tion; to the Committee on Banking and Currency.

By Mr. THOMSON of Wisconsin:

H.R. 13561. A bill to provide that lending institutions must pay interest on escrow tax and insurance accounts which they maintain with respect to loans secured by residential real property; to the Committee on Banking and Currency.

By Mr. THONE:

H.R. 13562. A bill to amend the Occupational Safety and Health Act of 1970 to provide that where violations are corrected within the prescribed abatment period no penalty shall be assessed; to the Committee on Education and Labor.

By Mr. UDALL:

H.R. 13563. A bill to require the Secretary of Agriculture to compensate permittees where permits for recreational-type dwellings on national forest lands are terminated, and for other purposes; to the Committee on Agriculture.

By Mr. WAGGONNER:

H.R. 13564. A bill to amend title 23, United States Code, to authorize the Secretary of Transportation to reimburse States for the Federal share of the costs of future construction of toll roads, and for other purposes; to the Committee on Public Works.

H.R. 13565. A bill to amend the Highway Revenue Act of 1956, and for other purposes; to the Committee on Ways and Means.

By Mr. ZWACH:

H.R. 13566. A bill to provide price support for milk at not less than 90 percent of the parity price thereof; to the Committee on Agriculture.

H.R. 13567. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform and relief for small businessmen; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.J. Res. 1089. Joint resolution authorizing and requesting the President to proclaim April 24 through 29, 1972, as "National Auctioneers Week"; to the Committee on the Judiciary.

By Mr. DINGELL:

H. Con. Res. 551. Concurrent resolution expressing the concern of the Congress with respect to the present situation in Northern Ireland; to the Committee on Foreign Affairs.

By Mr. ABOUREZK (for himself, Mr. BERGLAND, Mr. HAMILTON, Mr. ALEXANDER, Mr. HELSTOSKI, Mr. SARBANES, Mr. WALDIE, Mr. DELLUMS, Mr. STUCKEY, Mr. ROY, Mr. BEGICH, Mr. HATHAWAY, Mr. ROUSH, Mr. DAVIS of Georgia, Mr. DENHOLM, Mr. MATHIS of Georgia, Mr. ROE, Mr. NICHOLS, Mr. SISK, Mr. WILLIAM D. FORD, Mr. BRINKLEY, Mr. OBEY, Mr. FUQUA, Mr. SMITH of Iowa, and Mr. HASTINGS):

H. Res. 858. Resolution expressing the sense of the House that the full amount appropriated for fiscal year 1972 for the Farmers Home Administration's farm operating loan program and waste facility grant program authorized by the Consolidated Farmers Home Administration Act of 1961, be released and made available by the Administration to carry out the objectives of these programs; to the Committee on Appropriations.

By Mr. BERGLAND (for himself, Mr. ABOUREZK, Mr. JONES of North Carolina, Mr. HANLEY, Mr. ZWACH, Mr. RANDALL, Mr. HORTON, Mr. EDWARDS of Louisiana, Mr. THOMPSON of New JERSEY, Mr. SCHWENGEL, Mr. HOWARD, Mr. ANDREWS of North Dakota, Mr. BEVILL, Mr. LINK, Mr. HECHLER of West Virginia, Mr. MCKAY, Mrs. CHISHOLM, Mr. ULLMAN, Mr. BYRON, Mr. PRYOR of Arkansas, Mr. MCCORMACK, Mr. ADAMS, Mr. MELCHER, Mr. DAVIS of Georgia, and Mr. HALPERN):

H. Res. 859. Resolution expressing the sense of the House of Representatives that the full amount appropriated for fiscal year 1972 for the Farmers Home Administration's farm operating loan program and waste facility grant program authorized by the Consolidated Farmers Home Administration Act of 1961, be released and made available by the Administration to carry out the objectives of these programs; to the Committee on Appropriations.

By Mr. BERGLAND (for himself, Mr. ABOUREZK, Mr. RONCALIO, and Mr. DOW):

H. Res. 860. Resolution expressing the sense of the House of Representatives that the full amount appropriated for fiscal year 1972 for the Farmers Home Administration's farm operating loan program and waste facility grant program authorized by the Consolidated Farmers Home Administration Act of 1961, be released and made available by the Administration to carry out the objectives of these programs; to the Committee on Appropriations.

By Mr. CORMAN:

H. Res. 861. Resolution expressing the sense of the House that the United States should recognize Bangladesh; to the Committee on Foreign Affairs.

By Mr. HAYS:

H. Res. 862. Resolution authorizing the Committee on House Administration to incur expenses in making certain improvements in the House Restaurant and related facilities in the Longworth House Office Building; to the Committee on House Administration.

By Mr. WOLFF (for himself and Mr. MURPHY of Illinois):

H. Res. 863. Resolution expressing the sense of the House of Representatives that the President should suspend, in accordance with section 481 of the Foreign Assistance Act of 1961, economic and military assistance and certain sales to Thailand for its failure to take adequate steps to control the illegal traffic of opium through its borders; to the Committee on Foreign Affairs.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

197. The SPEAKER presented a petition of the mayor and Council of the Borough of Norwood, N.J., relative to the Federal Water Pollution Control Act, which was referred to the Committee on Public Works.

# EXTENSIONS OF REMARKS

## WHAT IF THE FARMER WENT ON STRIKE?

### HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. ZWACH. Mr. Speaker, I am dwelling continually on the low prices our producers receive for their food products. I may sound like a broken record.

But this is a very important matter in our rural district. Our Minnesota Sixth Congressional District editors echo my concern in this area.

A good example of this concern is an editorial written by Dave Gallagher in the Montevideo American of February 24.

Mr. Speaker, I insert this editorial in the CONGRESSIONAL RECORD and I urge my colleagues to give it their close attention.

What would happen if our American farmers went on strike?

The article follows:

A RAISE FOR WHOM?

Example: A farmer north of Montevideo did some serious figuring after he had harvested his last crop. He listed, on one side of his paper, the cost of seed, fertilizer, weed killer; the cost of operating his tractor and combine. He did not include a cent for labor.

On the other side of his paper, he noted the price his crop brought at the market. Somehow, the two figures didn't jibe: the farmer was operating at a loss. Taking the same amount of acreage he'd put to seed, he calculated what he could have made had he planted nothing and put those acres aside as diverted.

No matter how he did his arithmetic, the answer was the same. Had he planted nothing at all, he would have made over $50 per acre more by diverting his land. So, why did he plant anything at all? Because he is a farmer, because he is an inherent gambler, because he has faith in the system.

And, before you draw any wrong conclusions, the farmer is not getting rich on his diverted acreage. That program is not what is haywire. The price the farmer is receiving for his crop is where the problem lies, and there is no foreseeable improvement in the situation.

It has been announced that the consumer can expect food prices to rise four to six percent in the next year. Now who is going to receive that four to six percent? Has anyone heard of the farmers going on strike? Are they pushing for high wages? Better working conditions? More vacations? Better fringe benefits? A guaranteed contract?

Not at all. At present, depending upon which figures one uses, the farmer is receiving approximately thirty-five cents of every food dollar. Now consider the expenses. Few farmers, individually, can deal on a volume basis, and few can hold onto their crop until the market rises. There are too many subsistance farmers to make that effective.

The farmer must sell his product after the harvest. The processors and distributors do deal in volume and they are taking the lion's share of the profits. When food prices continue to climb, the consumer cannot point an accusing finger at the farmer and wonder how his food dollar is being spent. The finger must be pointed at those who are demanding exorbitant salaries, shorter hours and more fringe benefits for handling what the farmer stakes his economic life on growing.

The finger must be pointed at those who do nothing to halt the flow of foreign foodstuffs into our nation, making our own farmers compete with farmers from other nations; competition they cannot come away from in a healthy financial state.

This writer cannot help but wonder what could happen if the American farmer went on strike. The coal workers in England are striking now. The nation is literally without power. Businesses must close early. Lights are turned off early at night for lack of electricity. Commuter trains no longer run. And in spite of the inconvenience, Englanders are, for the most part, supporting the coal miners.

Would Americans, if there were no food to be purchased, support the American farmer

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in his quest for a fair living wage, a fair price for the products he grows so that Americans can continue to be the best fed nation on earth?

This is a big week for agriculture in Montevideo. The city is to host the Corn-Soybean Clinic here today (Thursday) and this has also been proclaimed Future Farmers of America Week.

Agriculture has been, and always will be, the very backbone of our nation; for a nation in want, a nation without food is not truly a nation at all—but merely a conglomeration of people attempting to eke out an existence.

We can help the farmers. We can support the FFA, we can attend Corn-Soybean Clinics and we can see to it that the four to six percent rise in food prices finds its way to the farmer's pocketbook. Until we do, the processors will continue to feast off the farmer, and he, in turn, will be forced to quit. Justice, fair play and just rewards have nothing to do with it; America's future is at stake and that's important enough.—Dave Gallagher.

## H.R. 9900—TAX EXEMPTIONS FOR POW'S/MIA'S

### HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. BOB WILSON. Mr. Speaker, I was extremely pleased to see the unanimous passage of H.R. 9900 yesterday, to exclude from Federal income taxes the full pay of all members of the Armed Forces or civilian employees of the U.S. Government who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

Present law exempts the entire amount of taxable income derived from military service for enlisted personnel and warrant officers, and the first $500 of taxable income for commissioned officers serving in a combat zone. Since many of the known American prisoners of war are pilots and, therefore, officers whose monthly incomes exceed $500, I feel that such tax relief is more than justified in their cases. This small financial gain cannot in any measure compensate the servicemen involved or their families for the physical hardships and mental anguish they are suffering. Though we have deep sympathy for their plight, it is hard for anyone not directly involved to comprehend the horrible uncertainty, despair, and loneliness which many of their families have had to endure for a period of time longer than the total U.S. involvement in World War II.

It was well that the House Ways and Means Committee adopted the amendment to my bill as suggested by the Department of Defense to include civilian employees of the Government who are prisoners of war or missing in action, as a result of their service in a support capacity to our military operations in Southeast Asia. Although their number is small, these men are an integral part of our military effort in Vietnam. Civilian employees captured by the enemy in Vietnam are suffering many of the same hardships as our military men and simple equity compels that they receive similar tax treatment.

The legislation will have little financial effect on the Government, but it is the very least we can do for these brave men and their families. I urge my colleagues' favorable consideration.

## ENERGY AND THE QUALITY OF LIFE

### HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. HANSEN of Idaho. Mr. Speaker, we hear a great deal about the quality of life as a major national social goal. We are also being made increasingly aware of a growing energy crisis. There is, in part, a direct relationship between quality of life and the availability of energy.

Henry G. Curtis, general manager of the Northwest Public Power Association, and a long-time and valued personal friend, is one of the most respected authorities on this subject. I want to bring to the attention of my colleagues some timely and perceptive comments by Mr. Curtis on man's dependence on energy to assure quality of life.

The article follows:

MAN'S QUALITY OF LIFE IS PROPORTIONATE TO THE EFFICIENCY OF THE ENERGY HE USES

(Comments by Henry G. Curtis, General Manager, Northwest Public Power Association, to the Washington Ecological Commission, December 8, 1971, Seattle, Wash.)

"Since mankind arrived on this planet he has survived by consumption of energy. The quality of his life throughout these eons has depended largely on whether he *was* the energy form or consumed other energy . . . and the quantity of energy he had to be or to use.

"Life was grim for those first prehistoric men who had only their own body energy to supplement heat from the sun, to provide locomotion, and to do the work necessary to survive. When he found that fire could be used, early man became an outside power consumer. For the first time (unless slavery predates fire use) man had something besides his personal energy input with which to heat his domestic environment, sharpen his spear, and create his bronze and iron tools.

"In his evolution and progress since then he has used quantities of firewood, slaves of various kinds, work animals, wind, falling water, coal petroleum, natural gas, geothermal steam and the atom. It was the discovery and use of these energy producers, especially the inanimate energy forms, which made it possible for man to live on this earth today . . . to exist in the numbers he does and with the relatively good life he has. Whether or not we should be here in these numbers is a moot point for us now. We *are here*, and nothing short of mass suicide will change that situation.

"I have recited this brief story of man's evolution of energy use for one purpose only—to point out that *never* has man survived without energy consumption. He *still* cannot survive without it. His only choice involves the mix of the energy he will use . . . of forms from personal exertion and slavery as the basest forms, to electricity as the highest and most efficient form. Man's parameters of choice, even in this mix, are limited by the ability of the environment to produce enough of each type of energy resource, and the environment's ability to recover from the impact of utilization of each. The comparative costs of energy forms have, until now, however, determined which energy forms we use.

"Mankind is a shrewd beast and, probably since time began, has tried to accumulate as much as he can of the good things in life at the minimum economic cost to himself. Cost competition between energy forms has spurred efficiency gains, through technology, for most of the energies we use. It is the inherent efficiency of electricity at its point of use that has brought such fantastic growth in the production and use of kilowatt hours. It is this same efficiency which has brought us so much more of what are, mostly, the *better* things in life with a far lesser increase in all energy consumption.

"Each unit of gross national product in 1965 was produced with 37 percent less energy than a GNP unit of 1920. Even more amazing to me is the fact that in 1955, the per capita consumption of energy for residential use was only the equivalent of 1.9 tons of coal . . . compared with an 1880 per capita consumption equal to 2.4 tons in the home. When you stop to think that the 1955 home had central heating, good lights, a refrigerator, a modern range, television, radio, a hot water tank, and perhaps a washer, dryer, dishwasher and many other gadgets—contrasted to just fireplaces, a wood range and kerosene lamps in the 1880 home—and we see technology has helped our quality of life . . . while conserving energy too.

"This matter of energy consumption is something which has been misunderstood. Too often someone will quote the spectacular growth of electricity usage since 1900 and indicate that we are on an energy binge. Or they will point to the aggregate growth of kilowatt hour, coal, oil and gas use . . . and say that we're much greedier than at the turn of the century. They forget that fuelwood still served much of our energy needs of 1900. If wood use is added to the 1900 energy base, then per capita energy consumption only doubled from 1900 to 1960. And its mere doubling produced a many fold increase in per capital wealth . . . and the better life which goes with that breakout from personal poverty.

"Let us assume that the higher energy forms of gas and electricity had not replaced fuelwood as the basic form of domestic energy in this nation, and that today's population lived as those in 1850. Would there be an environmental impact?

