose it to the end, even if the Senator from Colorado wins; and we may still have cloture, but we will be over that hurdle and I am perfectly willing to engage in that enterprise and leave opportunity to amend our proposal. I hope very much the Senator will now help us to achieve some agreement.

Mr. President, I yield the floor.

Mr. DOMINICK. Mr. President, I will not take much time on this matter but I do think it is worthwhile for the sake of the record, as the Senator from New York so correctly stated, to make a statement about the amendment which I understand is now the pending business. Is that correct?

The PRESIDING OFFICER. The pending business is amendment No. 878.

Mr. DOMINICK. I thank the Presiding Officer.

Mr. President, I had hoped when we initially talked about the possibility of working something out that the Senator from New Jersey and the Senator from New York, in trying to formulate an acceptable proposal would come up with something that was rather meaningfully different from the original cease and desist proposal.

I have read over amendment 878 with considerable care. For the benefit of those who may read the RECORD or who may be listening I would like to outline what happens under the amendment. First a complaint is filed and then the Commission determines whether it can secure voluntary compliance. Mr. President, the Commission has descretion to judge acceptability. If they do determine that the compliance agreement is not acceptable, that determination is not reviewable in any court.

In other words a compromise agreement is attempted to be worked out but then the Commission can say, No, that is not satisfactory to us. It might be satisfactory to both sides but not the Commission. Then the Commission determination forces further Commissioner involvement under succeeding sections.

That, I understand, is in the original bill. So there has been no improvement along that line.

Following that, then the Commission notifies the General Counsel. The General Counsel has the discretion to initiate—a formal hearing before the Commission by issuing and serving upon the respondent a complaint stating the facts upon which the allegation of the unlawful employment practice is based.

If the General Counsel issues a complaint, he then files it with the United States district court for the district in which the unlawful employment practice is supposed to have occurred. But except as the amendment thereafter provides, all further pleadings shall be filed with the Commission.

So the only thing there is in the court, unless questions of evidence have come up, is the original complaint. So the court has no knowledge of what is going on except to review questions on controlling issues of law, if the court finds that such review would materially advance the ultimate determination of the litigation.

At this point, all that is before the court is the complaint, so it is going to have to have a hearing to determine whether it will ultimately advance the termination of the litigation. This compounds the litigation process.

Then, as I read the proposal, the Commission files its findings and recommendations with the court. That recommendation, incidentally, includes findings

that unlawful employment practices exist and whatever affirmative action may be required for reinstatement or hiring of employees, with or without back pay, limited only by a 2-year limitation.

The next procedural step as contained in subsection (k), provides that any party who thinks he has been aggrieved by the recommendation of the Commission may then file in the district court, within 60 days, a written motion requesting the entry of new findings and new recommendations; in other words, a relitigation of the issues. A copy of that motion is given to the Commission and to all other parties, and then the General Counsel files in the court for the first time the record of the proceedings. Up until that time the court does not have the foggiest idea of what has been going on, or on what basis the recommendations were made, or on what basis the recommendations should be revised.

The court then has power to grant any temporary relief, if it wants to, and after receiving the testimony and proceedings set forth in the record, it can issue a decree.

In other words, what we have proposed here is two trials instead of one. We have one trial before the Commission, upon which it bases its findings of fact and recommendations, and then if the aggrieved party does not like the Commission recommendations, it can move for another trial before the district court.

So we have the same bogged-down procedure that was emphasized so much by the Senator from New York—only in this case we duplicate it. It originates before the Commission, which already has a backlog of over 32,000 cases, and, with expanded original jurisdiction, will have many more than that. It will probably take 2 or 3 years before a party can get to the Commission for a hearing. Then a party can go to the court and have a new trial on the record and proceedings before the court.

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

Mr. DOMINICK. I yield.

Mr. WILLIAMS. I did not hear the full statement, but in the last statement the Senator is saying there is a full trial before the district court.

Mr. DOMINICK. Only on the record that has been produced by the Commission. In other words, the court does not give a full hearing, but based upon the record of the pleadings and everything else, it has to determine what relief it is going to give.

Mr. WILLIAMS. It makes a judgment and enters an order, or decides not to, on the record that has been sent up to it from the Commission. Is that correct?

Mr. DOMINICK. I quote from the amendment:

> The court shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such record—

Mr. WILLIAMS. That is based on the record made.

Mr. DOMINICK. Granting or denying, in whole or in part, appropriate relief; and that occurs only when the aggrieved party makes a motion for reconsideration. Otherwise—and this is the point I want to make—those recommendations go into effect as a matter of course. There is no other review by the court whatsoever.

So the court, in effect, is forced to treat a ministerial action as a court decree without having any idea what was in the record or what the facts were or what the testimony was before the Commission. That is where no objection is raised.

On the other hand, if an objection is made and the record is filed, the party can go through the court and the court can do what it wants to.

The interesting thing is that the proponents, believing that they were doing something constructive—and I really believe they were trying to do something—have compounded the worst problems of both issues. They have compounded the problem of trying a case initially before a commission which has filed the complaint, and which has done the investigation, and then the amendment, say, OK, this is what we need, we need to do this by cease and desist order in order to get around the court system, which is badly backlogged; but then they go through the court system, ultimately, anyway. This really does not make much sense to me.

I could go on and on, and probably will later on, to point out some of the other problems, as I see them, in this amendment; but this is the real nub of the situation.

I cannot, for the life of me, understand why the proponents of the bill are taking such an adamant position on the particular point of cease and desist. They have already agreed in committee that, in the case of Federal employees, after proceeding through their agency remedies, they can go through the Attorney General into the Federal court system or to the Civil Service Commisison Board of Appeals and Reviews, at their option. The proponents have already agreed that State, county, and local government employees, instead of relying on cease-and-desist orders before the Commission, could go to the Attorney General, who would decide whether or not he is going to file, a civil action on the employees' behalf. In pattern and practice suits, they agreed to either leave enforcement of grievances with the Attorney General for a period of 2 years, with some concurrent jurisdiction in the EEOC, contingent upon subsequent reorganization provision, or to leave it entirely in the hands of the Attorney General, which then can go into the district courts.

Under what conceivable type of logic can the proponents of cease-and-desist orders say it is best to go to the court system for the Federal employees, and best to go there for the State and local government employees, and it is probably best to go there in practice and pattern procedure; but in the case of private employees, we are going to force them to agency determinations.

I cannot understand how, under any conceivable logic, they arrive at that result.

I might add here that in the amendment the Senator from New Jersey and the Senator from New York have proposed there is provision for court procedure when they want immediate relief. Parties can get injunctions or temporary restraining orders. They have to go to the court to get that.

That is already in the present bill. So on every single thing, except in terms of private employees, cease-and-desist proponents say, "Let us use the court system, which is the typical forum of relief for minorities throughout this country; but in the case of private employees you cannot do that."

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

Mr. DOMINICK. I am happy to yield to the Senator from Nebraska.

Mr. HRUSKA. It was with interest that this Senator listened to the colloquy between the Senator from New York and the Senator from Colorado with reference to who should receive the evidence, in the first place, and of course the proposal of the Senator from New York and the Senator from New Jersey puts that in the hands of the trial examiner designated by the Commission and working within the purview of the Commission's activities.

As I recall it, the Senator from Colorado suggested that perhaps the trial examiner could be in the person of a referee appointed by the court. Further, the Senator from New York asked if it would be all right to have the testimony procedure reversed, and if the Senator from Colorado would agree to the trial examiner of the Commission taking the evidence.

The Senator from Colorado had said, "No, I would not agree to that," whereupon Senator JAVITS responded:

> Well, this negative answer warrants a negative answer on my part as to the referee appointed by the court.

My question of the Senator from Colorado is this: Is there a difference in a proceeding of this kind between evidence being taken by a trial examiner appointed by one of the parties to the lawsuit—to wit, the Commission—and the receiving of evidence by a referee appointed by an impartial, life-tenured judicial officer?

Mr. DOMINICK. It seems to me that there is an enormous difference; that the latter preserves the impartiality of the court, the jurisdiction of the court, and the integrity of the referees and examiners who have been trained in that field. But if we assign it to the Commission, which was really what the Senator from New York was suggesting, all we are doing is compounding the thing they are trying to put in their amendment; namely, that the Commission is going to prosecute, investigate, and hear the case, and then say to the court, "OK, these are our recommendations, which have the substantial force of evidence; you enforce them."