"Our small U.S. population in 1879 burned 146 million cords of wood. It was at about that time that continued cutting of fuelwood had removed the forests so far from the cities that the populace had to turn to coal. What forests would we have left today if we had, for the past 100 years, used firewood like our ancestors did? Today our air pollution control people tell us we cannot burn the prunings from our shrubs because that makes the air too thick. What would the atmosphere be like if all the homes in the Pacific Northwest were burning our forests for heat?

"The point I am making is that each householder today uses less energy for a much better domestic life than he did in the days of yore. And I believe that our hydroelectricity of the great Northwest has been more environmentally kind than would have been the fuelwood economy which once we had.

"Any energy production carries with it an environmental impact, whether that production be the cutting of a cord of wood, the drilling of an oil or a geothermal well, the mining of coal, the building of a dam, or the breaking of an atom. That impact can at times be beneficial, and often it is adverse. The values of benefits . . . and the costs of adversities . . . of course, should be considered in the choice of what energy form a person should use . . . and the quantity he should

have. How much is a value, or how much a cost, of *anything* we do? There is some value to a beautiful landscape, no matter how common it may be. There is some value to a unique landscape, no matter how ugly it may be. There is *value* in a prosperous economy beyond the payrolls of the jobs involved. There is a *cost* to the *loss* of these things. There is a *cost* to depletion of resources. That cost is a terrible one for later generations.

"One of the frustrations to us in the power business is that some people think we can, and that we should, achieve various and sundry goals by our own cost or price manipulation. The problem is that the public itself cannot agree on what the social goals should be . . . nor what the prices should be. And it would be a far cry from democracy if your friendly monopolistic electric company made your social choices for you.

"An electric supplier exists to supply electricity to an area . . . without discrimination . . . at the lowest possible cost consistent with sound business principles . . . and for the general public good as it has been outlined by proper public policy. Although rate making as such is admittedly an art as well as a science, the basis of any rates can only be that the cost of service . . . including investment in facilities . . . must be covered. Any utility must pay its overhead costs, remit its taxes, retire its debt. All rates, for each and every class of service are regulated . . . either by the votes of consumer-owners or by regulatory commissions.

"One suggestion which I have been hearing lately is that the electric industry should arbitrarily increase its rates as a means to force reductions in energy consumption. That's a nonsensical idea for two different reasons. Even if it would reduce *electric* consumption, people would just switch to fossil fuels for the energy they need . . . and the environment would suffer. Secondly, it probably wouldn't even reduce electric consumption.

"In different parts of the country, where economic factors have forced increases in rates of up to 20 per cent, consumption has not been affected at all.

"There have been suggestions that we, again, arbitrarily, establish an inverse rate schedule in which a consumer would pay a higher and higher rate for the more and more kilowatt hours he uses. Again the only economic and environmental effects, if any, would be to weight the mix of energy toward direct consumption of fossil fuels. Socially we would make it much harder for the very poor to rise toward a better way of life . . . by pricing their increasing use of electricity—a use which directly reflects standard of living—out of their growing reach. Only those who are most affluent could enjoy full access to this highest and best of all forms of energy for the tasks which it does best.

"Another demand by some is that we price power for commerce and industry at higher levels to curtail consumption and production. Can the public really want, in this democracy, an institution like the utility to decide that great numbers of people shall be unemployed, that certain products shall not be made, or that prices for such products should be beyond economic justification.

"There is a place for industry, within our power markets, to the benefit of the residential power user. For your power supply to be reliable there must be a reserve of generating capacity over and above the expected peaks of usage. Generators do break down, and there must be a standby means of some supply. That standby costs fantastic amounts of money, and it is expensive to the public if idle and unproductive. Industries, which can use interruptible power, are a means of money making for your reserve. Much of industry, therefore, pays its way . . . not to the utility as such . . . but to you the other power user.

"The utility philosophy must be to market its power as efficiently as it can . . . and on the basis of economics alone. To manipulate rates for social whims, in a field as basic as energy, is to become a dictatorship. It is far better philosophically that the power supplier respond to the consumption demands established by the public wants.

"If you don't want energy consumed to produce any certain product, then just quit using that product. We already have had one Northwest aluminum plant shut down because too much aluminum has been produced. It did not take an arbitrary rate decision by the power industry to abolish the jobs of those who worked in that plant. If the public's product *tastes* cannot determine energy consumption patterns . . . and you still feel there is waste . . . then go to your legislatures for production bans or rations. The power industry cannot . . . and most of all *should not* . . . determine public policy.

"The electric industry is accused of promoting demand and consumption of electricity and, therefore, the necessities for new power projects and environmental adversities. With few exceptions, however, (at least in public power) the promotion of markets is for *efficiency of use* of these energy systems created to fulfill the wants of the people themselves. In the Pacific Northwest, with its hydro power base, electricity is by far the *most efficient* of *all* energy forms . . . and meeting the people's needs with the highest efficiency has meant the least environmental impact. The progressive transition to more thermal power in this region, in future years, may cause some change in efficiencies of total energy use . . . and, if so, I am confident our marketing methods will reflect that change. But *always* there must be *marketing* for efficient utilization of electric plant. And efficiency of utilization is the epitome of conservation.

"As a conclusion to these remarks I merely want to summarize the points I have tried to make:

"Man has *always* consumed energy resources for survival. In modern times our technology has provided increasingly efficient forms of energy, mainly electricity. This has brought us tremendously greater outputs of energy relative to the energy input . . . and it has produced goods and services for a better life . . . with minimal impact on the world and its resources.

"Energy consumption . . . and the quality of life proportional to it . . . has both benefits and costs, tangible and intangible, and we need to measure these as we plan our progress.

"The electric industry is not the proper institution in a democracy to create rates for social goals . . . and I doubt that any other institution should. The people, through their patterns of consumption . . . and only as a last resort their legislative bodies . . . must determine the energy demands and the public policies which affect such demands. A utility *should* and *must* operate only on economics.

"The very basis of conservation is efficient utilization of resources . . . without undue waste. Marketing is necessary for efficient utilization . . . and it is to the environmental good as long as it is for efficiency and not for profit goals. Most electric market promotion *is* for efficiency, since even profit comes from there.

"We must recognize that energy is life. Even if we curtailed energy and thus life, to the point of poverty for our people . . . we still would need new electric power plants. Only electricity, displacing less efficient and depleted energy forms can preserve the environment for the population which is here and coming.

"Therefore we now must build the best and most efficient plants we can . . . and diligently work to discover better and more efficient energy sources for our future.

"We want you to understand the energy problems as we see them . . . because you will be recommending the policies and the actions by which we shall solve those problems together.

"It has been an honor and a pleasure for me to be with you at this meeting. Thank you for inviting me."

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## SAVANNAH TRANSIT LOWERS BUS FARE FOR THE AGING

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### HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. HAGAN. Mr. Speaker, The aging have multifold problems, one of which is too little money to care for essentials. It is always noteworthy when someone other than the Government steps in to aid the older citizens. The Savannah Transit Co. now sells five bus tokens for a dollar which is a 10-cent reduction on the regular 30-cent bus fare.

This consideration allows the aging to ride the buses between the hours of 9:30 a.m. and 3:30 p.m. and attend to their essential errands. This leaves the bus space for the morning and afternoon commuters, which seems to be a good thing for all.

The Savannah Transit Co. is to be commended for making possible this lower fare.

A news account of the action was carried in the Savannah Press of February 9, 1972, as follows:

TOKENS FOR SENIOR CITIZENS SELLING LIKE HOT CAKES

(By Kathy Haeberle)

More than 45,000 bus tokens were sold to senior citizens during the first month of a new cut-rate plan and Alderman H. C. Morrison, who spearheaded the reduced fares, called the response "fantastic."

Morrison said the 45,000 total was between Jan. 3 when the tokens first went on sale and about Feb. 2.

The alderman said Savannah Transit Co. officials have told him that the response has been "beyond any of their expectations."

Sales in the first few weeks were averaging between $700 and $800 a day, Morrison said. The sales slacked off to between $150 and $300 a day later, but have picked up considerably since Monday with the mailing of Social Security checks, he said.

HOSPITAL VISITS UP

"Even Memorial Hospital reported that more people are coming to the hospital to visit than before," because of the lower bus fares. Morrison said.

"I still believe that the transit authority could have made the tokens one-half price at 15 cents and still come out on top," Morrison said.

Morrison said he plans to "wait and see" how token sales continue and then consider going to the Savannah Transit Authority again to negotiate for further reduction of fares.

The tokens now are sold at five for one dollar. They are available for persons 65 years old and older at Senior Citizens headquarters, the Model Cities Senior Citizens

office and at Golden Age Clubs in the community.

The tokens are good between the hours of 9:30 a.m. and 3:30 p.m. Morrison said he has received few complaints about the restrictions on the hours.

"It's really proven a great success," Morrison said of the project.

On another new Senior Citizens project, the alderman said a bus purchased with federal funds to begin a transportation system for older residents has "picked up momentum" and is in use most of the time.

Morrison said first priority is given to health deeds and beyond that the bus is available for "most any reason" from grocery shopping to beauty shop appointments for senior citizens who need a ride.

## CAPITOL EVACUATION STILL SECRET

### HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. KEATING. Mr. Speaker, today marks the anniversary of a very unfortunate moment in our Nation's history, the first anniversary of the Capitol bombing.

After this terrible incident a member of my staff tried to find out if an evacuation plan existed for the Capitol and the office buildings. The reply was an incredible "yes, but it's a secret."

Today the plan still remains secret.

To remedy this problem I introduced a bill, House Resolution 294, directing the House Administration Committee to look into the problem and inform the Members of the House, their staffs, employees of the House and visitors of the evacuation procedures in case of an emergency.

To date no action has been taken.

If one looks at the bell system, we know what to do for a quorum call or a civil defense warning signaling an attack. But for something in between, a fire or a serious bomb threat, there is no warning system. There is no fire alarm that I have ever heard tested in my year and 2 months in the Congress.

In private industry it is standard procedure to inform the employees of emergency procedures. We in the House are busy passing legislation protecting the public yet we do not have adequate procedures for emergency evacuation here.

I suppose that until we have a fatality nothing will be done. There will always be those who say that it can never happen here.

On February 18 of this year, a bomb ripped through the State office building in St. Paul, Minn.

Recently, in my district, there was a tragic fire that swept through a nursing home killing 10 people. This caused immediate action. Must we see a similar tragedy here before we act?

I urge that my resolution be taken seriously by the House leadership. If fire would break out in these buildings, whether caused by a bomb or some other reason, the visitors and employees would have no way of knowing what to do and panic may ensue. Let us take this opportunity to act.

## SBA'S MINORITY BUSINESS DEVELOPMENT PROGRAM HAS A SOLID LEGAL BASIS

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. CONTE. Mr. Speaker, as senior minority member of the House Small Business Subcommittee, I have long been a strong supporter of minority business development. No one in this Chamber can question the compelling need to change drastically the present situation in which 17 percent of the Nation's population that is made up of minorities own barely 3 percent of the Nation's 8 million small businesses.

The Small Business Administration, under the able leadership of Administrator Thomas S. Kleppe, has been in the forefront of this effort to redress this shameful imbalance.

Unfortunately, but understandably, questions have been raised about the legal basis for Government support of the minority enterprise program. In order to dispel some of that concern I would like to call the attention of my colleagues to an excellent law review article, "Legal Basis for SBA's Minority Enterprise Program" in the fall issue of the Federal Bar Journal—volume 30, No. 4—by John A. Knebel, Esq., SBA's General Counsel.

As Mr. Knebel points out, the fundamental reason why legal challenges to the minority enterprise program are unfounded is that the program is not in fact restricted to racial minorities, but is in fact open to all socially or economically disadvantaged persons. Of course, one would have to be myopic indeed not to recognize that most of the 30 million disadvantaged Americans happen to be members of racial or ethnic minorities. But there are undoubtedly white Americans as well who qualify for such assistance.

Once all of us appreciate this fact, I am hopeful that this badly needed program will receive the united support it so richly deserves.

The article referred to follows:

LEGAL BASIS FOR SBA'S MINORITY ENTERPRISE PROGRAM*

(By John A. Knebel**)

INTRODUCTION

The Federal Government has assumed for itself a substantial responsibility for developing a national minority enterprise program. The Congress and the Executive have both been active participants, adding to the large efforts being made by the private sector.[1] The Small Business Administration has had a pioneering and particularly significant role inasmuch as minority enterprise is for the most part small business.

Success depends upon aggressive and more effectively coordinated support on the part of all sectors of the national economy. For the problems, the needs of the minorities, are too great for any isolated effort to do much more than grope for solutions.

While the need for a minority enterprise program may be obvious, the magnitude of this need may not be so obvious. The SBA's 1970 Annual Report estimates that it would require some 600,000 new enterprises, worth $40 billion, to bring the minority sector of the business population to the level of its share of total population and to change the distribution, location, and size of businesses to conform to the characteristics of the total business community.[2]

Compare the 600,000 new enterprise figure with the approximately 322,000 minority business enterprises found in the only comprehensive survey of its kind, one recently completed by the U.S. Bureau of the Census.[3] Receipts for this segment of the business community, totaling $10.6 billion, accounted for less than one percent of total receipts and the 322,000 minority-owned businesses represented four percent of the total number of enterprises.[4]

Becoming a businessman in this country is difficult enough for most people. The usual difficulties, however, become unusual, or greatly magnified, when we consider the capital and managerial deficiencies, the lack of a business tradition, the communications and other barriers confronting the minorities.

It is hardly surprising, then, to find that the minority enterprise problem has been recognized by the President in an Executive Order;[5] that a special Subcommittee on Minority Small Business Enterprise has been established by the House Select Committee on Small Business;[6] and that an Office of Minority Business Enterprise has been established in the Executive Branch of Government.

WHY LEGAL JUSTIFICATION IS NECESSARY

Given all these high-level sanctions for a minority enterprise program, it seems incongruous to think that it would even be necessary to justify it from a legal standpoint. However, there has been a stress on race and national origin. Some might even say there has been an *undue* stress on these factors, although this is not being suggested here.

SBA has stressed the same terms. It has an Assistant Administrator for Minority Enterprise. It covers minority enterprise separately in its Annual Report, as indicated above. And the Agency has given an innovative twist to its small business investment company program (SBIC) by formulating the concept of the minority enterprise small business investment company (MESBIC).

Political candidates have traditionally sought the votes of ethnic blocs. President Nixon and others spoke of "Black Capitalism" in the last Presidential campaign.

And, unfortunately, SBA has been challenged directly in court in several cases questioning its legal authority to channel to minority business enterprises Government contracts on which SBA is the prime contractor.[7] These court challenges have been based on several grounds. Some are substantially technical in nature and are not pertinent to this discussion. The others are:

That SBA programs authorized under the Small Business Act[8] and the Small Business Investment Act of 1958,[9] the principal statutes under which SBA programs are conducted, are aimed at *small business* assistance, *not* minority small business enterprise.

That minority enterprise programs of a Federal Agency are unconstitutional because motivated solely on the basis of race, color, or ethnic origin.

That minority enterprise programs violate Title VI of the Civil Rights Act of 1964[10] because they exclude others from their benefits on the ground of race, color, or national origin.

Footnotes at end of article.

Moreover, there has been some sentiment in Congress that the minority enterprise emphasis given by SBA in its various small business programs might possibly result in discrimination in reverse, an implication, certainly, that what SBA has been doing is illegal.[11] Rather than calling SBA action reverse discrimination, another Congressional report has phrased its objections in terms of an inequitable balance created for the non-minority small businessman by SBA's loan programs [12] and expressed serious reservations about whether the 8(a) program as conducted by SBA is not in violation of Title VI of the Civil Rights Act of 1964 and possibly in violation of constitutional guarantees.[13]

TANTALIZING HINT OF A PER SE RULE

Despite the criticism and the challenges, we have speculated on the possible legality of a *per se* rule (like those so convenient in the field of antitrust regulation) i.e., Blacks, Mexican-Americans, American Indians and other minorities have in the past been subject to such extensive discrimination—socially and economically—that they may, without more, be the beneficiaries of Federal programs established exclusively to compensate them for such past, and in many cases, probably continuing discrimination. To put it another way, there is nothing illegal about making equal members of minority racial groups made unequal through discrimination. "There is, after all, no greater inequality than the equal treatment of unequals," as one Judge put it.[14]

Compare this dictum in an urban renewal case where the plan was alleged not to assure equal relocation benefits for minorities as it did for whites:

"What we have said may require classification by race. That is something which the Constitution usually forbids, not because it is inevitably an impermissible classification, but because it is one which usually, to our national shame, has been drawn for the purpose of achieving equality it will be allowed, and to the extent it is necessary to avoid unequal treatment by race, it will be required." [15]

The Philadelphia Plan requiring contractors in Federally-assisted construction contracts to have acceptable affirmative action programs which include specific goals for utilization of minority workers has been extensively publicized. Again, this is in some respects Federal support—or a requirement, if you will—for a benefit (i.e., employment) to be extended to individuals on racial grounds. The plan has been upheld against challenges of unconstitutionality and as violative of the Civil Rights Act of 1964.[16]

Indeed, the Court of Appeals said "Clearly the Philadelphia Plan is color-conscious."

Thus, the courts do accept as constitutional and legal racial classification in certain circumstances. What I am suggesting is that, if properly and astutely articulated, arguments contending that Federal minority enterprise programs are legal, even though the only eligibles are members of minority groups having a long history of social and economic discrimination, might well be upheld.

As intriguing and challenging an approach as this is, it is an unnecessary one. The legal justification for SBA's minority enterprise activities rests on an entirely different ground.

LEGAL BASIS FOR PROGRAM

We approach the problem in two steps. The first step is to determine the meaning of "minority" in the term "minority enterprise." There surely cannot be any more authoritative source of this meaning than the head of the Small Business Administration.

Testifying before the Subcommittee on Minority Small Business Enterprise of the House Select Committee on Small Business on July 27, 1971, SBA Administrator Thomas S. Kleppe said that when the Agency uses the term "minority person" it refers to those Americans who are socially or economically disadvantaged. The term "minority" is, in Kleppe's words, "a short form for the phrase "socially or economically disadvantaged," a euphemism, if you will.

In the context of SBA programs, therefore, no American is either excluded or included from the concept of being socially or economically disadvantaged on the basis of race, color, or creed. That is, no American is included or excluded from any SBA programs because of a classification based strictly on race, color, or creed.

But who are the disadvantaged in this country? The Administrator testified that it is clear to him, and surely obvious to members of the Committee, that most of the 30 million disadvantaged Americans in this country happen to be Black Americans or Mexican-Americans or Puerto Ricans or Cuban Americans or Indians or Eskimos.

Nevertheless, he acknowledged that there are also millions of Anglo-Americans who, because of background, or chronic economic circumstances, are disadvantaged. These are also objects of SBA programs which have been designed to help minorities move into the mainstream of the American economy, to insure their participation in the benefits of our free enterprise system.

But as indicated above, the stress, by SBA as well as others, has been on minorities rather than the disadvantaged. There is a very simple explanation for this. To put it in terms currently popular, there has been a "credibility gap" problem.

Hence the question has been how to convince Blacks, Mexican-Americans, Puerto Ricans, Indians, and other minority group members who have been put down all their lives, that there is in fact a business assistance program for them. They might have desire and ambition; they might even be aware of the existence of a Small Business Administration. But SBA had been in existence for eleven years before it began, in 1964, taking notice of the large deprived segment of the Nation's population and formulating positive steps to reach that segment. Because of this neglect we can understand why many disadvantaged—already hampered by fear, confusion, lack of business sophistication—would consider applying for a small business loan a futile gesture.

It has been often told that the Boston Irish of several years ago confronted signs in employment offices which told them that they need not apply. Members of other racial or religious groups have had similar experiences, perhaps more subtle in certain cases, but surely experiences which tend to discourage such persons from seeking benefits or jobs.

In short, the programs have been labelled "minority enterprise" programs to convince the minorities that they are indeed available to them; that there is no good reason why they should not apply, to the contrary of what the Irish of earlier years were told.

In other words, we have stressed and publicized "minorities" to make sure that those persons who make up the largest part of the Nation's socially and economically disadvantaged will "get the word," so to speak, and have cause to believe in the sincerity of that word.

But, as a matter of fact, *all* disadvantaged persons are eligible to apply. "Disadvantaged" is a color-blind criterion for purposes of legal justification. Thus the net result of the first step in our two-step legal process has been in effect to equate "minorities" with "socially or economically disadvantaged."

The second step is to move from "disadvantaged" to the authority SBA has under the Small Business Act [17] and the Small Business Investment Act of 1958.[18]

Let me initially put aside SBA's authority under Title IV of the Economic Opportunity Act of 1964.[19] Under this legislation SBA is empowered to make 15 year loans up to $25,000 and to provide management assistance, with particular attention to small businesses located in areas having high proportions of unemployed or low-income individuals, and to small businesses owned by low-income individuals. Thus the SBA authority under the Economic Opportunity Act is *expressly* directed at the disadvantaged.

This is not the case under the Small Business Act and the Small Business Investment Act under which SBA's other substantial programs are conducted. There is a legal question—and this has essentially been the point made by critics such as certain members of the House Select Committee on Small Business—because the Small Business Act and the Small Business Investment Act are aimed at assisting *small-business* concern, without any other qualifying criteria pertinent here.

Under the Small Business Act, it is the "declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concern." [20] To that end, SBA is authorized to make 15 year, $350,000 loans, to "enable small-business concerns to finance plant construction" and other business needs;[21] to take contracts from other Government agencies, and "to arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small-business concerns;" [22] and to "provide technical and managerial aids to small-business concerns." [23]

Other programs under the Small Business Act are similarly intended for small-business concerns (except for certain disaster loan making authority outside the scope of this paper).[24] These include, among others, assisting small businesses in obtaining Government contracts by certifying to contracting officers their capacity and credit to perform them (COC program), and jointly determining with Government procurement and disposal agencies contracts and sales suitable for exclusive, or partially-exclusive, bidding by small businesses (set-aside program).

For its part, the Small Business Investment Act is designed to "stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations" among other things.[25]

Several programs are authorized under this Act. There is the SBIC program under which small business investment companies licensed, regulated and partially financed by SBA, in turn provide equity capital and long-term loans to small businesses.[26] While it is not expressly provided for in the Act, the Agency has adapted the SBIC program to include MESBIC's, small business investment companies which concentrate their attention and resources on minority small business enterprise.

There is the lease guaranteed program through which SBA may guarantee the payment of rentals "under leases of commercial and industrial property entered into by small-business concerns." [27] There is also the surety bond guarantee program which provides guarantees against losses resulting from the breach of bid, payment, or performance bonds by small-business concerns.[28]

And, finally, there is the program through which SBA indirectly finances small businesses by direct financing of an intermediary State or local development company.[29]

Thus virtually every SBA program is by law a *small-business concern* program. And to a considerable degree virtually very SBA small business program is utilized in the minority enterprise program. Therefore, the critics of our legal authority are not without justification—at first glance anyway.

However, we live in a complex world. We

Footnotes at end of article.

are part of a complex Government. The legislative process has become more and more complicated. For these reasons those who question the legal basis for minority enterprise programs are not necessarily arbitrary or unreasonable.

One of the frustrations of Government lawyers today is knowing what, and the extent to which, laws apply to one's own agency. Persons not directly and continuously concerned with the day-to-day operations of a given agency cannot always be expected to know all the fine points and bits and pieces of far-ranging enactments which bear on those operations. Yet it is precisely these kinds of enactments which have bridged the gap between small business legislation and SBA programs of assistance to disadvantaged minorities.

There are several bridges to accomplish this connection. One bridge, it is submitted, legally supports the use of *all SBA small-business* programs in advancing minority enterprise.

Section 633 of the Economic Opportunity Act of 1964 provides that "Federal agencies administering programs related to this Act shall . . . carry out their programs and exercise their functions so as to assist in carrying out the purposes of the Act, to the fullest extent permitted by other applicable law."[30] The term "Programs related to this Act" is defined by section 638 to include Federal "programs . . . which have objectives which are, in whole or substantial part, complementary to the purposes of this Act, or which may provide resources which may be used in combination with resources under this Act to assist in achieving any of the purposes of this Act."[31]

The next step in this bridging process is briefly to compare the purposes of the Economic Opportunity Act with those of the small business laws administered by SBA. The Economic Opportunity Act was based upon a Congressional finding that the United States can achieve its full economic and social potential as a Nation only if every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the workings of our society.[32] The corresponding purpose of the Act is to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity.[33] Even more pointed is the purpose of Title IV—to assist in the establishment, preservation, and strengthening of small-business concerns with special attention to those located in areas with high proportions of unemployed or low-income individuals or owned by low-income individuals.[34]

On the other hand, the Small Business Act states that the security and well-being of the Nation cannot be realized unless the actual and potential capacity of small business is encouraged and developed.[35] It also speaks of maintaining and strengthening the overall economy of the Nation,[36] as does the Small Business Investment Act in slightly different terms.[37]

Given all these broad purposes, it seems reasonable to conclude that all these programs are related or complementary of one another and that therefore special emphasis to disadvantaged minorities in SBA programs is legally supportable. The language in these enactments is surely broad enough to be a comfort and joy even to those managers of Federal programs who tend to fret about whether they have statutory authority to act.

But in addition to this overall bridge, there are two smaller bridges which connect the broad purposes of the Economic Opportunity Act with *specific* SBA programs.

One is Section 4(d) of the Small Business Act which places upon the Administrator the responsibility of coordinating SBA's financial assistance programs with other activities and policies of the Federal Government.[38] This responsibility extends to financing activities authorized by the Small Business Investment Act as well, by virtue of section 308(f) thereof.[39]

The other specific bridge is Section 407 of the Economic Opportunity Act which requires the SBA Administrator to take such steps as may be necessary or appropriate, in coordination with the heads of other Federal departments and agencies, so that contracts and subcontracts (as well as deposits) made by the Government are placed in such a way as to further the purposes of the Act.[40] This, of course, triggered the use of Section 8(a) of the Small Business Act under which SBA may serve as the prime contractor for contracts of other agencies and subcontract them to small-business concerns.[41]

SUMMARY

Since this may appear to be a meandering review of the legal authorities upon which the minority enterprise efforts of the Small Business Administration are based, a summary of the main points should help to put the matter in better focus.

There is a great need for a minority enterprise program, a need recently confirmed by a Bureau of the Census report showing the small share that minorities have in this Nation's business population; a need also recognized by Executive Order and the establishment of a Congressional subcommittee.

There has been much confusion and speculation about how a minority enterprise program seemingly based upon racial considerations can be constitutionally justified. But although the minority aspects have been stressed, the term in actual practice is a euphemism for socially or economically disadvantaged persons, most of whom happen to be members of minority groups. This being so there is broad authority in the Economic Opportunity Act of 1964 for agencies of the Government—the Small Business Administration particularly—to use their related programs in a way to complement and advance the purposes of this Act—helping the disadvantaged. This category often includes, but is *not* restricted to, Black Americans, American Indians, Spanish Americans, Oriental Americans, Eskimos and Aleuts. *It is not limited to any particular racial group.*[42]

FOOTNOTES

*Based substantially upon an address given by the author in connection with the Small Business Committee's Program on the Minority Contractor, Federal Bar Association Annual Convention, New Orleans, Louisiana, September 8, 1971.

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[1] For examples of private sector participation see *Directory of Private Programs for Minority Enterprise* (Community Relations Service, U.S. Department of Justice), 1969. See also *Hearing on the Organization and Operation of the Small Business Administration*, House Select Committee on Business, 91st Cong., 1st Sess. (1969).

[2] Small Business Administration, *1970 Annual Report*, U.S. Government Printing Office, Washington, D.C. 1971, p. 35. The Report states that minorities represent 17 percent of the U.S. population and owned around 4.5 percent of all businesses at the end of 1970.

[3] U.S. Bureau of the Census, *Minority-Owned Businesses:* 1969, *MBI*, U.S. Government Printing Office, Washington, D.C. 1971, p. 1.

[4] *Id.*, p. 1. The Census Bureau population figures are for 1969 and the receipts are for 1967. According to the Report, it is believed that approximately the same relationship as to receipts existed in 1969 between minority-owned firms and total firms.

[5] Executive Order 11458, promulgated by President Nixon on March 5, 1969 (34 Fed. Reg. 4937), is entitled "Prescribing Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise." Superseded subsequent to the author's remarks at the FBA convention by Executive Order 11625 on October 13, 1971 (36 Fed. Reg. 19967).

[6] CONGRESSIONAL RECORD, volume 117, part 5, page 6296.

[7] None of these cases had reached a decision on the merits at the time of the author's remarks at the FBA convention. Subsequently, Federal District Judge Wyzanski held that competitive bidding is not required under Section 8(a) and that the program does not violate the Fifth Amendment because the class of person eligible is not defined racially but by social or economic disadvantage. *Kleen-Rite Janitorial Services, Inc.* v. *Laird*, Civil No. 71-1968-W, D. Mass., September 21, 1971.