Mr. HRUSKA. The Senator from Colorado has been a student for a long time of the history and the social and political structure of America. Does he know of any procedure in which one of the parties to the controversy is allowed to take evidence and make recommendations and findings of fact, on which there is only limited appeal? I know of none.

Mr. DOMINICK. I can think of none in the private sector. I understand that with some variations the NLRB, which is in desperate trouble, has this type of procedure; and I also understand that perhaps the Federal Trade Commission has similar procedures, and it is also the subject of some opposition by a large number of people.

Mr. HRUSKA. Yes.

Mr. DOMINICK. I personally think it is wrong no matter where you do it.

Mr. HRUSKA. But, in those instances, the NLRB and the FTC possess the power to make a determination. They have that power.

Mr. DOMINICK. That is correct.

Mr. HRUSKA. And then there is the appeal to the courts.

Mr. DOMINICK. That is correct.

Mr. HRUSKA. There is an appeal to the courts; that is not the situation here.

Mr. DOMINICK. No, that is correct. This would vary that procedure, and vary it rather adversely and substantially.

Mr. SPARKMAN. Mr. President, will the Senator yield for a unanimous consent request?

Mr. DOMINICK. I wish to make such a request myself, and then I shall yield the floor.

I ask unanimous consent at this point that the speech, which was very brief, which I made in support of amendment No. 871, be inserted in the RECORD at this time as I intend to offer a version of 871 as a substitute for amendment No. 878. It provides an expedited court enforcement procedure before a three-judge court with direct appeal to the Supreme Court, or, if it is not in the national interest to have a three-judge court, to put it in the district court on an expedited procedure. Following which, I ask unanimous consent to include in the RECORD a brief statement which I have here, commenting adversely on the amendment which is presently pending; namely, the Williams-Javits amendment.

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

Mr. DOMINICK. Mr. President, I send to the desk for printing and future consideration, an amendment to S. 2515, the "Equal Employment Opportunities Enforcement Act of 1971."

This amendment offers probably the best opportunity to resolve a deadlock existing since January 25 when my court enforcement amendment was first voted on. Since that time the deadlock has solidified through three reconsideration votes and two cloture votes. During this period I have exhausted all reasonable sources and suggestions in seeking a fair compromise. In the course of such a search, I have carefully considered numerous compromises informally and formally, I introduced amendment number 856 in an effort to resolve the deadlock. Unfortunately, all efforts have gone for naught and the nation's employees and potential employees remain largely devoid of enforceable employment rights.

This amendment contains essentially the same court enforcement procedures as my earlier amendment. I remain firm in my resolve not to desert 45 of my colleagues who faithfully supported the court enforcement procedure and not to compromise my principles concerning the superiority of court enforcement.

Despite voluminous rhetoric to the contrary, my convictions that U.S. district court enforcement provides employees and potential employees with the fairest, most effective redress of their grievances, remain unshaken.

The most rational argument against court enforcement is the potential delay threatened by backlogged federal courts. I acknowledge this problem and remedy it by incorporating in this amendment priority language from the same Civil Rights Act of 1964 that created the Commission. Pursuant to language contained in Title I (Voting Rights), Title II (Public Accommodations) and Section 707 ("Pattern or Practice") and included in this amendment, unfair employment practice suits will be accorded priorities in hearing and determination before federal court judges. Upon certification that the case is of "general public interest", the case would be assigned for hearing and subsequent determination "at the earliest practicable date" before a three judge panel with appeal to the Supreme Court. In the event the petitioner doesn't certify the case as being of general public interest, it would be assigned to a district court judge for an expedited hearing.

This newly incorporated language cures the primary defect in the court enforcement procedure. The final result would be machinery in which the respondent's due process rights will be protected by an experienced, impartial judge relying on stare decisis while the alleged aggrieved is guaranteed an expedited hearing before a federal forum which has in the past exhibited great compassion for minority rights.

The amendment contains several cosmetic differences from the original amendment as well as one substantial change which reduces the time period within which the commission may file a civil action against the respondent from 180 days to 150 days from the time the commission first issues its informal charge.

The importance of this amendment should not be underestimated. As it represents my last best offer it signals, insofar as I am concerned, the final effort to resolve the court enforcement cease and desist issue and presents a strong step towards salvaging the entire bill. Previous opponents of court enforcement would be well advised to consider the reasonableness of this amendment versus the very real prospect of no equal employment opportunity enforcement law at all—a most unfortunate and unnecessary consequence.

Consistent with my previous efforts on behalf of employment discrimination enforcement, I shall continue to keep an open mind concerning suggested compromises embodying substantial court enforcement machinery. I have exhausted my resources so the future of the bill now lies in the hands of the cease and desist proponents.

Mr. President. I am sorely disappointed to discover that the heralded EEOC amendment offered by my distinguished colleagues, Mr. Williams and Mr. Javits, is substantially less than what the media characterized as a compromise. The amendment, Amendment #878, is certainly a hollow offer of compromise to those 45 other senators and myself who have fought long and hard for the principle of court impartiality in the enforcement of job discrimination. The amendment practices even greater deception on the previous supporters of cease and desist. In laboring to create a cease and desist mechanism without using the pernicious words, the amendment interjects one additional level of review into the procedure and an unusual level at that. Under S. 2515, Commission issued cease and desist orders would be subject to petitions of review brought within 60 days of the order pursuant to Sec. 4 (k) or enforcement petitions brought after 60 days by the Commission pursuant to Sec. 4 (k) and (m) or by the aggrieved after 90 days pursuant to Sec. 4 (n), all in the United States Court of Appeals. Amendment 878 provides that the findings of fact and 'recommendations" entered by the Commission shall be considered by the United States District Courts if appropriate motions are made within similar time periods.

Thus, a recalcitrant respondent can drag the aggrieved through a review process expanded by the highly unusual and time consuming U.S. District Court review. This procedure flies in the face of critics of my district court enforcement amendment who were upset by unconscionable delays caused by federal court backlogs.

Whereas the Javits-Williams amendment serves to exacerbate the problem of federal district court backlogs, amendment #871 introduced by the distinguished Senator from South Carolina, Mr. Hollings, and myself, preserves the benefits of court enforcement while alleviating the federal district court backlog problem by providing for expedited hearings and determinations similar to the procedures contained in other civil rights law, including voting rights and public accommodations.

Despite media coverage to the contrary, Amendment #788 retains Commission cease and desist powers under the coy pseudonym of "recommendations". It is a relabeling without substance. Courts have no more authority or discretion in deciding the merits of a "recommendation" than they did with a cease and desist order. Both are given the force and effect of law unless upon appeal the respondent can prove that they are not supported by a substantiality of the evidence.

The result with both is identical—a commission determination that, unless not supported by a scintilla of the evidence, can't be upset.

The Javits-Williams amendment does throw some rather skimpy bones to the court enforcement proponents but I emphasize that they are indeed skimpy. The amendment does give the District Courts jurisdiction to enter interlocutory orders during the Commission hearing, but only if such order involves a "controlling question of law" and if it will "materially advance the ultimate termination of the litigation"—both litigious qualifications at best.

Whereas S. 2515 provides that the federal rules of evidence shall apply "so far as practicable," amendment 787 states that proceedings be conducted in conformity with the rules of evidence and that the rules of procedure apply "insofar as possible"—a fudge factor which practically speaking will probably make inapplicable the most important federal rules of procedure—those of pretrial discovery. Adequate pretrial discovery safeguards respondents from the probability of entering hearings inadequately prepared to defend themselves against Commission charges.

Not only is Amendment 787 a woefully inadequate vehicle for compromise to court enforcement proponents, it also jeopardizes the rights of the aggrieved with a longer appeals process. I respectfully advise the cease and desist proponents to seriously consider not only the advantages of my amendment 871 vis-a-vis amendment 878 but also the advantages of present cease and desist language contained in S. 2515 with amendment 878. I am certain that in the later instances you will find S. 2515 preferable. Amendment 878 should prove unacceptable to everyone. I urge my colleagues once again to vote for the fairest, most expeditious job discrimination enforcement procedure—my substitute amendment to amendment 878. It offers the best hope of resolving the present deadlock.