This prime contracting program is popularly known as the 8(a) program because it was authorized under Section 8(a) of the Small Business Act.

In *Ray Baillie Trash Hauling, Inc.* v. *Kleppe*, Civil No. 71-1030-JLK, S.D. Fla., October 29, 1971, the court concluded that "it is the general policy of Congress that Government contracts, unless specifically excepted, shall be awarded by means of the maximum competitive bidding practicable, whether formal advertising or negotiation is used" and that "Section 8(a) of the Small Business Act does not create an exception to the statutes requiring the maximum competitive bidding practicable." The court said also that "the legislative and regulatory history of the enactment and implementation of Section 8(a) of the Small Business Act demonstrates that Congress did not authorize by its provisions a program . . . for the benefit of 'socially or economically disadvantaged persons.'" (It is not evident from the opinion what consideration the court gave to Sections 407 and 633 of the Economic Opportunity Act of 1964 which, the article submits, provide bridges of authority between the purposes and programs of the Small Business Act and those of the Economic Opportunity Act.) The court also concludes, among other things, that the "primary criterion for eligibility under the 8(a) program is race, color or ethnic origin;" that whites "are not eligible for the program benefits, except on a token basis;" and that this represents invidious discrimination against them." At press time, an appeal of this decision was under consideration.

[8] 15 U.S.C. 631 *et seq.*

[9] 15 U.S.C. 661 *et seq.*

[10] 42 U.S.C. 2000d.

[11] See H.R. Rep. No. 1979, 90th Cong., 2nd Sess., pp. 49–56 (1968), a Report of the House Select Committee on Small Business on the Organization and Operation of the Small Business Administration.

[12] H.R. Rep. No. 91-1753, pp. 8, 26 (1970), a Report of the House Select Committee on Small Business on the Organization and Operation of the Small Business Administration (1969–70).

[13] *Id.*, p. 15. These sentiments were not unanimous. The Report contains the "Separate and Additional Views" of Congressmen Conte, J. T. Broyhill, Horton, Burton, Stanton, and Button, which express the belief that a number of the statements contained in the Report do not fairly reflect the status of minority enterprise loan programs at SBA (p. 33); and that the 8(a) program is not

limited to minorities (p. 38). Compare also the statement of the Senate Committee on Labor and Public Welfare that "an important priority of the antipoverty effort (of SBA) must be to expand the opportunities for a stake in community economic life for low-income persons and minority group members. . . ." S. Rep. No. 563, 90th Cong., 1st Sess., p. 65 (1967).

[14] Attributed to Chief Judge David L. Bazelon of the U.S. Court of Appeals, Washington, D.C., in a speech before Legal Services Programs Lawyers, May 10, 1968.

[15] *Norwalk CORE* v. *Norwalk Redevelopment Agency*, 395 F. 2d 920, 931 (2nd Cir. 1968).

[16] Opinion of the Attorney General of the United States, September 22, 1969; *Contractors Assoc. of Eastern Pa.* v. *Secretary of Labor*, 311 F. Supp. 1002 (E.D. Pa. 1970) *aff'd* 442 F. 2d 159 (3rd Cir. 1971), *cert. denied*, 40 U.S.L. Week 3165 (U.S. October 12, 1971). *Contra:* Opinion of the Comptroller General of the United States, August 5, 1969. The opinions of both the Attorney General and Comptroller General are set out at 115 Cong. Rec. 40018–40025 (1969).

The General Services Administration has amended the Federal Procurement Regulations, effective October 18, 1971, to require a "Utilization of Minority Business Enterprise" clause in contracts offering subcontracting opportunities. Under the clause contractors would be required to provide minority business enterprises with equitable opportunities to compete as subcontractors and suppliers (36 Fed. Reg. 17509, September 1, 1971).

[17] 15 U.S.C. 631 *et seq.*

[18] 15 U.S.C. 661 *et seq.*

[19] 41 U.S.C. 2901 *et seq.*

[20] Section 2(a) of the Small Business Act, 15 U.S.C. 631.

[21] Section 7(a) of the Small Business Act, 15 U.S.C. 636.

[22] Section 8(a) of the Small Business Act, 15 U.S.C. 637.

[23] Section 8(b) of the Small Business Act, 15 U.S.C. 637.

[24] For SBA's disaster loan authority, see Section 7(b) of the Small Business Act, 15 U.S.C. 636(b) and sections 231, 234, and 237 of the Disaster Relief Act of 1970, 42 U.S.C. 4451, 4453, 4456.

[25] Section 102 of the Small Business Investment Act of 1958, 15 U.S.C. 661.

[26] Title III of the Small Business Investment Act of 1958, 15 U.S.C. 681 *et seq.*

[27] Title IV, Part A of the Small Business Investment Act of 1958, 15 U.S.C. 692 *et seq.*

[28] Title IV, Part B of the Small Business Investment Act of 1958, 15 U.S.C. 694a *et seq.*

[29] Title V of the Small Business Investment Act of 1958, 15 U.S.C. 695 et seq.

[30] 42 U.S.C. 2975.

[31] 42 U.S.C. 2980.

[32] 42 U.S.C. 2701.

[33] *Id.*

[34] 42 U.S.C. 2901.

[35] 15 U.S.C. 631.

[36] *Id.*

[37] 15 U.S.C. 661.

[38] 15 U.S.C. 633(d). This responsibility initially rested with the Loan Policy Board established by this section and composed of the SBA Administrator as Chairman, the Secretary of the Treasury, and the Secretary of Commerce. The Board was abolished by Reorganization Plan No. 4 of 1965 and its functions transferred to the Administrator, effective July 27, 1965 (30 Fed. Reg. 9353).

[39] 15 U.S.C. 687(f).

[40] 42 U.S.C. 2906c.

[41] 15 U.S.C. 637(a). This prime contracting authority was contained in Section 207(c) of the Small Business Act of 1953 (67 Stat. 236) at the time SBA was first established but it was not utilized until 1968.

[42] Executive Order 11625 referred to in note 5, *supra*, includes a definition of "minority business enterprise" which substantially follows the SBA approach; i.e., socially or economically, disadvantaged persons are found in the main to include members of minority groups. Executive Order 11458 which was superseded by E.O. 11625 contained no definition of the term.

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## THE NEW COLLABORATIONISTS—CAPITALISM AND COMMUNISM

### HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. RARICK. Mr. Speaker, some insight into the reciprocal wooing of capitalists by Communists and vice versa may be gained by recent news reports.

As the Communist leadership around the world admit the failures of their economic and technological systems, capitalists show interest in the promise of huge profits offered to them by collaboration with Communists.

In the United States we learn that our big corporations have already organized for a counterattack against legislation that would cut the foreign profits, limit their overseas investments, and put quotas on the imports generally.

The industrialist organization calls itself the Emergency Committee for American Trade and is chaired by Donald Kendall, board chairman of Pepsi-Cola, Inc. Its membership consists of some 74 "multinational companies."

We also learn from Geneva, Switzerland that the International Federation of Chemical and General Workers Union will attempt to organize workers in the multinational companies. The new collaboration of capitalists and Communists is rapidly ushering in the new international age.

Informed Americans already realize that the huge profits which capitalists take out of foreign countries without giving the foreign people a fair share of their natural resources or a share in the profits are responsible for a growing anti-American sentiment labeled as exploitation even in countries friendly to the United States.

I insert related newsclippings.

[From the Washington Daily News, Feb. 28, 1972]

RUSSIAN POWERS NEED CAPITAL

(By Virginia Prewett)

President Nixon's Peking visit, with all that it may imply, has ironic overtones for Latin America.

Geopoliticians agree that what communist China want from the U.S., eventually, is a strong injection of capital and technology. This is needed not only to improve the desperately low living standards of the mainland Chinese people, but also so that Peking can meet on more equal terms the rising power of the mighty political and economic empire that is the Soviet bloc.

Since Mr. Nixon announced his China visit last August, we have also seen significant developments in the U.S.-Soviet relations. When the then Secretary of Commerce Maurice Stans last fall went to Russia to talk trade, he heard of the Soviet's desire to import U.S. capital and technology for Russia's internal development.

Be sure that both communist giants will pay attractive profits to any U.S. interests that collaborate with them. Or there will be no such collaboration.

In Latin America, in sharp contrast with attitudes emerging in communist world centers, extremists allied with both camps have for decades energetically sought to root out all vestiges of U.S. capital. What Latin American leftists have been told is extremely bad for their countries now proves to be exactly what Russia and communist China need.

A striking example of this concerns copper in Chile, where "Yankee Get Out" is a traditional communist slogan. When Chile's Marxist-Leninist President, Dr. Salvador Allende, took over big U.S.-owned copper operations, he invited in a team of Soviet engineers to check them over, possibly hoping to catch the Yankees in some technological misdeed.

The Soviet experts were so dazzled by what they saw that Russia not long after made overtures to U.S. capitalists, and their engineers, to come to Russia and help develop huge untapped Soviet copper deposits. If the U.S. should do this, what will become of Chile's copper exports, already competing in a price-depressed market?

Similarly, a few years ago when communist groups in the Middle East were agitating strongly for Arab countries to seize U.S. and European-owned oil properties that supply Europe's market—a step that would have cut off Middle Eastern oil to Europe—the Soviets made advances to Europe to buy Soviet oil.

Since Castro seized U.S. developed chrome production in Cuba, the U.S. has been buying chrome from the Soviets. This is nice work and Moscow got it.

In the longterm maneuvering of communist China and Russia there is a great deal more than immediately meets the ideological eye. But one thing ought to start coming clear to Latin America fairly soon.

It is that as their extreme leftists kick out U.S. capital and technology-transferring U.S. industries—and make it ever harder in some countries for U.S. capital to come in—the communist "mother countries" directed from Peking and Moscow are readying lower bars. There should be a lesson in this, somewhere.

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[From the Washington Post, Feb. 25, 1972]

U.S. FIRMS OWNING FOREIGN PLANTS HIT IMPORT-QUOTA BILL

(By Peter Milius)

Big American corporations that have plants abroad began a counterattack yesterday against a piece of legislation that would cut their foreign profits, limit their overseas investment and put quotas on imports generally.

The bill, called the Burke-Hartke bill, has been introduced in both houses of Congress, and has heavy support from organized labor. The unions say the bill would save American jobs. They charge that the setting up of foreign factories by American companies amounts to the export of U.S. jobs.

The industry counteroffensive will come from a group called the Emergency Committee for American Trade.

Its chairman, Donald M. Kendall, board chairman of PepsiCo., Inc., made public a study of 74 "multi-national companies" yesterday.

The study, he said, "firmly established that the attack on the multi-national company is a case of mistaken identity. These companies don't export jobs; they out-perform other companies in making jobs."

The study says that from 1960 to 1970 the 74 companies increased their totals of domestic employees much faster than most manufacturing firms, and increased their domestic investments and sales at faster rates as well.

It also says they increased their exports and their net surplus of exports over imports.

The study asserts that "foreign investments are made primarily to meet market demands that cannot be served by exports from the United States."

It also declared in rebuttal to a labor charge, that "low wages are not a major factor in the majority of foreign investment decisions."

[From the Evening Star, Feb. 29, 1972]

UNION IN GENEVA SET TO ORGANIZE MULTINATIONALS

GENEVA (DJ).—The International Federation of Chemical and General Workers Union here intends to attempt to organize within the next 18 months the workers of at least 15 multinational unions in the paper, tire and chemical fields, Charles Levinson, secretary general of the federation, told Dow Jones.

"We find that the best way to develop countervailing power to the multinationals (companies) is to organize internationally along company lines." Levinson said.

The federation already has what it calls permanent world councils for such multinational companies as Michelin, Saint Gobin, Rhone Roulenc, Kimberley Clark and the Royal Dutch-Shell Group.

## REGISTRATION BY MAIL

## HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DUNCAN. Mr. Speaker, I read an interesting statement recently on the proposal to register voters by mail, and I think the highlight of this is "it would intrude on the right of States and counties to set up their own election registration procedures."

The editorial is as follows:

[From the Knoxville (Tenn.) News-Sentinel, Feb. 23, 1972]

REGISTRATION BY MAIL

Quick and easy as it sounds, the proposed use of postcards to register voters for Federal elections should be rejected.

It would intrude on the right of states and counties to set up their own election registration procedures.

It would create a new opportunity for fraudulent voting in presidential and congressional elections.

And it would require local election officials to keep two sets of registration books—one for voting in Federal elections, the other for voting in state and municipal elections.

Yet the postcard proposal, sponsored by Sen. Gale W. McKee of Wyoming, has strong backing in Congress, especially among Democrats, who figure most of the new votes would come their way.

The Senate will vote on the McGee bill in the near future, and the House is expected to begin committee hearings soon.

The proposed setup, to be operated by the Census Bureau, would enable a voter to register for Federal elections simply by filling out a postcard (delivered by the mailman) and sending it to the county elections office.

This requires little or no effort by the voter, which may be a weakness of the plan rather than a strength.

A better way to widen the voting base (29 million eligible voters weren't even registered in 1968) would be to bring the registers to the public—in schools and shopping centers, at night and on weekends if necessary.

New 18-year-old voters, for example, could be registered in their high schools, a procedure already being used here and in other communities.

It is not unreasonable to ask that every citizen register to vote in person. If a voter isn't willing to do that, he isn't likely to show up at the polls on election day anyway.

Registering to vote should be a sign of interest in the political process, not an offhand exercise to be carried out by merely scrawling a few lines on the back of a postcard.

## DAR VISION—PAST, PRESENT, AND FUTURE

## HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. BOB WILSON. Mr. Speaker, Mrs. Donald Spicer, president-general of the Daughters of the American Revolution, has her home in Coronado, Calif., and is a resident of my district.

I have known her for many years and regard her very highly. She comes from a service family. She married a marine officer; was the daughter of a marine lieutenant and her three sons were officers in the services.

A direct descendant of Betty Washington, George Washington's only sister, she has been very active in the DAR for years. Recently, my attention was called to a speech she made to a number of DAR chapters in Dover, Del., on the night of February 18, 1972. Its title is "Vision—Past, Present, and Future," and in it Mrs. Spicer tells some things about her organization that are not generally known. At this point in my remarks, I insert Mrs. Spicer's speech in the RECORD:

DAR VISION—PAST, PRESENT, AND FUTURE

From the beginning the founders of the National Society of the Daughters of the American Revolution epitomized vision—a vision which has been, is being and will be fulfilled. Vision was shown in the objectives chosen—historic preservation, promotion of education and patriotic endeavor—objectives which remain constant.