Mr. DOMINICK. Mr. President, I sincerely hope that somehow or other we can get a vote on my amendment, be it today, be it Monday, or be it Tuesday. I say that because of the fact that the substitute which we have ready for the

Javits-Williams amendment, because of the rules of procedure in the Senate, require a few changes, which, if we were successful in substituting my amendment, would again mean that we would have to put perfecting amendments in later.

What I am saying in general is that it is a very complex procedure. It would be far easier if we could just have a simple vote on my amendment, and just let it go that way. But in order to do that, I guess we are going to have to get Senator WILLIAMS and Senator JAVITS to put theirs aside, and I do not believe they are going to do it. I shall continue to work with them, but I doubt that I shall be successful.

I yield the floor.

OLDER AMERICANS HOME REPAIR ASSISTANCE ACT OF 1971—CHANGE OF REFERENCE

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from the further considerations of S. 2888, a bill to authorize the Secretary of Labor to make grants for the conduct of older Americans home-repair projects, and for other purposes, and that the bill be referred to the Committee on Labor and Public Welfare.

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

AUTHORITY FOR THE VICE PRESIDENT AND THE PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION DURING THE ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Vice President and the President pro tempore of the Senate be authorized to sign duly enrolled bills and joint resolutions during the adjournment of the Senate over until 12 o'clock noon on Monday next.

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

DISPOSITION OF CLAIM OF BLACKFEET INDIANS, MONTANA

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 671.

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate the amendment of the House of Representatives to the bill (S. 671) to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont., and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont., in Indians Claims Commission Docket No. 279–A, and for other purposes, which was to strike out all after the enacting clause, and insert:

That the funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Blackfeet Tribe of the Blackfeet Indian Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana, in Indian Claims Commission docket numbered 279–A, together with interest thereon, after payment of attorney fees, litigation expenses, and the cost of carrying out the provisions of this Act, shall be divided by the Secretary of the Interior on the basis of 73.2 per centum to the Blackfeet Tribe and 26.8 per centum to the Gros Ventre Tribe.

SEC. 2. The sum of $5,671,156 from the funds credited to the Blackfeet Tribe under section 1 of this Act shall be distributed per capita to each person whose name appears on or is entitled to appear on the membership roll of the Blackfeet Tribe, and who was born on or prior to and is living on the date of this Act. The sum of $2,100,000 from the funds credited to the Gros Ventre Tribe under section 1 of this Act shall be distributed per capita to all members of the Fort Belknap Community who were born on or prior to and are living on the date of this Act and (a) whose names appear on the February 5, 1937, payment roll of the Gros Ventre Tribe of the Fort Belknap Reservation, or (b) who are descended from a person whose name appears on said roll. A share or interest payable to enrollees or their heirs or legatees who are less than eighteen years of age or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines appropriate to protect the best interest of such persons.

SEC. 3. The balance of each tribe's share of the funds may be advanced, expended, invested, or reinvested for any purposes that are authorized by the respective tribal governing bodies and approved by the Secretary of the Interior.

SEC. 4. None of the funds distributed per capita under the provisions of this Act shall be subject to Federal or State income taxes.

SEC. 5. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MCGOVERN, Mr. BURDICK, Mr. METCALF, Mr. FANNIN, and Mr. HANSEN conferees on the part of the Senate.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

Mr. HRUSKA. Mr. President, in due time this body will consider an amendment numbered 834, which has to do with the continuance of the present practices and procedures of the Department of Justice in pattern or procedure discrimination cases. The amendment takes the form of deleting from the pending bill section 5.

PRESENT LAW IN "PATTERN OR PRACTICE" CASES

Presently, the Attorney has authority—under section 707 of title VII, Civil Rights Act—to bring suit in "pattern or practice" cases—those in which a person or group engages in a "pattern or practice" of resistance to full employment rights as conferred by the Civil Rights Act.

Trials are to three-judge courts if the Attorney General certifies the case to be of "general public interest," with appeal to Supreme Court. Without such certification, trial is to a district judge.

HOW SECTION 5 OF BILL CHANGES THIS

This section seeks to abolish judicial determination and enforcement of "pattern or practice" suits, and would replace it by administrative action by the EEOC, which would apply the "cease and desist" powers in such suits as are granted in section 706 in the present bill or any substitute which is adopted after this point by the Senate as an amendment to the present bill.

To adopt section 5 would be to abandon and abolish judicial enforcement of "pattern or practice" suits. The Attorney General's authority in such suit would be abolished—except for previously filed cases, which would continue unabated for 2 years, at the end of which time the commission would be substituted as party plaintiff instead of the Attorney General. Thereafter, all such cases would be converted into administrative proceedings, not judicial.

NATURE AND IMPORTANCE OF "PATTERN OR PRACTICE" CASES

These lawsuits typically involve large employers or labor unions. Large numbers of employees are involved. Sometimes in the later stages of this type of litigation, company-wide suits are brought, to include all of its branches, plants, or divisions. Industry-wide actions have been undertaken, involving an industry with all affiliated unions. For example, one suit embraced 17 gambling casinos and hotels on the Strip in Las Vegas, and five unions, constituting the 20,000-man resort industry in the locality.

Another proceeding covered hiring and referral practices in the entire California-based movie industry.

Emotional and sensitive situations often are involved. The relief sought is frequently unpopular with defendants and with some parts of the community involved. Very complex, difficult questions of law, fact, and remedy inhere in such cases. Also involved are enforcement proceedings subsequent to the entry of judgment or decree. These are by way of supplementary relief or for contempt of court.

Such lawsuits partake of the character of class actions.

They have a two-fold mission: first, to get a decision and disposition of the case itself; and, second, to have that decision serve as a precedent for situations with similar facts and circumstances.

Judicial enforcement is highly superior and more advantageous than administrative enforcement.

PRESENT PPROCEDURES FOR SUCH CASES WERE CHOSEN ADVISEDLY—THEY SHOULD BE RETAINED

To abandon judicial enforcement of "pattern or practice" suits in favor of administrative cease-and-desist powers would constitute a substantial erosion of Federal enforcement efforts in the field of equal employment opportunity.

COURT ENFORCEMENT IS SUPERIOR, MORE EFFECTIVE, AND EXPEDITIOUS

First. The respect and confidence accorded Federal courts are a substantial

and valued asset in the field of employment discrimination cases.

Second. The Federal courts have achieved much experience in pattern or practice cases in all aspects of civil rights cases: employment, voting, housing, education, public accommodations.

Third. Court decisions are helpful in precedents in similar or related cases. They are well recognized and highly regarded as interpretation and application of the law.

Fourth. Such decisions are useful in conciliation efforts, because they clearly spell out the law as it is applied.

Fifth. Court decisions promulgate the law as the courts apply it, in a broad, reliable fashion through the court decision reporting services. Thus employees, employers, and all concerned are informed currently and promptly of their rights and responsibilities.

Sixth. Enforcement proceedings after decree may be necessary for supplemental relief or for order of contempt. Such subsequent proceedings are handled with much greater advantage by the judge who entered the decree in the first place. A judge who enters an order will be determined that it is properly enforced. The Department of Justice—Civil Rights Division—know this. The courts know it. And the defendant knows it. That is why the Department does not have to go back to the Court very often in order to secure compliance. But in cases where they do so, the relief is quick and effective.

Seventh. Under administrative enforcement with cease-and-desist authority, the agency which hears the evidence and formulates the order, would not be responsible for enforcing it. The experience of another agency—NLRB—which has dealt with employment opportunities and with respect to which factfinding and remedy formulation function are separate from the enforcement function has not been either happy or effective. Recalcitrant defendants have been able to resist full compliance more successfully than if they had been dealt with directly in a Federal district court.

Eighth. Court enforcement is more expeditious. The testimony record shows that experience of the Justice Department in the last 2 years was that a court order was usually obtained in less than a year from the time the suit was filed.

The Civil Rights Division has been successful in securing expeditious handling and disposition of such cases. Most Federal courts have been persuaded to advance such cases on their dockets, and have brought them out for early hearing. Therefore, statistics showing mean elapsed time between filing and disposition of all kinds of civil cases in various Federal district courts provide very little guidance in determining how long it takes to bring title VII cases to judgment.