Vision is shown in our Resolutions too, and our concepts produced policies have endured, which still endure, often years ahead of their time. The very first was for proper respect for the flag, a symbol of the Society's basic principles and objectives.

Many resolutions have been adopted since then relating to patriotism in all its phases; symbolic of DAR goals. Specifically, a strong national defense and adequate military establishment has been sought by the Daughters. We have backed the FBI and police. We have asked that we fight to win in Vietnam. We have worked for the return of our prisoners of war in Indochina. We have staunchly opposed Communism and always have insisted on constitutional government.

We live in uneasy times. Many of the values we have cherished have been questioned and discarded by some elements of our society, the DAR has tried, and is trying, to have some influence upon events and to preserve certain ideals and objectives which we value deeply and believe they must prevail if this Nation is to remain free and great.

Let us discuss briefly one of these ideals already mentioned—patriotism. The National Society of the Daughters of the American Revolution has been, and shall continue to be, unashamedly patriotic. We revere and show our respect for the American Flag as a symbol of spiritual values which are hard to put into words. We thrill to the playing of the "Star Spangled Banner" and rise as it sounds with a feeling of exultation. We pay tribute to the great men who have led us in the past—and there were giants among them—as an example of what our leaders of the present and future can and should be.

To some, such ideas and principles sound pretentious and sentimental. Many sneer at patriotism and judge it, and almost everything else with the question: "So what?"

Yet, only a little reflection will convince any reasonable person that without patriotism, our democratic form of government is doomed, without patriotism, we have no defense against aggression from the outside, or from upheavals, subversion and revolution within. If the majority of Americans are not willing to defend their form of government in every way, its time is at hand. We shall no longer be free, or some other nation will so intimidate us that it will reap the benefits of our achievements over many generations.

Without patriotism, there will be no freedom in the United States, including freedom of the press. Now, some use that freedom to decry patriotism and other traditional virtues. They attack the military establishment and the need for adequate national defense. Basically, it comes down to those who feel that military preparedness is absolutely vital to our survival, and to those who sniff at the idea that Communist nations will take advantage of us if they secure the upper hand.

The record is plain for all who wish to see. Not too long ago there was a great outcry in this country because Russian troops had moved into Czechoslovakia where they brutally crushed a movement toward freedom. We have heard similar outcries in the past—over Hungary, over East Germany, over the Berlin Wall—the story can be told and retold, but there are those who forget quickly and too readily. Some tell us we can trust the Communist nations and that we should maintain good relations with them. We want to maintain the best of relations but when they begin to expand their overall military and political power, as they have in the past several years, there is cause for concern.

This controversy over defense is very much alive and the outcome is still in doubt. In the past, the DAR, through our Resolutions, has consistently supported the premise that this country must be so strong that no power will dare to launch an all-out attack upon us. We feel that events of the past 25 years have vindicated this point of view, so we continue to hold and insist upon it.

Internal problems cannot be neglected, however, if we are going to have the time and the means to deal with them, the capability to repel outside aggression must be maintained.

Insofar as our defense establishment is concerned, more needs to be done than to appropriate the necessary funds for personnel and materiel. There must be a well trained and adequate Army, Navy and Air Force. The morale of these forces has to be good, and that depends not only on funds but on public support and confidence.

Many feel it was a mistake to have engaged in a ground war in Southeast Asia in the first place but once entered into why was not sufficient force used in order to win?

The DAR has gone on record several times urging that our country fight for victory, why wasn't that done? Our leaders have never discussed this question in detail. The public has been led to believe that decisive action was held back for fear that we would bring on World War III. Either Russia, or Red China, it was said, would attack if the

necessary force was used to bring an end to North Vietnamese aggression. Our young men have fought and died under restrictions which made outright victory impossible. Yet, defeat would give Communist aggression the go-ahead all over the world. The victorious Communists would have their revenge on the South Vietnamese. This has been the aftermath where Communists have seized power by force, as is known all too well.

There are other factors to be considered such as the assaults upon the defense establishment and our system which go far beyond trying to correct defects. Nothing is right. Everything is wrong. In consequence, the signs of deterioration are all around. Crime has become a threat to almost every citizen. During the past several years many campuses and streets have become battlegrounds. Behind these is seen a familiar pattern. Some teachers in many of our schools—and this is baffling—put this great Nation's shortcomings under a microscope and held them up for the pupils to see. Lately a great deal of the uproar on the campuses has declined. Basically, we have a fine group of young men and women and they have thought a good many things out for themselves as, apparently, have many of their teachers. It is hoped they will become more objective in their analyses of our faults and our virtues. Or to put it another way, they may become a bit more patriotic. In the DAR Resolutions on education, students and teachers have been urged to learn more about our system and contrast it with other forms of government. Democracy is not perfect but it looks very good indeed in comparison to Communism, Fascism, Socialism or any form of Totalitarianism.

The DAR has urged effective law enforcement at all levels as the remedy for crime for years. Obviously, no informed citizens are going to disagree. Crime records have risen annually on a national basis for two decades and, from all indications, 1971 was no exception. There are estimates that crime costs the country around $35 billion annually. Other estimates put the figure much higher.

The decay of central cities testifies to the prevalence of crime. Almost every large city has a program for urban renewal involving hundreds of millions of dollars. Most of these programs will fail unless control in the downtown areas is achieved. Order, security and stability depend upon that control.

Punishment for crime should be swift and certain and the principal concern in a criminal trial is guilt or innocence. If a person is guilty, a penalty should be forthcoming.

The view that guilt or innocence is secondary is bewildering. An elaborate system of rules now surrounds criminal proceedings, giving the accused the benefit of technicality after technicality, of delay after delay. The victim of crime is largely forgotten, some insist that society is responsible for lawlessness and that, consequently, society itself must go on trial in almost every criminal case. This attitude has dominated the courts and even some law enforcement agencies until this Nation is approaching a disaster.

The Daughters have consistently supported the broad and highly important national movement to protect our environment and repair the damage done over the years. In 1970, however, a Resolution was approved which said in substance that, in our zeal, extremes should be avoided. We were highly criticized, even by some of our members, but time has shown us to have been right. Some of the proposals made in support of the ecology movement simply are not practicable, either from the standpoint of the time or the immense sums involved. Efforts to clean up the air, land and water will continue to be backed but it must be done realistically; the procedures controlled and carried out after expert planning and consideration of all factors involved.

Another illustration, is the DAR stand on the United Nations, long before the majority of people realized that this body is almost valueless insofar as its basic objectives are concerned. Reliance on it was warned against as well as the danger of giving it any control over our domestic affairs. Now, there is general disillusionment about the UN and resentment over the fact that the American people are paying about 30 percent of the cost of this body, but with only one vote. Many new nations come in with equal status but little responsibility. In this connection, Red China, is now a member of the UN and the United States is seeking closer relations with the Communist giant. We have consistently opposed the entry of Red China into the UN. One wonders what will come of the efforts at a better understanding with the most populous country on earth.

The Society has always been aware of the fundamental problems of the poverty-stricken and the minorities. Our Daughters worked for underprivileged children for many years and in many ways. In Appalachia two schools for mountain children were established; a station on Ellis Island was maintained while it was in existence, as a passageway for millions of immigrants; the families coming into this country were helped in many ways, including helping care for the children; booklets were printed in 17 languages to aid those coming to our shores to meet and surmount the difficulties and complexities confronting them, including becoming citizens.

It is unfortunate that our critics do not know more about our work with American Indians and, in particular, Indian children. We have learned quite a bit about this proud people, the first Americans. The two Indian schools supported by the DAR are St. Mary's School for Indian Girls in Springfield, South Dakota, and Bacone College in Bacone, Oklahoma.

This talk has been an effort to tell you something, something highly important. The DAR has been right on most of the great issues of our day. We have had vision; vision which has been ahead of the times. There is no reason to be defensive; quite the contrary. For we have many reasons to be proud of our organization and its objectives. We should continue to be active and work unstintingly for those ideals upon which this great country of ours were established. The Daughters have not been living in the past but have used it as a guide to the present and the future too, realizing that there is great hope and much to do.

In discussing past Resolutions and the vision that inspired them, compared to present circumstances, the brightest picture is not painted. Gradually, however, that picture is improving and there is much hope for the future, especially through our work with the youth of our great country.

Visiting 38 state meetings and conferences all over the country in the last three years, has brought deep confidence in the resurgence of Godliness and patriotism and the essential goodness of the majority of our youth.

We heard them singing of their faith in God and love of America. They are part of our "Silent Majority," but silent only in the sense that most of the rest of us can't or won't hear. (Isn't there a theory that a sound is not a sound unless heard?)

What are they trying to tell us though we pay little attention? What do they ask even without realizing that they have and express a need? How do we answer? Conversely, how do we make them listen?

Let us also look for the good in what some term the "Jesus Freaks" and their "Groovy God." Granted that this sudden concentration on religion shown by the way-out cults in their new music seems to many to be blasphemous. Isn't it meaningful and encouraging that they are acknowledging God, acknowledging a power outside of themselves. Even though they do it in a manner which is different and horrifies many of us—that again we are being told something we need to know. Something we should consider and encourage.

We have called on these young people to serve their country in many ways and while they are very young. Now we have given them the added responsibility of the franchise. Have we given them what they need to be ready for either?

In an advertisement appearing in a magazine some time ago was a picture of a sign on the side of a bank building which said "Due to Lack of Interest, Tomorrow Has Been Cancelled." In shutting our eyes to the needs of our youth, turning away from them when they do not agree with us, we are, in effect, trying to do what cannot be done—"To Cancel Tomorrow." These people, questioning and rebellious, inquiring for guidance to meet their needs, represent tomorrow. It is up to us, their parents and grandparents, to help the world meet tomorrow. To make tomorrow as it was meant to be.

I would like to mention now something in which I have, along with other members, a keen personal interest. We are submitting to the Continental Congress in April of this year a project which should be completed in 1974 as part of the celebration of the Bicentennial. Specifically, the DAR would underwrite the cost of furnishing two rooms on the second floor of Independence Hall in Philadelphia. The rooms are the Governor's Council Chamber and the Assembly Committee Room. All structural work has already been done, and beautifully, on the restoration of this shrine of our Nation. Every other room in the building has been completed with government and other funds, except these two rooms. If the membership approves this project, we shall term it our "Gift to the Nation" on its 200th birthday, a gift to be presented in honor of the founding of our country. This project will become a lasting memorial to the DAR and to our deep regard for the United States of America.

No, the charges of indifference, complacency, and the standpatism leveled against us simply are not true. But what is true is that we have not been effective in presenting our story to the general public. This is a task which must be undertaken and in which we shall succeed.

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## HEART DISEASE PREVENTION CENTERS

### HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DUNCAN. Mr. Speaker, today I am introducing a bill which will be a major step forward in this Nation's attack on our No. 1 killer—heart disease.

Americans have worked hard to build the most productive society in the history of the world. Heart disease has also worked with extra effort to rob Americans of the fruits of this society. Over 1 million Americans die each year as a result of heart disease. This bill will establish centers throughout the United States to aid Americans in their struggle against this indiscriminate killer.

The three major provisions of this will include the establishment of heart disease prevention centers throughout the Nation:

First, arteriosclerosis centers particularly aimed at identifying those in the younger age groups afflicted with this disease;

Second, cardiovascular centers to provide early diagnosis and preventive care for high-risk individuals; and

Third, an Office of Health Education within the National Heart and Lung Institute created to serve as a clearinghouse for information on arteriosclerosis.

These preventative information centers will be especially helpful to those Americans possessing high heart attack risk factors such as problems of diet, obesity, hypertension, and chronic cigarette smoking.

This clinical approach adds a new dimension to our battle against heart disease. Now each American will have an opportunity to have his life style professionally diagnosed in order to identify those patterns which lead to heart disease and early death.

It is my hope that this bill will further our efforts to guarantee America the full benefit of her greatest resource—her people. Our people in turn will benefit from the Heart Disease Prevention Act of 1972 by living longer to enjoy the fruits of a full productive life.

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## CONGRESSMAN LESLIE ARENDS TO RECEIVE THE AMERICAN LEGION AWARD FOR DISTINGUISHED PUBLIC SERVICE

### HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. COLLIER. Mr. Speaker, under leave to extend my remarks in the RECORD, I wish to include the text of a news release announcing the fact that Congressman LESLIE ARENDS is to receive the American Legion Distinguished Public Service Award.

I can think of no other American who deserves this award more than Congressman ARENDS. He has served the Nation with ability and fidelity for 28 years as a Member of the U.S. House of Representatives.

The news release follows:

WASHINGTON, D.C., January 27, 1972.—The American Legion National Commander John H. Geiger, of Des Plaines, Illinois, today announced the selection of Representative Leslie C. Arends, of Illinois, as the 1972 recipient of the Legion's Distinguished Public Service Award.

The award, last presented in 1968 to the former Speaker of the House of Representatives, John W. McCormack, is presented, as deemed appropriate, to an individual in public life considered to have made an exceptionally outstanding contribution to the Nation.

Congressman Arends will officially receive the award on Wednesday evening, March 1, 1972, during the American Legion National Commander's Banquet for Members of Congress at the Sheraton-Park Hotel. The Banquet marks the highlight of week-long activities surrounding the Legion's annual Washington Conference of executives and officials, and will be attended by some 2000 members of congress, Legionnaires and their wives.

Arends, now in his 19th consecutive term in the House, is the Republican Whip; the ranking minority member of the House Armed Services Committee, and consistent supporter of veterans legislation. He is a Navy veteran, and a long time member of the American Legion.

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## THE NEIGHBORHOOD SCHOOL CONCEPT

### HON. EARLE CABELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. CABELL. Mr. Speaker, on Tuesday, February 29, 1972, I submitted testimony to the Judiciary Committee on the busing situation. I insert my testimony in the RECORD at this time:

TESTIMONY OF CONGRESSMAN EARLE CABELL

Across the bottom third of Sunday's Dallas Morning News, a six-column banner headline reported: "Classroom Battle Turning Physical, Teachers Say." While it is inaccurate to blame the 18 reported altercations since school opened on busing alone, there is no doubt the tensions that exist in my district today at school and at home are a result of intrusion of our federal courts into our educative processes. This was even carried to the unheard of extreme of a decision by the Dallas Court to divest the Superintendent and the Board of the Dallas Independent School District of all authority in the operation of the School System and placing such authority in the hands of a Tri-Ethnic Committee appointed by the Court. After all, there is no way to count the attacks and the verbal threats that go unreported.

While the hearings of this committee, Mr. Chairman, are to be confined to proposals for curbing the busing of school children to secure racial balance, an even more important matter is the question of improving minority schools, updating facilities where they have been allowed to deteriorate, and making certain that our strongest, our finest and our best teachers are assigned to areas of greatest need.

Busing itself is an historic method of transporting children to school. The transporting of school children from thinly populated suburban or rural areas is essential to make available adequate facilities to these children. This is not the case in urban areas where the population density is sufficient to provide schools for the individual neighborhoods convenient to them. Today's chaos is the result of adding the element of force and of making its purpose "to achieve racial balance," regardless of the distances involved.

The result has unleased a political force so powerful that it has already unsettled the experts in the White House and has brought powerful anti-busing majorities to the fore in both Houses of Congress.

Do not underestimate the power of the neighborhood school concept, its effect upon public opinion, and its ability to change the minds of politicians as a threat to it develops in their home districts.

Another Dallas newspaper, The Dallas Times Herald, expressed it best in a lead editorial Sunday, pointing out "That while this nation earnestly seeks equal educational opportunities for blacks and whites alike, it is not likely to stand for schemes that detract from the learning process and even heighten those racial tensions we would all like to be done with."

[From the Dallas Morning News, Feb. 27, 1972]

CLASSROOM BATTLE TURNING PHYSICAL, TEACHERS SAY

(By Leo Donosky)

A lot of teachers always thought they were fighting a battle against ignorance, but lately, some say they just feel they are fighting a battle.

In some Dallas schools, discipline problems have been serious enough to initiate military strategy.

At one junior high school last year, a teacher reported, a voice occasionally would come over the public address system announcing "Operation Little Lamb, Operation Little Lamb."

"That," the teacher explained, "was a signal for us to clear the restrooms and halls and move the kids down to the first floor for a shakedown."

The School's principal would then have each student empty his or her pockets. All "weapons" would be confiscated and the principal would paddle the students who had brought them.

But several teachers, who asked not to be identified, said they are now ready to mount a campaign of their own.

"Conditions have gotten so much worse, teachers have become more militant. Things have got to change even if it takes a strike," one said.

Since the opening of school this year, 18 incidents have been reported of students physically attacking teachers.

While most such attacks take place in inner city schools, a teacher at a junior high school where four attacks have taken place this year said the increase is not just a result of faculty desegregation. Attacks have taken place against blacks as well as white teachers, he said.

"Of course, it doesn't help that the youngest, most inexperienced teachers were transferred into the most difficult situations," he said.

Dealing with problems and frustrations physically is more a socio-economic factor than a racial one, another said.

Teacher morale is a little better, though, in schools with students from middle and upper-middle class backgrounds.

"There's an atmosphere of intimidation," said a woman teaching at a predominantly white junior high school.

Because of recent court rulings extending student rights, "I'll tell a student to stop something and he'll say 'touch me and I'll sue you.' And he can," she said.

Teachers said they saw the breakdown in authority in schools moving across the nation like a thunderstorm.

School Supt. Nolan Estes said, "We saw it start several years ago on the West and East Coast, move into the Midwest and head South."

Anne Schuessler, a teacher at Skyline Center, said she is glad student rights have been upheld by the courts. "It's time we started treating them like people. Some teachers have equated respect with making students scared to death."

"For so long we had to enforce ridiculous rules like dress codes," said another teacher. But now there has been an "overreaction" among students with their new rights. "They are pushing to see how far they can go."

"You couldn't count all the verbal and physical threats that go unreported," he said.

Some teachers say they shy away from reporting too many problems for fear of looking bad at "teacher evaluation time."

Jewell Howard, president of the 6,500-member Classroom Teachers of Dallas (CTD), said, "This is going to be the big issue this year. We're not going to allow teachers to be

afraid in the schools or feel like it's their fault."

Some teachers say they feel forgotten in the hue and cry of parents for tighter discipline in the schools.

"Most of the problems happen outside the classroom. When you're acting like a policeman, doing hall patrol and lunchroom duty, kids react to you like a policeman," said one teacher.

"I wasn't trained for that and don't want to do it. But we're the ones who have to enforce the rules," he said.

School district policy warns teachers against making "initial" contact with a student or an outsider causing a disruption, to keep physical injuries to teachers to a minimum and prevent lawsuits.

Herb Cooke, director of CID, said the association is mounting a campaign to inform teachers of their rights. Most, he said, don't know it is up to them to press charges against a student who assaults a teacher.

CTD, he said, is going to help teachers press criminal charges that stick and "do everything we can to get students convicted."

Cooke said CTD's attorney has also advised pressing civic damage suits against parents in hopes they will take greater responsibility for their children's actions.

"Our teachers have been going the third mile, not just the second," Estes said. "But they need our help and support."

Dr. Estes said newly issued directives to principals instruct them to remove perpetual troublemakers from the schools."

Estes said the school district has alternate programs for students such as instruction in the home.

He said the cost would be "prohibitive" to free teachers altogether from non-teaching duties such as hall patrols.

Estes said he wants more administrative and management personnel in the schools to free principals and counselors from paper work.

One young teacher said, "It's going to take changing the entire school atmosphere. School has got to be a place where learning is exciting.

"That's going to take a lot of money and time," he said.

"I guess I'm just crazy enough to wait around for it to change," he said. "It has to."

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[From the Dallas Times Herald, Feb. 27, 1972]

BUSING REVOLT

Who would have thought it?

Only a year ago, most Northern congressmen and senators appeared dead-set against affording the South any relief from the anguish of racial-balance busing.

Now the Senate has voted, 43–40, to take away from the federal courts the power they've used—and abused—to order busing.

Sens. Mansfield and Scott, the Democratic and Republican floor leaders, respectively, had hoped that by offering meaningless anti-busing legislation they could take steam out of the drive for a constitutional amendment to outlaw pupil assignment on the basis of race. It wasn't a bad strategem. The Senate last Thursday went along with Mansfield and Scott, voting useless and futile strictures against busing that too seriously inconveniences children.

But the leadership may have underestimated the nationwide abhorrence that busing these days calls forth. For the very next day, the senators tacked onto a higher education bill Michigan Sen. Robert Griffin's amendment to halt busing orders altogether.

All we can say is, "Hallelujah!"

Here is the rationale for Griffin's amendment: The Constitution gives Congress the power to regulate the jurisdiction of the federal courts. What Griffin proposes, then, is all very open and above-board--to strip federal judges, at whatever level, of their power to mandate desegregation plans based on busing. This is the action for which both of Texas' senators, Lloyd Bentsen and John Tower, had called in no unmistakable terms. After all, it is the federal judiciary which is most responsible for the present busing crisis.

The legislation goes ultimately to the House of Representatives, where in our opinion, it will receive even a warmer welcome than in the Senate. For in the lower chamber, with its close ties to grass-roots America, one discerns massive sentiment against these ukases prescribing massive busing. Thus we would predict that the Griffin amendment will ultimately find its way into the statute books.

A word of caution: As John Tower points out, an amendment to the U.S. Constitution is "the only approach that is 100 per cent certain" to do away with busing. For such an amendment would be absolutely immune from being overturned in court. Hearings on the question open Wednesday in the House of Representatives, and the Griffin legislation notwithstanding, we think the amendatory process ought fully to be pursued.

Even so, the Griffin amendment's adoption is heartening for reasons other than the altogether salutary effects it should have. In selling 43 United States senators on his proposal, Sen. Griffin has demonstrated plainly as day that the American people are weary of social engineering schemes devised by non-elected judges; that while this nation earnestly seeks equal educational opportunities for blacks and whites alike, it is not likely to stand for schemes that detract from the learning process and even heighten those racial tensions we would all like to be done with. This much the Senate has shown. And it is with the utmost relief that we note it.

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## THE THREAT FROM CUBA

### HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. SCHMITZ. Mr. Speaker, during special hearings before the House Armed Services Committee in December, it was revealed that despite a steadily increasing threat posed by submarine-launched missiles and newly developed long-range Soviet bombers, our detection and intercept capabilities have rapidly deteriorated to the point that the existing U.S. air defense is virtually useless.

Delving into the strange intrusion of a Russian-built AN–24 aircraft which landed at New Orleans Moisant International Airport on the morning of October 26, 1971, the committee found that the flight, originating in Havana and carrying a contingent of 22 Cuban Communists en route to "attend an international sugarcane technological conference," had actually passed undetected through the U.S. aircraft defense identification zone—ADIZ—flying at an altitude of 4,000 feet. The "Cubana 877" had not even been noticed by either civilian or military officials until the pilot radioed the control tower requesting landing instructions.

This unusual incident was reminiscent of an earlier flight in October 1969 when a Cuban Air Force defector flew an armed Soviet-built Mig–17 from Red Cuba into Homestead Air Force Base near Miami, Fla., at a time when the President's personal plane, Air Force One, was parked on the field. Like the Cubana 877, the Mig–17's flight had been virtually undetected until it flew past the control tower at the airbase. Fortunately, that pilot was on our side.

How could aircraft from a Communist-held country just 90 miles from our shores violate our sovereign air space without being detected or alerting our own defenses? This was one of the vital questions asked a select group of defense experts in executive session before the Committee on Armed Services. Their candid answers, while heavily censored before publication by the Defense Department, nevertheless revealed the chilling fact that the entire southern flank of the United States is almost undefended and wide open to enemy attack from unfriendly nations to the south of us, especially Red Cuba. In fact, while the hearings were taking place in Washington a fleet of Russian ships—the seventh visiting Cuba since July 1969—were dropping anchor in Havana, and Soviet TU–95 aircraft were landing with still more Communist cadres to bolster the growing force of more than 30,000 Soviet Army personnel already stationed in Cuba.

As the committee pointed out in its lengthy report, in the name of "economy" Secretary of Defense Robert McNamara in early 1963 had "announced a phase-out of a large number of detection radars" the impact of which "was to further weaken radar detection in the southeast and to open a new gap across Texas, New Mexico, and Arizona." Air defense forces on the North American Continent were reduced by approximately 60 percent. While forces were concentrated in positions in the northern portion of the continent and along the northern Atlantic and Pacific coasts to provide a perimeter defense for all U.S. borders, our southern border was completely ignored. Since the aircraft defense identification zone extends almost 200 miles into the Gulf of Mexico, and any aircraft flying at an altitude of less than 2,000 feet cannot be detected by radar until it gets within 25 miles of the radar station, FAA radar capabilities are obviously inadequate to meet all contingencies.

Therefore, continued the report, control and surveillance of foreign aircraft in that air defense zone are solely dependent on the cooperation of the approaching pilot in reporting his intent and aircraft position. Needless to say, an armed squadron of offensive Soviet aircraft from any of the numerous bases in Cuba, or a battery of long-range Soviet nuclear ballistic missiles launched from a score of Komar-type guided missile ships or atomic submarines patrolling our coastline from their heavily fortified sub base at Cienfuegos, would hardly file a flight plan before committing an aggressive action.

With all these grim factors in mind, the House Armed Services Committee concluded that—

1. The existing United States air defense is virtually useless—it is more of a concept than an actuality;

2. Because of the failure to maintain a viable U.S. air defense system, sovereign U.S. air space cannot be effectively protected from intrusions of foreign aircraft, civil or military;

3. There is a 1500 mile opening in our air defense on the southern U.S. perimeter between Florida and California. The area is virtually devoid of military surveillance and air defense command and control; and

4. The Cuban plane incidents at Homestead Air Force Base and at New Orleans demonstrate that any foreign power can, at will, violate the southern U.S. air space without detection or interception.

Not too long ago, if confronted with such a clear and present danger right on our own doorstep, we would have immediately invoked the Monroe Doctrine. There never was any good reason for backing away from the Monroe Doctrine, and the facts brought out by the House Armed Services Committee give us every good reason for reestablishing it.

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## ESTABLISHMENT OF AN OFFICIAL RESIDENCE FOR THE VICE PRESIDENT

### HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. HOGAN. Mr. Speaker, on February 22 I introduced a bill to establish an official residence for the Vice President of the United States at Oxon Hill Manor in Prince Georges County, Md., my home district.

At the same time, an identical bill was being introduced in the other body by Senators MATHIAS, BEALL, CHURCH, and HUMPHREY.

Oxon Hill Manor is ideally suited to the dignity and responsibility of the office of Vice President because of its extraordinary beauty and size, as well as its convenient location—only minutes away from the White House, the Capitol, and Andrews Air Force Base, the base used for vice presidential aircraft.

The Washington Post featured an article last week describing Oxon Hill Manor in detail, and I now insert that article into the RECORD:

MANOR FOR THE VEEP?

(By Maxine Cheshire)

Oxon Hill Manor, a classical Georgian mansion overlooking the Potomac and less than 10 minutes from Capitol Hill, will be proposed to Congress next week as an official vice-presidential residence.

Maryland's Sens. Charles McC. Mathias and J. Glenn Beall will introduce legislation "to provide for the acquisition" of the historic Prince George's County estate as a home for the nation's No. 2 officeholder.

At the same time on the House side, Rep. Lawrence J. Hogan (R-Md.), will introduce a companion bill.

The property, once the home of Under Secretary of State Sumner Welles in the New Deal days, has special significance for many historians and scholars.

The grounds, almost within sight of Mount Vernon, are believed to be the burial place of John Hanson, who preceded George Washington as the first President of the United States under the Articles of Confederation.

Mathias and Beall, who have been quietly lobbying in advance for their proposal, are tl us far encouraged by the favorable response of their Senate colleagues and key members of the Nixon administration.

Vice President Spiro T. Agnew, also from Maryland, does not wish to appear to be house-hunting for himself. But he has indicated that he would not stand in the way of those who consider the place appropriate for others who come after him.

Former Vice President Hubert Humphrey, whose own staff once coveted Oxon Hill Manor when the Government first started looking for an official residence in the 1960s, is enthusiastically behind the bill.

Further support has come also from still another Marylander, Interior Secretary Rogers Morton. He was so impressed with Oxon Hill Manor's suitability that he had the National Park Service work up an evaluation that Congress should find very persuasive.

The National Park Service's Office of Archeology and Historic Preservation has concluded in a two-volume report that Oxon Hill Manor is something "very special" and "meets all the requirements necessary for the official residence of a high official such as the Vice President of the United States of America."

The report concedes that there may be those who feel that the Vice President's home should be located inside the District of Columbia. But all other features of site and location are regarded as "highly desirable."