On the contrary, it will be the administrative proceedings under cease-and-desist authority in which inordinate delay will be encountered if section 5 is enacted into law. The estimates are, according to Assistant Attorney General David Norman—page 127 Senate hearings—that if the EEOC undertakes pattern or practice cases, it would be something like 3 years before pattern and practice authority would really be transferred to EEOC no matter whether it was by cease and desist or by litigation, that is there would be a 3-year interval before there would be any substantial number of enforceable orders under the bill if enacted into law with section 5 remaining in it.

At this point in the history of developing law and progress in combating discrimination in employment, the Nation simply cannot afford a 3-year interim or vacuum.

Such a period would be a setback and a detriment not only for the 3 years but even a longer time in which recovery would be encountered.

THREE EXAMPLES

The National Labor Relations Board in 1964 ordered that two segregated longshoreman locals in Texas be merged. In 1966, that order was affirmed by the court of appeals, and the Supreme Court denied review. Yet in 1969, when the Department of Justice commenced a title VII lawsuit against all of the segregated Texas locals of the International Longshoremen Associations, the two locals referred to were still totally segregated. No effectiveness had been given to the court order that had been approved by the circuit court and the Supreme Court.

A lawsuit by the Department of Justice against five trade unions in Seattle, included a union that had been ordered by the NLRB to stop discrimination in favor of union members in referral. Although the order had been entered before the Department filed suit, the order was not followed until the court in the Department's lawsuit ordered compliance under title VII.

Over the years, the NLRB entered a series of orders against a major textile manufacturer in directing it to stop discriminating against employees because of their union activities. After these orders became enforceable as a result of decisions of the U.S. court of appeals, the NLRB deemed it necessary to file motions for contempt. The court of appeals, not being equipped to conduct evidentiary hearings, directed that the evidence with respect to these motions be heard by a Federal district judge, who was then to make findings and transmit them to the court of appeals for the latter to make final determination on the motions for contempt.

It is submitted, Mr. President, that a procedure such as this denies prompt relief and expends manpower unnecessarily. In reality, any postjudgment proceedings were to be heard by the district judge from whose court the order first came.

IT IS ESTIMATED THAT 3 YEARS WOULD ELAPSE BEFORE EEOC CAN OBTAIN SUBSTANTIAL NUMBERS OF ENFORCEABLE ORDERS

The procedures set forth in the bill for the processing of charges is complex and lengthy. Under that procedure, it is unlikely that any substantial number of enforceable orders could be produced in less than 3 years. As David L. Norman, Assistant Attorney General of the Civil Rights Division, testified before the Senate Labor Committee:

The administrative system intended to replace the judicial enforcement now conducted by the Attorney General could not begin to function effectively for some considerable period of time, and probably it would be at least three years before enforcement orders could be produced in any substantial number.

The reason for the length of time is not difficult to perceive. Under section 706(b) of the bill a charge is filed with EEOC. Normally it is filed informally, in the form of a handwritten letter. The charge then has to be made in formal notarized form and the Commission must serve notice of the charge and make an investigation thereof, section 706(b), page 34 of the bill. At present I am advised that the backlog of charges is such that investigations are made more than a year after the charge is filed.

Even before EEOC may commence an investigation in a State or locality which has a fair employment practice law, it must defer for 60 days to the State agency before commencing investigation.

After the investigation is commenced, EEOC must interview the victim of discrimination, look at the personnel record of the corporation, and obtain statements from persons who have knowledge of the facts. At present, it takes well over a year and one-half from the time a charge is filed until a reasonable cause determination is made. Under the bill, section 706(b), page 35, the Commission has 120 days to make a reasonable cause determination, and that 120 days starts after the 60-day deferral to State or local authorities.

Once a reasonable cause determination is made, the Commission is obliged to attempt conciliation by conference, conciliation, and persuasion, section 706 (b), page 35. No time limit is set forth in the bill as to how long the conciliation efforts should or would be expected to take. A minimum of 3 months could be expected if the conciliation efforts are to be more than perfunctory.

If conciliation fails, the bill contemplates that the Commission serve an administrative complaint upon the respondent and go to hearings, section 706 (f). The respondent then has the right to file an answer, section 706(g). Testimony is then to be taken, under oath, and transcribed before a hearing examiner. Such proceedings are to be in accordance with the rules of evidence of the district courts.

Even assuming the best of good faith efforts by both the general counsel for the Commission and counsel for the respondents, the time for administrative complaint to the administrative hearing would be at least 6 months, with an additional 3 months for decision by the hearing examiner.

Following the procedure followed by the NLRB and most of the administrative agencies, either side would then have the right to appeal from the decision of the hearing examiner to the Commission. Normally this entails not only transcription of the record, but the filing of briefs by both parties and oral argument, and the writing of a decision by the Commission. An absolute minimum time for this internal appeal procedure would be 3 months, from the date of the hearing examiner's decision to the date of the Commission's decision; and 6 months would be a much more realistic estimate. But even this decision of the

Commission is not enforceable in court. The losing parties then have 60 days within which to challenge the decision of the Commission in the appropriate court of appeals. Before this court, the parties then have the opportunity to have the record made and printed or otherwise reproduced, briefs must be written and oral argument heard. The court of appeals must then write its decision. Only after the court of appeals decision is entered is there an order enforceable by contempt. Experience of other administrative agencies indicates that the time from the date of the Commission's decision to the date of the court of appeals decision is normally well in excess of a year.

In summary then, the following is a minimum table for the processing of charges:

Deferral to State agency, 60 days—2 months.

Investigation to reasonable cause decision, 120 days—4 months.

Reasonable cause to fail conciliation, 3 months.

Administrative complaint to hearing before hearing examiner, 6 months.

Hearing to decision of hearing examiner, 3 months.

Decision of hearing examiner to decision of Commission, 3 months.

Decision by the Commission through to decision of the court of appeals, 12 months.

Thus, the minimum period of time from the filing of the charge to the decision can be expected to be 33 months; and since those are minimum times, we can expect that there will be a 3-year interval before there will be any substantial number of enforceable orders.

Judicial enforcement should be retained in pattern or practice cases.

Section 5 does not involve a transfer of pattern or practice cases enforcement. It is total abandonment of judicial enforcement of such cases.

Enforcement is more effective and expeditious in the courts under section 707 than it would be under EEOC cease-and-desist powers of section 706.

The Department of Justice—Employment Section of Civil Rights Division—is better equipped. It possesses long-standing expertise, has a favorable record in court, and follow-up proceedings by way of compliance with court order is more certain and satisfactory.

BETTER EQUIPPED

Since 1954 it has been handling litigation in courts on all phases of civil rights: voting, education, housing, public accommodations, and employment resulting in a broad experience in pattern or practice suits.

This is very significant by way of developing a "know how" on the part of the many resources in the Department of Justice available to the employment section.

Such resources are numerous and important. They are largely not transferrable because they are integral working parts of an entire division—Civil Rights—and of the department itself.

So that when the pending bill provides that the resources, records, unused appropriations, and so forth, be transferred from the Civil Rights Division, the employment section, to the Commission, there will be precious little that will be affected by that transfer. Certainly, the investigatory powers and capabilities of the FBI will not be transferred, nor of the U.S. attorneys, nor of the U.S. marshals; and we can go right down the line with a long list of these resources which will not be available—unfortunately, in some ways—to the Commission.

First, such resources include: 36 attorneys in the employment section—with an enviable record of securing favorable court decrees or orders in every case brought by them.

Second, Appeals Unit of Civil Rights Division, three attorneys.

Third, Assistant Attorney General for Civil Rights Division; two deputy assistant attorneys general.

Fourth, U.S. district attorneys—plus 1,200 assistant attorneys—located in 93 judicial districts, plus the branch offices within the districts.

Fifth, U.S. Marshal's Service: 1,400 operational persons—marshal's and deputies—385 administrative people—364 persons on hourly wage.

Sixth, FBI agents and staff. It should be noted again that these resources are not transferable. Each is an integral part of a division or department. Each devotes a portion of their time to title VII matters—not only in employment areas, but in education, voting, public accommodations, housing, and related civil rights subjects.

To convert judicial enforcement to cease-and-desist procedures under section 706, would require a long period of time to acquire staff, procedures, and organization before EEOC could start functioning. The estimate of an interim of at least 3 years was testified to, before any EEOC would be able to obtain substantial numbers of enforceable orders under its section 706 cease-and-desist proceedings.