Deer roam the woods, yet Oxon Hill Manor is only 7.4 miles from the White House and 6.4 miles from Andrews Air Force Base, which is used by vice-presidential aircraft.

There is enough acreage (55 to 158 acres) available to satisfy the Secret Service's security requirements and permit both a helicopter landing pad and anchorage for a boat on the river frontage.

Oxon Hill Manor has been occupied since 1952 by Fred N. Maloof, a self-made millionaire of Lebanese ancestry who got rich in oil and land speculation. He bought the property from Welles.

A connoisseur of art and antiques and historic memorabilia, Maloof maintains his unusual collection for visitors as "The John Hanson Memorial Museum."

But he hasn't owned the property since 1967, when he sold it to Johnson administration insider Howard Burris, who tried unsuccessfully to develop an educational Disneyland there.

International Capital Corp. and Financial Realty Corp. now hold title to the main 55 acres and the house. The remaining 92 acres are owned by shopping center developers from Hampton, Va.

Congress has long been in favor of some kind of vice-presidential residence, but no one has ever been able to come up with a suggestion with enough support to get money from the Appropriations Committee.

In 1966, Congress passed a bill authorizing $750,000 for "planning, design, construction, furnishing and maintenance."

But that official vice-presidential house was supposed to be built on the Naval Observatory grounds on Massachusetts Avenue, and certain admirals were just as happy that no one on the Hill ever cared enough to follow up on that idea.

Mathias' and Beall's upcoming bill was drafted in the form of an amendment to the earlier legislation.

The new proposal would merely change the wording of what is already on the books as Public Law 89-386 and will read:

". . . the Administrator of the General Services is authorized and directed to acquire, by purchase or otherwise, the property known as Oxon Hill Manor . . . together with a suitable portion of the grounds surrounding it."

The new bill asks for an appropriation of $1.5 million to the General Services Administration "for the acquisition and initial repair and improvement . . . including the cost of initial furnishings."

If there is any opposition to the amendment, money will probably be the issue. Some members of Congress may object to the Maryland location, but more are apt to be stingy about an expenditure that not everyone considers vital.

Oxon Hill Manor can be bought with varying amounts of acreage. The minimum recommended in the National Park Service's report is a 55-acre parcel that contains a 49-room mansion, formal boxwood gardens, a swimming pool, stables, a five-car garage, a greenhouse and a six-room manager's cottage.

The asking price for that portion is a negotiable $1 million.

The Park Service, however, is hoping that Congress will consider purchasing an additional 92.73 acres next door as a "buffer" that could also be available for "limited recreational use" and "public access to the waterfront."

The history of Oxon Hill Manor dates to 1685, when a member of Maryland's prominent Addison family acquired the land from Lord Baltimore.

The first Oxon Hill Manor house, built in 1710, survived until it was destroyed by fire in 1895.

It was in this early house that John Hanson, a visitor, died in 1783. Many written records indicate that he was buried there, either in the family cemetery or in the remains of what appears to be a mausoleum.

Hanson has a cult of followers among history buffs who feel he has been overlooked among our founding fathers and would like to see the present-day Oxon Hill Manor become a memorial to him.

The brick house that stands there today was built for Sumner Welles in 1929 by Washington architect Jules H. de Sibour, who also designed the Chevy Chase Country Club.

The style is an 18th-century English country house, with elegant rooms grandly scaled for formal entertaining.

A 26-by-31-foot entrance hall is floored with black-and-white marble. A 26-by-45-foot drawing room and a paneled Charles Dickens library open into each other and out onto verandas with a view of the Potomac.

The dining room will seat 24 at one long table, and perhaps three times that many at smaller tables.

The antique Regency wallpaper has a history which researchers may or may not be able to confirm. Supposedly, an emperor of China gave the eight large panels to Queen Victoria as a gift.

The main part of the house has six large "bed chambers," each with its own bathroom and fireplace.

The service wing is three stories high, 79 feet long and contains a wine cellar, incinerator, sewing rooms, linen closets, silver safe, a flower room, eight rooms for female servants and four rooms for male servants.

The place is not air conditioned, but the steel-beam, slate-roof construction is "first-class" and the condition is "sound."

"Refurbishing," according to the Park Service, "would involve more cleaning and painting than repairs."

Even the swimming pool (25-by-75 feet) is in good condition, but it needs a filtering system.

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## MAN'S INHUMANITY TO MAN—HOW LONG?

### HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks:

"How is my son?" A wife asks: "Is my husband alive or dead?"

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

How long?

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WALTER AND MARVIN MIRISCH

## HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. REES. Mr. Speaker, we are all aware of the enormous influence the communications media has on the minds of the public. Audiences respond readily to what they read in the press or to what they see on film. Thus, it behooves those members of the various media to weigh carefully their responsibilities to the people when they prepare material that will eventually reach the eyes and ears of the public.

I can think of no better example of people in the communications field who have proved their responsibility to their audience than Walter and Marvin Mirisch, whose motion picture production company, Mirisch Productions, Inc., has, since its inception, taken great pains to produce only films that are suitable material for vast general audiences.

I am reminded of Walter and Marvin Mirisch at this time because, with the release of their motion picture version of the great musical hit, "Fiddler on the Roof," they have entered the 15th anniversary of the beginning of their company. True to the tradition of the Mirisches, "Fiddler on the Roof" opened with many charity premiers across the country, raising much-needed money for hospitals and other worthy organizations. For instance, the film was presented in Los Angeles by the Women's Guild of Cedars-Sinai, which has raised almost half a million dollars through premieres of three Mirisch-produced motion pictures.

In the 15-year span of Mirisch films, which began with the highly entertaining comedy, "Some Like It Hot," Mirisch pictures have won 23 Academy Awards, including the "Best Picture" award for such fine films as "The Apartment," "West Side Story," and "In the Heat of the Night," the latter personally produced by Walter Mirisch.

Only this year, the Mirisch brothers' fine record was cited by the ABC-Interstate Theatre Chain, which presented them with its prestigious 1971 Gold Star Award for "their outstanding contributions to the motion picture art." The chain's president, William E. Mitchell, stressed the company "has been responsible for consistent quality film making which has brought outstanding returns for theater men throughout the world and added prestige and distinction to the entire motion picture industry."

Typical of the philanthropic nature of the Mirisches through the years, the brothers themselves are celebrating their 15th anniversary by establishing a fellowship at the University of California at Los Angeles. An annual award will be made to provide sufficient funds for a UCLA graduate student to make his thesis film and, under separate arrangements, the Mirisches will see that the film is distributed, to enable the student to make a firm entry into the motion picture business.

I am proud to have the Mirisches as a part of one of California's great industries—the motion picture industry. And I am proud that they represent our State and our country so well. They and their pictures have, in many ways, become ambassadors of entertainment to audiences, not only in this country, but in many countries abroad.

I congratulate the Mirisch brothers on their 15th anniversary and wish them continued success in the future.

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THE DANGER OF COMMUNISM

## HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. BOB WILSON. Mr. Speaker, the danger of communism has not disappeared. While we can witness new relations between China and the United States, the danger of Soviet communism and communism in Europe has rather increased. This is due to the fact that the Soviet Union has developed a hard and purposeful policy which tends to divide European countries, to push the United States out of Western Europe, to reach the recognition of the Communist domination over central and Eastern Europe, and to bring about a neutral and socialistic status to the countries of Western Europe. This can be called the Soviet Western policy. At the same time we can see the Eastern policy, or the Ostpolitik of the present Socialist-Liberal Government of Western Germany.

Being friends of the German people and of the Federal Republic of Germany since the days of the great Chancellor Dr. Konrad Adenauer, who was a sincere friend of the United States, it seems to me that in the Ostpolitik which the present German Government has carried out on its own, out of its own initiative, the Germans have made a bad deal with the Communist States, especially with the Soviet Union and Poland. This could also be a bad deal for the German people. If we enumerate the long list of the Soviet wishes which the West Germans have fulfilled in their treaties with Moscow and Warsaw—including the debasing obligation that they would help to bring their unfree Communist half as a second German State into the United Nations and to an international recognition which seems to be a kind of humiliation which no other nation would voluntarily take upon itself—we are painfully surprised when we look for the Soviet counterconcessions and find none.

Whether we meant to criticize the German Ostpolitik or whether we desire to remain neutral and aloof, is not important. It is important that we realize the situation and that we find out how to divert more such deals and how to undo past deals damaging not only Germany, but Western Europe and the Western alliance as a whole.

The Soviets do not make their political offensive, which is closely followed by an economic offensive, only against West Germany. They undertake this offensive against the entire free world, by every possible means, and therefore it is damaging to all if any free world nations give up positions, no matter what kind. We agree with the words of warning which the chairman of the Christian Social Union in Germany, member of the Bundestag, and former Federal Minister Dr. Franz Josef Strauss stated. On December 10, 1969, in the newspaper Stimme der Freiheit, he said:

> Maybe the danger of the new German Ostpolitik does not lie so much in the fact that this Ostpolitik makes peace more insecure and questionable. It lies rather in the fact that the Ostpolitik, slowly but surely changes the balance, which has been kept up by such toilsome efforts and formed by so many factors, to our disadvantage. In no case can a policy of mere concessions and one-sided resignations be helpful to our security.

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AMERICAN LITHUANIANS ADOPT RESOLUTION

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DERWINSKI. Mr. Speaker, American Lithuanians recently held a mass meeting at the Auditorium Theatre under the auspices of the Lithuanian Council of Chicago at which time they adopted a resolution which I am pleased to insert into the RECORD.

Certainly, groups in the free world like the Lithuanian Council are the true spokesmen for the people of Lithuania, rather than the stooges imposed on that country by the Soviet Union.

The resolution follows:

RESOLUTION

We, Lithuanian Americans of Chicago, Illinois, assembled this 20th day of February, 1972, at the Auditorium Theatre to commemorate the 54th Anniversary of the Declaration of Independence of Lithuania, unanimously adopted the following Resolution:

Whereas, On February 16, 1918, the Lithuanian nation proclaimed its independence, exercising the right of self-determination to be free and independent for all time; and

Whereas, By the Peace Treaty of July 12, 1920, Soviet Russia recognized Lithuania as a self-governing and completely independent State, and by the Non-Aggression Pact signed September 28, 1926, undertook to respect the sovereignty, territorial integrity and inviolability of Lithuania under all circumstances; and

Whereas, In total disregard of its treaties and pledges the Soviet Union in June 1940 seized Lithuania by armed force and illegally incorporated the country into the Soviet Union, in violation of international law, the Atlantic Charter and the Charter of the United Nations; and

Whereas, The Soviets deprived the free and proud people of Lithuania of their basic human and civil rights, converted the prospering country into a pauperized vassal of the

Soviet empire, and these conditions continue to this day;

Now, therefore, be it resolved, That we again express our sincerest gratitude to the Government of the United States of America for its steadfast non-recognition of the Soviet seizure and incorporation of Lithuania and trust that this policy will be continued until Lithuania and the other Baltic States are again free and independent; Be it also

Resolved, That the leaders of the free world are urgently implored to uphold their morally correct position and avoid any maneuvers which might lead to condoning the Soviet Russian crime of the enslavement of Lithuania and the other Baltic States; Be it also

Resolved, That we request the President of the United States to raise the issue of Lithuania's liberation at the forthcoming and all other negotiations with the Soviet rulers in Moscow; Be it also

Resolved, That we request that the foreign policy of the United States Government include the liberation of the Baltic States as an integral factor in its European security program; Be it also

Resolved, That this Resolution be sent to the President of the United States, to the Secretary of State of the United States, to the Senators and Congressmen from our State, to the Secretary General of the United Nations, and to the Press.

CHICAGO LITHUANIAN COUNCIL,
JULIUS PAHALHO, *Chairman.*
ALDONA INDREIKA, *Secretary.*

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## CONSUMERISM—EXCITING TREND OR EXAGGERATED PROBLEM: ADDRESS BY QUENTIN REYNOLDS OF SAFEWAY STORES, INC.

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### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DELLUMS. Mr. Speaker, recently Mr. Quentin Reynolds, chairman of the board and chief executive officer of Safeway Stores, Inc., spoke before an executive symposium held at St. Mary's College in Oakland, Calif.

In his presentation, Mr. Reynolds gave what I consider to be a frank and forward appraisal of the growing consumer movement in this country. I find it heartening that a representative of one of this Nation's largest firms takes such a positive attitude on this important issue.

I think that my colleagues would benefit from reading Mr. Reynold's speech, and therefore, I am inserting it into the RECORD at this point:

CONSUMERISM—EXCITING TREND OR EXAGGERATED PROBLEM

(By Quentin Reynolds)

Thank you, Mr. Chairman. Good morning, Consumers. "Consumerism—Exciting Trend or Exaggerated Problem." I think that title is most appropriate for this symposium since the subject, "Consumerism", touches everyone and has become the focus of attention over the past several years.

In the few minutes allotted to me, I hope to define consumerism, which I think is with us to stay. I would also like to add my voice to the argument that the private sector, or business, must respond to the activities of consumer groups to the mutual advantage of everyone concerned.

Consumerism is represented by a vivacious lady from the White House in Washington D.C. . . . and may I join others in welcoming you to this Seminar and to California once again, Mrs. Knauer.

Consumerism is many things to many people. It is "buyer beware" or "seller beware". It is unemployment, women's lib, product safety, discrimination, unit pricing and open dating, food additives, packaging, monopolies, interest rates, installment credit, pollution litter, solid waste, truth in advertising, obsolescence, automation, skilled and unskilled workers, birth control, labor contracts, pesticide, crime, 18-year old vote, drug culture, welfare, slums, profits, space exploration, peace and war.

Consumerism is Congress, the Federal Trade Commission, the Food and Drug Administration, the General Services Administration, the U.S. Departments of Agriculture and Commerce, Consumers' Publications, over fifty organized state consumers' groups; also, Nader, Furness, Meyerson, Nelson, Choat; plus many more.

It is you and I. It is formal and informal organizations and the unidentified.

It is the Chairman of the Board of a major automobile company appearing before a Senate investigating committee, apologizing to a then comparatively unknown attorney for the actions of his company which had hired investigators to look into the lawyer's personal life, allegedly to discredit him.

It is the president of a major chemical company undertaking a series of speaking engagements at campuses throughout the country, attempting to bridge the gap between the students and business.

It is a national news magazine which normally reports discontent and discrimination on its pages, discovering itself is the target of demonstrations by its own female employees.

It is a major utility company forced to postpone plans for a nuclear power plant due to objections from conservation groups who feared extermination of fish in the adjacent rivers.