FAVORABLE COURT RECORD UNDER SEC. 707 PATTERN OR PRACTICE SUITS

In October 1969, the Civil Rights Division was reorganized on a subject matter basis, rather than the previous geographic basis.

The newly created employment section became responsible for all title VII enforcement and related activities under direction of the Assistant Attorney General and Attorney General.

Its record at reducing trial time of cases has been remarkable. Prior to July 1, 1969, 47 "pattern or practice" cases had been filed, but only 18 had been tried or settled by that date. Of the 57 such cases filed prior to January 1, 1971, all but seven had been settled or brought to hearings on the merits; and the Government prevailed in each of them.

The section's experience in the last 2 years has been that it usually obtains an effective, enforceable court order in less than a year from the time suit is filed.

EQUAL EMPLOYMENT OPPORTUNITIES COMMISSION FAVORS PRESENT JUDICIAL PROCEDURES FOR PATTERN OR PRACTICE CASES (SEC. 707, TITLE VII)

William Brown, Chairman of the Commission, testified before the Senate Labor and Public Welfare Committee. At page 58 of the hearings, he spoke on the subject of transfer of powers to the Commission. At the very outset, he said:

I feel that such a transfer would not, at this time, be in the best interests of the Commission and would not promote the most effective administration of Title VII.

He pointed out, among other things, that 30,000 complaints will be filed during this fiscal year and that there is an estimate of 45,000 complaints that will be filed in the coming fiscal year. He outlined many other reasons why the transfer to the Commission would be inadvisable and would constitute, as he put it, an erosion of the enforcement powers of title VII of the Civil Rights Act.

He pointed out that to subject pattern or practice suits to administrative remedies would be to cast them into the same role and class as any other complaint submitted to the Commission; that is, any complaint, individual in character, or one which does not partake of the nature and scope of "pattern or practice" suits.

After all, there is a reason for a separate section (707) in title VII to deal with pattern or practice suits. The reason is still valid and sound. Its essence is that such situation embraces a much larger proportion than an ordinary case or complaint.

The pattern or practice suit typically involves large employers or labor unions. Also difficult legal questions which are diligently canvassed and urged by opposing sides. They are cases which are large, complex, and far-reaching.

Their importance goes beyond the issues of the instant case. It goes to the application of that case to subsequent lesser title VII actions. Such a decision serves as a precedent for like or similar situations, and should be arrived at, and promulgated or disseminated, in appropriate fashion. The publication of official court decisions makes such available nationwide; not only as to the original case and judgment or decree, but also as to supplementary proceedings which may be called for in securing enforcement and compliance. The capacity now resident in the Attorney General to go directly to the courts with such a case is valuable for maximum effectiveness.

It was upon the foregoing considerations and others that Commission Chairman William Brown III based his testimony, which reads in part:

. . . In S. 2515 as presently written, the power of the Attorney General to bring pattern or practice suits, once transferred, becomes subject to the administrative remedies proposed in Section 4 of the Bill. This, in effect, minimizes the effectiveness of the pattern or practice suits since they would become no different than any other complaint submitted to the Commission.

The effectiveness of pattern or practice litigation is the result of the ability of the Justice Department to bring these large, far-reaching, and often very complex suits directly in courts. The importance of these suits has largely been the decisions which have resulted and which have set the precedents for subsequent leser Title VII actions.

To nullify this powerful and effective means whereby the courts can interpret and clarify the provisions of Title VII, while at the same time establishing new judicial prec-

edents applicable to other courts and administrative agencies alike, would not, in my judgment serve to promote the most effective administration of equal employment. Page 58, Hearings.

He was asked by the committee chairman in hearings as to whether the Commission would have the competency and will to handle all the subject matter involved in S. 2515 as written, including the self-enforcing cease and desist orders embraced in the broadened responsibility of the bill, the transfer of functions of the Office of Contract Compliance, the transfer of the Civil Service Commission jurisdiction over Federal employees, the transfer of the pattern and practice provisions of the Department of Justice, and so forth. Here is his answer (page 74, hearings):

Mr. BROWN. Mr. Chairman, I certainly feel that the commission has the competency to handle these matters.

I would question at this time whether it has the ability in terms of resources—that is, financial resources—or in terms of people.

I would be very much against the transfer, as I have indicated in my prepared text, of the Office of Federal Contract Compliance responsibility at this time.

I would be against the transfer of Attorney General's right in Title VII at this time and also the responsibility of the Civil Service Commission to the EEOC.

Still later in his testimony on this point, Commission Chairman Brown stated:

One of the problems, as I have mentioned, is the overwhelming backlog of cases and I should point out to the committee that this is true, notwithstanding the fact that in the past fiscal year we have increased our ability to turn our decisions at something like three times the rate of the previous year.

We have doubled the number of conciliations and predecision settlements over the prior year but the number of cases coming into the Commission has continued to escalate at a very alarming rate and, as I have indicated now, the current estimates for the fiscal 1972 are now over some 30,00 individual complaints coming in as opposed to the original estimate which was made last year of 19,000 complaints being sent into the Commission.

As a matter of fact, in the budget which was submitted for fiscal year 1973, we anticipate some 45,000 new incoming charges of discrimination in fiscal year 1973, and I am told by some of my staff that may be a low estimate.

So, taking those figures into consideration—plus the fact that in some cases I question the advisability of putting some of the provisions in this Commission—as it relates to the Office of Federal Contract Compliance—my position would be that I am not in favor of those transfers.

In summary, it can be said that Commission Chairman Brown opposed section 5 of the bill to transfer the Attorney General's powers to the EEOC, on two broad grounds: The effectiveness of pattern and practice suits would be minimized and impaired; and second, the overwhelming burden of cases and their monumental backlog with increasing volume of complaints for processing would make it most difficult and inadvisable to handle addition duties such as those embraced in the transfer in question.

There is still another reason why an erosion of enforcement effort would occur if section 5 is enacted.

Enactment of section 5 of the bill would place all "pattern or practice" cases under the cease and desist authority contained in section 706 of the Civil Rights Act as amended. Such cease and desist authority is complaint oriented. It was so devised and written to handle individual cases with dispatch, with as little formality as possible, and so forth. So this fiscal year they will have some 32,000 complaints filed with the Commission. Next fiscal year they expect 45,000.

But pattern or practice authority is not a complaint oriented authority.

The nature of pattern and practice authority is to investigate any information that may come to attention that suggests patterns of discrimination in a large company which may have many plants, divisions, or branches; or in a large labor union, or group of unions, or their affiliates, with thousands of members and jobs involved; or in an entire industry, with many companies and unions. There the necessity will be to determine complex and difficult questions of law, fact, and remedy; to render a decision or decree; and be prepared to engage in such subsequent proceedings as necessary to insure full compliance. Perhaps by supplementary relief, or maybe by way of contempt of court orders.

Such imposing, far-reaching, and extended proceedings would be most difficult if not impossible for an administrative body to handle as investigator, prosecutor, and judge. If it could be done at all, it would not be for a long time that it could start producing substantial numbers of cases, and then not very effectively and not very well.

These latter points have already been covered in my remarks as to the time involved—3 years at least—according to testimony in the record.

Mr. President, in summarizing, I might say that the judicial enforcement provided in section 707 as presently effective should be retained. These practices have worked well. The attorneys assigned to the tasks have been backed by the substantial prestige of the Department of Justice and all the resources of that department. These resources include existent talent possessed by the FBI, the U.S. marshals, the appeals unit of the department of the U.S. attorneys located, together with deputy attorneys, in all the 89 districts of the Federal district court.

There is a highly effective law enforcement operation under this arrangement, under title VII. It is submitted that this record fully warrants continuation of that operation, whether the Commission is given enforcement power or not and whether such power that they are given will be judicial or administrative. That record is very signal. Among other things, it was pointed out that in the last year and a half or so, of the dozen or so cases which were tried and disposed of—concluded, as they call it—11 were concluded within 11 months after the filing of the complaint in the court. So that, together with many other reasons, would argue persuasively for the retention of section 707 as it presently exists in the law in title VII of the Civil Rights Act. It would also argue persuasively that section V of the pending bill should be deleted in its entirety to accomplish that result.

Mr. President, I yield the floor.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUCKLEY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 858

Mr. BYRD of West Virginia. Mr. President, with the approval of the distinguished manager of the bill; the distinguished author of amendment No. 858; the distinguished Senator from New York (Mr. JAVITS); and the distinguished Senator from Alabama (Mr. ALLEN), I ask unanimous consent that the pending amendment by Mr. JAVITS and Mr. WILLIAMS be temporarily laid aside and that amendment 858 of the Senator from North Carolina (Mr. ERVIN) be called up and made the pending question.

The PRESIDING OFFICER (Mr. BUCKLEY). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The amendment (No. 858) of the Senator from North Carolina (Mr. ERVIN) will be stated.

The assistant legislative clerk read as follows:

On page 33, insert the following between the comma after the word "State" on line 19 and the word "or" on line 20: "or the employment of physicians or surgeons by public or private hospitals".

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on Monday next, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent further, that, on Monday next, at the time the unfinished business is laid before the Senate, time on the pending amendment, No. 858 of the Senator from North Carolina (Mr. ERVIN), began running, to be equally divided between the distinguished author of the amendment, Mr. ERVIN, and the distinguished manager of the bill, Mr. WILLIAMS; that at 1:30 p.m. the Senate go into executive session to proceed with consideration of the treaty, Executive H; that at the conclusion of the vote on the treaty the Senate return to the consideration of legislative business; that a vote on the pending amendment, No. 858, of Mr. ERVIN, occur at 3 p.m.; provided further, that the time on the pending amendment following a vote

on the treaty continue to be under the control of and divided between the author of amendment No. 858 and the distinguished manager of the bill; provided further, that time on any amendment thereto, any debatable motion, appeal, or point of order be limited to 10 minutes, to be equally divided between the mover of such and the distinguished manager of the bill, except in an instance in which the manager of the bill would favor such, and in that case the time in opposition to such be under the control of the distinguished minority leader or his designee; provided further, that the time on any amendment to the amendment, debatable motion, appeal, or point of order come out of the time on amendment No. 858, with the exception, of course, of the time on any motion to reconsider, which would be limited to 10 minutes, to be equally divided as heretofore stated, but, naturally, not to come out of the time on the amendment, No. 858.

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

Mr. BYRD of West Virginia. Mr. President, there will be a rollcall vote on amendment No. 858 on Monday at 3 o'clock p.m. And there will be a rollcall vote on the treaty, Executive H, which will occur at 2 o'clock on Monday afternoon. There may be other rollcall votes during the day.

QUORUM CALL

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I want to make sure that we all understand what the situation will be. Upon the announcement of the results of the vote on the Ervin amendment, No. 858, on Monday, the Senate will resume consideration of the Javits-Williams amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD of West Virginia. Mr. President, I thank the Presiding Officer.

LITHUANIAN INDEPENDENCE

Mr. BYRD of West Virginia. Mr. President, I have been requested by the distinguished Senator from Indiana (Mr. HARTKE) to have a statement printed in the RECORD.

I ask unanimous consent that the statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT BY SENATOR HARTKE

Mr. President, the policy of the U.S. has long been one of freedom and self-determination for all peoples of the world. There remain, however, many nations that are still victims of colonization and to whom freedom and independence are denied. Many of these suppressed nations are given little attention by the U.S. as we concentrate on the major incidents of encroachment upon freedom in the international area. Today, however, we devote our consideration to one of the smaller Soviet satellites, Lithuania, as she celebrates her 54th anniversary of independence.

Lithuanian independence came after a long struggle at the closing of World War I, on February 16, 1918; but this hard won freedom from the Russians was shortly, thereafter, curtailed. In June, 1940, Lithuania was overrun by the forces of the Soviet Union and forced by the harsh terms of the ultimatum presented them to accept Soviet Occupation. A Soviet administered election resulted in the formation of a communist government more than friendly to the Soviet Union.

In 1941, Hitler invaded Lithuania and ousted the Russians from the country. The Germans did not liberate the Lithuanian people but merely suppressed them under the occupation of a different regime. The Russians, victorious in their effort to remove the Germans in 1944, resumed their control of the small country. Lithuania remains a satellite to this day.

Although the communists profess great progress in Lithuania's industry, agriculture, education, and culture, since their domination of the country, the Lithuanians, themselves, protest against their lack of freedom and the communist methods imposed upon them. They remain devoted to their ultimate goal of freedom and self-determination. Their cause will not be quenched until the restrictions are lifted, the forced demographic changes are eliminated, the terror tactics are discontinued. They stand firm in their resolution for national independence and individual freedom.

Consistent with that concept of freedom upon which our country is founded, despising all forms of tyranny, it is appropriate on this occasion of the 54th anniversary of Lithuania's independence, that we insist once again that the imperialist oppression of Lithuania cease—and that these brave people be granted the independence and freedom for which they have long and courageously struggled.

PAY BOARD NEWS RELEASE AND RESOLUTION ON MERIT INCREASES

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a news release issued today by the Pay Board and a resolution adopted by the Pay Board on February 8, 1972, with regard to merit increases be printed at this point in the RECORD.

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

NEWS RELEASE

The Pay Board today revised its policy on Merit and Salary Administration plans to provide more equitable treatment for all segments of the work force. The Pay Board had earlier resolved to revise its policy to ensure . . . "equality of treatment for merit plans in labor agreement situations and in non-labor agreement situations."

The resolution adopted today by a 11–1 vote will be published in the Federal Register as a proposed rule allowing the public 10 days to submit comments. The policy decision contained in the attached resolution will not become effective until final regulations are published in the Federal Register.

In general the resolution provides that:

Merit increases provided for in existing contracts and pay practices previously set forth prior to November 14 may continue to become operative subject to review and possible challenge.

Merit increases provided for in new contracts or pay practices (negotiated or instituted subsequent to November 13) are governed by the 5.5% general wage and salary standard.

New contracts or pay practices may also qualify for exceptions up to 7% for tandem or other bases, as provided for by the regulations.

Successor contracts or pay practices, if they meet specific criteria as formal plans, may constitute an exception under Pay Board regulations, allowing up to a 7% annual aggregate wage and salary increase.

Pay Board Chairman Judge George H. Boldt said, "This policy will ensure equality of treatment for all segments of the economy to the maximum extent the infinite variety of merit plans permit. This policy will contribute to the overall goals of the Economic Stabilization Program."

"We arrived at the decision after many hours of reasoned and reasonable discussion on all aspects of merit pay," the Chairman continued.

A copy of the resolution is attached.

RESOLUTION ON MERIT INCREASES (ADOPTED FEBRUARY 8, 1972)

Resolved: that the Pay Board hereby adopts the following policy decision with respect to merit raises:

1. The policy decision on this subject adopted November 22, 1971, appearing as Item (6), Apepndix B—Interpretive Decisions Adopted by the Pay Board (6 CFR Part 201) is hereby revoked, except as provided below in paragraph 6.

2. Merit increases provided for in contracts or pay practices negotiated or instituted subsequent to November 13, 1971, are governed by the General Wage and Salary Standard (Section 201.10), except as provided below.

3. (a) Exceptions to the General Wage and Salary Standard may be sought on a tandem relationship or other basis, as provided by Section 201.11 of the Regulations.

(b) That pay practices previously set forth within the meaning of Section 201.14 of the Regulations which do not expire earlier will be deemed to expire on November 13, 1972, except as they may qualify as an exception under the criteria set forth in Section 5, below.

4. Merit increases provided for in existing contracts and pay practices previously set forth prior to November 14, 1972, are governed by Section 201.14 of the Regulations.

5. Merit plans under contracts and pay practices shall constitute an exception under Section 201.11 of the Pay Board Regulations, subject to paragraph (b) of that Section, if they meet the following criteria:

(a) The merit plan is continued without change of terms or administrative practice from the preceding contract or pay practice, and

(b) If the pay range is changed, the ranges may not be widened, i.e., the ratio of the maximum to the minimum of each range may not be increased.

(c) The merit plan is one which:

(1) Applies to particular jobs, job classifications, or positions with respect to which the duties and responsibilities of employees are specified;

(2) Specifies rate ranges with respect to such jobs, job classifications, or positions;

(3) Clearly defines policies and establishes practices for determining pay and the size and frequency of increases with respect to such jobs, job classification, or positions; and

(4) Establishes a system of administrative control.

Such exceptions shall be self-executing and handled in accordance with the procedure set forth in paragraph (c) of Section 201.11

in the same manner as that which applies to sub paragraphs (3) and (4) of Paragraph (a) of Section 201.11.

Applications for exception which exceed the maximum amount allowed under Section 201.11(b) shall be made to the Pay Board or its delegate and shall be reviewed under Section 201.11(d).

6. Where, prior to the effective date of the final regulations, an existing contract with a merit plan expired and was replaced with a new contract executed prior to the effective date of the final regulations, for merit plan purposes it shall be governed by Item 6, Appendix B—Interpretive Decision (6 CFR Part 201) which was in effect at that time.

7. Method of Computation for Increases Under Merit Plans Which Meet the Criteria of Paragraph 4 and other Merit Plans or Practices.

(a) For purposes of calculating the allowable amount of such wage and salary increases for an appropriate employee unit, the average wage and salary base for the pay period ending on or immediately preceding the day prior to the first day of the appropriate twelve-month period shall be compared with the average wage and salary base for the pay period ending on or immediately preceding the last day of the appropriate twelve-month period.

(b) If, by the end of an appropriate wage year, the average wage and salary base for an appropriate employee unit is affected by changes in the composition of the unit with respect to employee average length-of-service or average skill levels, then compensating adjustments may be made in the otherwise permissible average wage and salary base increase for the unit in such twelve-month period. Such adjustments are subject to explanation and verification following required reporting procedures for the appropriate employee unit involved if applicable for the category unit involved. This paragraph shall apply to all merit plans so long as administered in good faith.

8. Effective date of policy decision: That this policy decision will not become effective until final regulations have been published in the Federal Register to implement this decision. Pending the final regulations, a notice of proposed rule-making containing the substance of this policy decision will be published in the Federal Register with a period of 10 days for the public to have an opportunity to comment.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, the Senate is awaiting action by the House of Representatives on a resolution providing for adjournment through the holidays. I move, therefore, that the Senate stand in recess awaiting the call of the Chair, with the understanding that the recess not extend beyond 5 p.m. today.

The motion was agreed to; and (at 4:13 p.m.) the Senate took a recess, subject to the call of the Chair.

The Senate reassembled (at 5 p.m.) when called to order by the Acting President pro tempore (Mr. ALLEN).

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to, and (at 5:07 p.m.), the Senate took a recess, subject to the call of the Chair.

The Senate reassembled (at 5:10 p.m.) when called to order by the Acting President pro tempore (Mr. ALLEN).

AUTHORITY FOR SECRETARY OF SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES AND FROM THE PRESIDENT OF THE UNITED STATES UNTIL 1 P.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized to receive messages from the House of Representatives and from the President of the United States during adjournment of the Senate until 1 p.m. tomorrow.

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess, awaiting the call of the Chair.

The motion was agreed to; and (at 5:11 p.m.) the Senate took a recess, subject to the call of the Chair.

The Senate reassembled (at 5:13 p.m.) when called to order by the Acting President pro tempore (Mr. ALLEN).

AUTHORITY FOR THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL 1 P.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished Acting President pro tempore, the junior Senator from Alabama (Mr. ALLEN), be authorized to sign duly enrolled bills and joint resolutions until the hour of 1 p.m. tomorrow.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 12910) to provide for a temporary increase in the public debt limit, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 12910) to provide for a temporary increase in the public debt limit, was read twice by its title and referred to the Committee on Finance.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

The motion was agreed to, and (at 5:14 p.m.) the Senate took a recess, subject to the call of the Chair.

The Senate reassembled (at 5:36 p.m.) when called to order by the Acting President pro tempore (Mr. ALLEN).

RECESS UNTIL 9 P.M.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess until 9 p.m. today.

The motion was agreed to, and (at 5:37 p.m.) the Senate took a recess until 9 p.m., whereupon the Senate reassembled when called to order by the Acting President pro tempore (Mr. ALLEN).

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, February 9, 1972, he presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 153. A joint resolution to designate the week which begins on the first Sunday in March 1972 as "National Beta Club Week."

RECOGNITION OF THE NEW NATION OF BANGLADESH

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a statement and an insertion by the distinguished Senator from South Carolina (Mr. HOLLINGS) on the subject of according full diplomatic recognition to the new nation of Bangladesh.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HOLLINGS

Mr. President, with each passing day, additional countries accord full diplomatic recognition to the new nation of Bangladesh. It is right that they do so, for the people of that land have earned their freedom. They have earned the right to forge their own destiny in their own way. Leaders of governments all around the world have recognized the reality of Bangladesh. The simple fact of the matter is that Bangladesh is no longer a part of Pakistan. To ignore that fact is to close our eyes to the most obvious reality.

As of today, thirty nations have granted recognition to the newly-independent people of Bangladesh. Others are on the verge of doing so. Mr. President, I am attaching a list of nations which have recognized Bangladesh.

The most conspicuous absentee on this list, Mr. President, is the United States of America. For over a year now, the Nixon Administration has followed a policy of moral and political bankruptcy on the subcontinent. First, the United States ignored the results of a free and open election, in which the people of East Pakistan gained a clear majority of representatives. When the leaders of West Pakistan ignored the results of the election and jailed the leader of the East Pakistanis, the United States underwrote the suppression by shipping arms and amuunition to the military government in the West.

When suppression turned to outright genocide, the Administration closed its eyes. And defenders of the Administration countered by saying we should all be thankful to the military dictatorship in Islamabad, because—after all—they helped Henry Kissinger fly to mainland China. How blind can we be, Mr. President.

Now that Bangladesh exists, we should have as our goal the continued independence of that land. We should want it to be no nation's client—be it India's or Russia's or anyone elses. The logical way to do that is to start out by recognizing the fact of independence. If we continue to hold back, others will fill the vacuum. The leaders of Bangladesh will find their options closed. The United States should not delay another day in fulfilling its responsibilities.

Mr. President, on January 25th, Senator Saxbe and I introduced a resolution calling upon the President to grant such recognition. Since then, twenty-eight Senators have joined us—Senators, I am happy to say, from both sides of the aisle. This is not a partisan issue, and it must not be allowed to become a partisan issue. Republicans and Democrats alike have been equally befuddled at the refusal of this country to deal with the world around us as it really exists.

We have suffered a severe setback in our South Asian policy. We cannot recoup what has been lost. But we can try to get in step, and we can try to live up to our heritage of democracy. Two centuries ago we were a newly-emerged nation. in search of freedom and of recognition by the nations of the world. Now we are asked to do much the same thing for another new country. We are asked to recognize that a new people have joined the ranks of freedom, overthrowing repression, overcoming genocide, and now struggling to make their nation succeed. I hope and pray that we will soon stop throwing roadblocks in their way.

BANGLADESH RECOGNITION STATUS REPORT

Country and date:
India, December 6.
Bhutan, December 7.
East Germany (Not considered state by U.S.), January 11.
Bulgaria, January 11.
Poland, January 12.
Mongolia, January 12.
Burma, January 13.
Nepal, January 16.
Barbados (Commonwealth), January 21.
Yugoslavia, January 22.
USSR, January 24.
Czechoslovakia, January 25.
Hungary, January 26.
Cyprus (Commonwealth), January 27.
Cambodia, January 30.
Australia (Commonwealth), January 31.
New Zealand (Commonwealth), January 31.
Senegal, February 1.
United Kingdom, February 4.
West Germany, February 4.
Sweden, February 4.
Norway, February 4.
Denmark, February 4.
Finland, February 4.
Iceland, February 4.
Ireland, February 4.
Israel, February 4.
Austria, February 4.
Thailand, February 7.
Netherlands, February 4 statement extending recognition in principle.

Total as of February 7, 1962: 30 nations have recognized Bangladesh. State Dept. has unconfirmed reports that Fiji and Tonga have recognized Bangladesh also.

Cosponsorships on resolution to recognize Bangladesh, February 9, 1972

Allott, Bentsen, Case, Chiles, Church, Cranston, Fulbright, Gravel, Harris, Hart, Hartke, Hughes.
Inouye, Javits, Kennedy, Magnuson, Moss, Muskie, Nelson.
Pell, Percy, Ribicoff, Schweiker, Stevens, Stevenson, Tunney, Weicker, Williams.
Total Senators: 30.

LEAVE OF ABSENCE

Mr. BYRD of West Virginia. Mr. President, in accordance with paragraph 1, rule V, of the Senate rules, I have been asked by the distinguished junior Senator from Kentucky (Mr. COOK) to request a leave of absence for him from the Senate on Monday and Tuesday, February 14 and February 15, 1972, respectively.

In view of the fact that the subcommittee of which he is a member will be conducting hearings in the State of Kentucky on those dates, the junior Senator from Kentucky will be absent on official business.

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

The motion was agreed to; and (at 9:01 p.m.) the Senate took a recess until 9:10 p.m.; whereupon, the Senate reassembled, when called to order by the Acting President pro tempore (Mr. ALLEN).

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agree to the following concurrent resolution:

S. Con. Res. 61. A concurrent resolution providing for adjournment of the Senate from the close of business on Wednesday, February 9, 1972, until noon, Monday, February 14, 1972, and the House of Representatives from close of business on Wednesday, February 9, 1972, until 12 o'clock meridian on February 16, 1972.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the House had passed without amendment the following joint resolution, to which the Speaker had affixed his signature:

S.J. Res. 197. A joint resolution to provide a procedure for settlement of the dispute on the Pacific coast between certain shippers and associated employers and certain employees.

The joint resolution (S.J. Res. 197) was signed by the Acting President pro tempore (Mr. ALLEN).

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for Monday, February 14, 1972, is as follows:

The Senate will convene at 12 noon. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of morning business, the Senate will resume consideration of the unfinished business, which is S. 2515, the EEOC bill.

At 1:30 p.m., the Senate will go into executive session and will proceed to the consideration of the treaty, Executive H, and will vote on the treaty at 2 p.m. That will be a rollcall vote.

At 3 p.m., a rollcall vote will occur on amendment No. 858 of the distinguished Senator from North Carolina (Mr. ERVIN) to S. 2515, the EEOC bill. After the vote on the Ervin amendment, No. 858, the Senate will resume consideration of amendment No. 878 as proposed by the Senator from New York (Mr. JAVITS) and the Senator from New Jersey (Mr. WILLIAMS). Further rollcall votes could occur thereafter.

As to Tuesday, February 15, 1972, the Senate will proceed during the day to debate the motion entered today by the distinguished Senator from Georgia (Mr. GAMBRELL) to reconsider the vote by which the Hruska amendment (No. 877), to S. 2515, was today rejected, the hour between 1 p.m. and 2 p.m. to be equally divided and controlled by Senators GAMBRELL and WILLIAMS. A vote will occur at 2 p.m. on the motion to reconsider, and that will be a rollcall vote. A motion to table the motion to reconsider may be entered at the conclusion of the 1 hour of debate.

Thereafter, on Tuesday, additional rollcall votes may occur on the unfinished business.

Mr. SCOTT. Mr. President, will the distinguished assistant majority leader yield?

Mr. BYRD of West Virginia. I am happy to yield to the distinguished Republican leader.

Mr. SCOTT. I rise for the purpose of clarification. I believe that the treaty, Executive H, is the so-called seabed treaty having to do with nuclear material on the seabed; is that not correct?

Mr. BYRD of West Virginia. The distinguished Republican leader is correct.

Mr. SCOTT. Would the distinguished assistant majority leader advise me how many votes, at the minimum, can be expected on Monday next? I did not count the enumeration.

Mr. BYRD of West Virginia. There will be at least two rollcall votes on Monday next.

Mr. SCOTT. But there may be others?

Mr. BYRD of West Virginia. That is correct. There may be others on Monday next.

Mr. SCOTT. So, to repeat the distinguished majority leader's adjuration, votes can be expected every day when the Senate is in session. By virtue of the concern which he has expressed, it is not possible for the leadership on either side of the aisle to enter into agreements for the accommodation of individual Senators as to votes, in view of the overriding necessity for getting on with the legislation. Is that an accurate assessment?

Mr. BYRD of West Virginia. The dis-

tinguished Republican has stated the situation precisely.

Mr. SCOTT. I thank the Senator from West Virginia.

Mr. BYRD of West Virginia. I am sure that the distinguished majority leader would want me to say that rollcall votes, and/or live quorum calls, can be expected daily throughout next week.

Mr. SCOTT. I thank the distinguished assistant majority leader.

Mr. BYRD of West Virginia. I thank the distinguished Republican leader.

ADJOURNMENT TO MONDAY, FEBRUARY 14, 1972

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of Senate Concurrent Resolution 61, that the Senate stand in adjournment until 12 o'clock meridian, St. Valentine's Day, Monday February 14, 1972.

The motion was agreed to; and (at 9:11 p.m.) the Senate adjourned until Monday, February 14, 1972, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 9, 1972:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Harold C. Crotty, of Michigan, to be a Member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1972.

NATIONAL LABOR RELATIONS BOARD

John A. Penello, of Maryland, to be a Member of the National Labor Relations Board for the term of 5 years expiring August 27, 1976.

HOUSE OF REPRESENTATIVES—*Wednesday, February 9, 1972*

The House met at 12 o'clock noon.

The Chaplain, the Reverend Edward G. Latch, D.D., offered the following prayer:

Let the peace of God rule in your hearts to which you are called in one body: and be thankful.—Colossians 3: 15.

O God and Father of us all, we pray for our country and for those who are leading our people in this hour, shaping the future of our beloved land. Give to us courage, faith, and wisdom that the plans formulated, the decisions made, and the actions taken may be in accordance with Thy will for our Republic. May Thy spirit dwell in us richly as we continue to work for freedom, justice, and peace in our world.

Bless the people of our Nation and of all nations. Together may we realize our dependence upon Thee and in so doing learn to live with one another in the spirit of a true and living brotherhood. Thus may we promote the welfare of our country for the good of all mankind.

In the spirit of Him who went about doing good we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 12488. An act to change the name of the Columbia lock and dam, on the Chattahoochee River, Ala., to the George W. Andrews lock and dam.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 197. Joint resolution to provide a procedure for settlement of the dispute on the Pacific coast between certain shippers and associated employers and certain employees.

The message also announced that Mr. COTTON had been appointed a conferee on the bill (H.R. 12067) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes" in place of Mr. FONG, excused.

The message also announced that the Vice President, pursuant to Public Law 86–42, had appointed Mr. COOK as a member, on the part of the Senate, of the U.S. group of the Canada-United States Interparliamentary Conference to be held in Ottawa, Canada, February 17 to 20, 1972.

CALL OF THE HOUSE

Mr. ARENDS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 35]

Andrews	Dwyer	Moorhead
Ashbrook	Edwards, La.	O'Konski
Aspin	Esch	Pelly
Baring	Forsythe	Pike
Belcher	Fraser	Powell
Bell	Fulton	Preyer, N.C.
Biaggi	Galifianakis	Price, Tex.
Blatnik	Gallagher	Pryor, Ark.
Broomfield	Gibbons	Rees
Brown, Ohio	Gray	Rosenthal
Cabell	Griffin	Roush
Carey, N.Y.	Hagan	Ruppe
Celler	Hansen, Wash.	Ryan
Chisholm	Hawkins	Satterfield
Clark	Hébert	Scheuer
Clawson, Del	Helstoski	Schneebeli
Clay	Hillis	Springer
Collier	Howard	Stanton,
Corman	Jacobs	J. William
Culver	Keith	Stubblefield
Davis, Wis.	Long, La.	Teague, Calif.
Dellums	McCloskey	Teague, Tex.
Denholm	Macdonald,	Udall
Dickinson	Mass.	Wiggins
Diggs	Mann	Wright

The SPEAKER. On this rollcall 358 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MESSAGE FROM THE PRESIDENT

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

CONFERENCE REPORT ON S. 748—U.S. CONTRIBUTIONS TO THE FUND FOR SPECIAL OPERATIONS, INTER-AMERICAN DEVELOPMENT BANK

Mr. PATMAN submitted the following conference report and statement on the bill (S. 748) to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank:

CONFERENCE REPORT (H. REPT. NO. 92–830)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 748) to authorize payment and appropriation of the second and third installments of the U.S. contributions to the Fund for Special Operations of the Inter-American Development Bank, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 2, and agree to the same.

Amendment Numbered 1: That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following: "Directors'.

"SEC. 21. The President shall instruct the United States Executive Director of the Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

"(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

"(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

"(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, ad-