It is a major oil company which as a result of an oil leak in one of its offshore wells became enmeshed in a public relations battle with the citizens of a West Coast city.

Consumerism is a confused housewife who is first told not to use phosphate detergents because they are harmful to the environment. . . . then told that the substitute for phosphates, called NTA, was also harmful. . . . then advised it is all right to return to the use of phosphates since they may be less harmful than any available substitute.

Consumerism is being told that the consumption of fish is dangerous to the health due to its high mercury content. . . . and then being informed that investigation reveals that prehistoric fish contained an even higher level of mercury.

Consumerism is being warned that soft drinks containing cyclamates are dangerous to the health.

Consumerism is a Japanese automobile manufacturer developing a car that first sniffs a driver's breath before agreeing to transport him . . . a small intake in the center of the steering wheel contains a "sensor" which can detect changes in the alcoholic content of the breath and when the sensor becomes suspicious, the car won't start.

The retail industry, of which I am a part, has experienced more intensive consumer pressures than most other types of business. I think this is because the retailer is in a position of high visibility and public exposure. His transactions with individual consumers may number hundreds of thousands per day, millions per year.

He becomes familiar with the pressures that build up in their minds. They ask for and demand reforms in the market place.

The store manager of yesterday had simply to open his doors, maintain a clean store and, hopefully, be competitive with his fellow merchants across the street. The store manager of today has much broader responsibilities. He is now being asked what his company is doing about waste disposal or the recycling of soft drink containers. He is perhaps being picketed by an anti-war group. He is suddenly asked to make decisions and participate in discussions far beyond the problems within the four walls of his store.

Consumerism is international in scope. It has surfaced in many countries as it has in the United States. Canada established a Department of Consumer Affairs well ahead of the U.S. Sweden has long had an Institute for Informative Labeling which promotes the use of standardized, informative labels by consumer goods manufacturers. Great Britain restricted the advertising of cigarettes long before the U.S. did.

The first wave of consumerism centered in the 1900's when Upton Sinclair wrote "The Jungle". This generated political pressures which resulted in the Food and Drug Act of 1906, the Federal Trade Commission Act and the Clayton Act passed in 1914.

The second wave of consumer interest, activated in the 1930's resulted in the National Recovery Act of 1933, creating consumer advisory boards and gained federal recognition.

It has been claimed that the current consumer movement will soon subside. I do not think this is true.

I think that in an age of increasing technology, more affluent buyers and a growing, deep concern for the quality of life, the interest in consumerism will accelerate. The consumer today wants better information, demands better performance from business and is highly critical of impersonal and unresponsive companies.

As a result of such activities, the recent session of Congress had more than five hundred legislative proposals designed to protect the consumer. Those are in addition to a multitude of State, county and municipal laws and legislative proposals of similar nature.

There are those who say that only government can solve the needs of consumerism. There are others who say that the business community, or private sector, can satisfy these wants. Others advocate a business-government-consumer team to cope with such problems. I favor the latter. I do not believe that government alone is willing or equipped to resolve the consumer problems of the individual in our society today. I think that the future now dictates that government, business and the consumer must work collectively toward eliminating the deficiencies in the market place.

David Rockefeller, Board Chairman of the Chase Manhattan Bank, in a recent speech before the Advertising Council in New York City said:

"Considering the seriousness and growing prevalence in some quarters of this attitude, it seems to me that businessmen have no choice but to repond by becoming reformers themselves, making a determined effort to adapt the operation of the market system to our changing social, political and technological environment.

"The question really comes down to this: Will business leaders seize the initiative to make necessary changes and to take on new responsibilities voluntarily, or will they wait until these are thrust upon them by law?"

I think we all agree that there is a recognition on the part of business and government of the need for change and for the necessity to take on these new responsibilities.

On August 5, 1971, President Nixon, by Executive Order, established the National Business Council for Consumer Affairs. This Council, on which I serve, is comprised of over 100 chief executive officers of business enterprises of all sizes. The Council will encourage and assist in the establishment of

voluntary programs for industry action to anticipate and resolve consumer problems. The Council will advise the President, the Office of Consumer Affairs, the Federal Trade Commission, the Department of Justice, and other government agencies, through the Secretary of Commerce.

When appropriate, the Council will make recommendations concerning legislation or executive action on:

Advertising and promotions.
Packaging and labeling.
Warranties and guarantees.
Credit and related terms of sale.
Performance and service.
Product and safety.
Complaints and remedies.

Business operates in any community only with the approval and permission of the public. It has become more and more evident that corporations and companies structured and designed to generate profit must also generate "social profits". It is quite apparent that in the 70's demands will be made upon many companies to commit financial resources and executives' time toward solving social problems in the community. I feel that this trend will accelerate.

I think that those corporations and companies which identify with this trend will not only generate more social profits but also be rewarded by consumers with more dollar profits for their stockholders and investors. Corporate headquarters are being visited by more and more security analysts who are not only asking for earnings reports but also records of social profits. In my estimation, companies and corporations in the 70's will compete aggressively in this area as they do today for dollar profits.

C. W. Cook, Chairman, General Foods Corporation, acknowledging that our business system today is dangerously threatened, stated recently:

"When you realize the power of consumer protest—especially when voiced by certain well-known activitists—could close your company down, you know you are going to have to face it, come to grips with it, and not dismiss it as the work of radicals and crackpots, or hide behind the rule of caveat emptor."

I believe that the private sector is equipped to meet this challenge and that it will make new track records in the 70's. But I do not think that corporate profits must be sacrificed to achieve the goal of responsibility. For the good of our society as a whole, corporate profits and social responsibilities must go hand in hand.

I feel that if they do not, the system which has generated the highest living standard in the world will be called to task for nonperformance. The penalties for non-performance would not be easy to take.

I don't believe it will come to that. It is my conviction we can have both: profit, on which our free system with all its benefits depends, and progress toward solution of our social problems.

Let me cite an example from my own company in the retail food business. You may have noticed the unusual-looking price tags on the shelves at Safeway. These tags are printed by computer, and show the price per unit (ounce, pound, or whatever) for each size and product displayed, for easy comparison of quantity values.

This, as you know, is unit pricing. It was undertaken as a consumer service, and initially there was concern lest it prove a costly drain on already hard-pressed profits.

These fears proved groundless. In fact, we now feel that the system of computer-printed price tags, which unit pricing brought about, may now be making an overall contribution to profit.

We find that customers appreciate the unit price information.

We also find operating efficiencies resulting from the system such as fewer out-of-stocks, less labor for reordering, less labor for producing price tags and tagging shelves, and more accurate pricing.

This may be an unusually pat example. But I think it shows the possibilities, and supports my thesis that the profit needs of business and the best interests of consumers can go hand in hand. If either is to be realized both must be.

I believe a growing number of businesses today share this view and are either acting on it or looking for ways to do so. The call now is to widen and increase these efforts.

Thank you, for your kind attention.

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## FEDERAL DIET CONTROL

### HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. SCHMITZ. Mr. Speaker, effective January 28, the Food and Drug Administration—FDA—has removed saccharin from the list of substances "generally recognized as safe" and has limited its use, with the specifically stated prospect that future action may "include the withdrawal of approval for use of saccharin in food." This has been done on the basis of a single study finding that when saccharin was consumed as 5 percent of the entire daily diet of rats—"a level roughly equivalent in humans to 875 bottles of a typical diet soft drink per day"—quoted from the FDA statement—some rats "developed bladder tumors" which might be cancerous.

At first glance this may seem merely a new height of bureaucratic absurdity—for surely a man who consumed the saccharin equivalent of 875 bottles of diet soft drinks in a single day would be dead long before he had time to get cancer. But when we learn that this particular study was conducted for the Sugar Research Foundation, it is hard not to suspect some involvement by saccharin's market competitor.

Some "natural foods" enthusiasts who hailed the ban 2 years ago on cyclamates, another kind of artificial sweetener, may also rejoice over a possible prohibition on saccharin. If so, they are making a very serious mistake. Our country might well be healthier if more natural foods were eaten. But their advocates ought to remember that they too could be subject to Federal prohibitions. For some years action has been pending to restrict the use of harmless vitamins on the ground that they do no good. If saccharin is disposed of, and the principle of Federal diet control increasingly accepted, will the next target of "sugar research foundations" be honey? Will some rat consuming the equivalent of 875 bottles of honey in a day also develop a tumor which might be cancerous?

Then on February 7, the bill (S. 1163) passed the House, providing for a whole new Federal program to supervise the diet of older Americans thought not to be well nourished, and to try to get them to change their eating habits, even to the extent of bringing new and allegedly more desirable foods into their own homes. We may be coming closer than most Americans would now believe possible to rigorous Federal control of what our people eat. This is not to deny the need for action where real danger of medical harm from the use of a particular food product is clearly established. But these new restrictions and programs go far beyond that. We cannot afford to ignore the possibility of government invasion of the dining room in a Nation where one already gains status in certain circles by advocating Government invasion of the bedroom for the sake of population control.

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## MORE TRAINS THE ANSWER TO "FLYING GETS WORSE"

### HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. HAGAN. Mr. Speaker, many Americans have been seriously handicapped because of the drastic curtailment of rail passenger traffic. Elderly people, especially, find it difficult to get about and visit relatives. The abandonment of most train service in America is a backward reality, unbecoming a great country with vast resources. The situation should never have occurred. The quicker we overcome this problem and restore additional trains, the better for all.

The solution may not be so apparent, but the facts are that Japan and the European countries still enjoy excellent passenger train service, and time schedules are being shortened constantly. We have shied away from Government control, and there can be problems when the Government operates the trains. However, this may be one possibility. We need the service even if it means drastically different operational supports and controls.

For a time we thought that airplanes would serve to make trains obsolete. This is not true at all for the vast majority of people. In many places plane service has been reduced from a few years ago. The airlines are in deep financial trouble even with Government mail subsidies. The airlines have never presumed to serve the people away from the large urban centers.

Sydney Harris, nationally circulated columnist, said in his February 22, 1972, column which appeared in the Savannah Morning News and other papers, that "Whatever is needed, we're not getting it." His article entitled "Flying Gets Worse," follows:

FLYING GETS WORSE

(By Sydney Harris)

One of the sad paradoxes about the airplane is that non-urban America, or about half the country, has worse transportation now than it did when the railroads were still running.

Friends who live in northern New England, for instance, complain bitterly that they are forced to use private autos now more than ever, spending hours on the highways to reach the closest commercial airports.

From New York to that area, direct air

service is practically impossible; and even from Boston, there is only marginal service. And in the Middle West, which I travel a good deal, it is far harder now to reach many towns and college communities than it was 20 years ago.

Ironically, the airplane was supposed to bring people together, to set up a network of transportation, to ease the sense of geographic isolation in many parts of the country. Except for the big urban centers, quite the contrary has happened.

Hundreds of towns are now cut off, except by auto or bus. The trains have stopped running, and it doesn't pay the airlines to maintain regular service—or any service at all—if traffic is light. What we laughingly call "public convenience and necessity" doesn't even take a back seat; it gets no seat at all.

Worst of all, nobody seems to be working on a sensible, realistic answer. Do we need more competition among airlines, or less? More government help, or none? Fewer and bigger airlines, and more and smaller shuttle services? Vertical Landing Craft? Helicopters? Magic carpets?

All the special interests fuss and sputter in Washington, and, as usual, everybody has a vociferous lobby except the long-suffering public. Nobody, so far as I know, has bothered to ask the traveler what he would like, how he would like it, and how much he is willing to pay for it.

Trains are nationalized in some European countries, and so are many of the airlines. They get nationalized, in some cases, because private enterprise becomes too private and not enterprising enough. I wouldn't like to see it happen here—our government doesn't have a splendid record of running things—but it surely will if the needs and conveniences of enough travelers are ignored long enough.

At present, there is no genuine competition among the airlines, in price or in basic service. Maybe it should be tried, before we turn over all our public transportation to the government. Maybe an extra olive in the martini or a piano in the lounge is not the right way to attract and hold more passengers. Whatever is needed, we're not getting it.

## DETERMINED TEXAN

### HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. WRIGHT. Mr. Speaker, I offer for the attention of Members of the House a story by Mr. E. Edward Stephens, which appeared in the Washington, D.C., Evening Star on November 19, 1971.

This story describes the determined effort of Mr. Eddie L. Carter, of Fort Worth, Tex., to cause to be set aside an unfair ruling of the Internal Revenue Service. Mr. Carter's successful court battle on dependency exemptions will be of benefit to many small taxpayers in the future.

The story follows:

WINS CASE FOR THE LITTLE GUY

(By E. Edward Stephens)

Does the Internal Revenue Service ever admit that it has misinterpreted the law?

Yes. It did on Oct. 26, for instance, when it revoked a 12-year-old ruling.

This new development helps legions of taxpayers who support their parents, grandparents and other aged relatives. Now they'll get dependency exemptions that formerly they would have been obliged to fight for in court.

The 1959 ruling was a national tragedy. During its 12-year life, countless small taxpayers lost exemptions to which they clearly were entitled under the internal revenue code. They paid up, primarily because there wasn't enough tax money involved in each case to justify retaining a lawyer to fight for them.

But lack of funds didn't stop Eddie L. Carter. He fought singlehanded, and vanquished the mighty IRS.

Carter was supporting his 82-year-old grandmother, who lived with him in Fort Worth, Tex. When he claimed an exemption for her in his tax return, IRS threw it out on the ground that Carter hadn't furnished more than half her support for the year.

Carter proved that he had spent $915 to support her, and he showed that this was more than half the total amount actually spent for this purpose. But IRS said, "No."

The service contended that the total cost of grandmother's support must be "considered" to be $1,927; therefore, Carter's $915 contribution was less than half.

Standing on the 1959 ruling, IRS reasoned this way: Grandma had received old age assistance from the state of Texas totaling $1,012 for the year. This entire amount must be "considered" to have been spent for her support even though Carter had proved that: only part of it actually had been used for this purpose. Why? Because the $1,012 figure was based upon the state government's determination of grandmother's need for support.

Carter couldn't afford to retain counsel. So he handled the case himself, and carried the day in the tax court.

Judge Samuel B. Sterrett held that IRS must be guided by what actually happened—and the true fact was that Carter had paid more than half the actual cost of Grandma's support. Therefore, Carter must be allowed his exemption.

Surprisingly, IRS stood pat for more than a year after this rebuke, although Sterrett had noted that the 1959 ruling was contrary to its own regulations, and also conflicted with some of its other rulings. But on Oct. 26, IRS finally announced that it now "acquiesces"—agrees with the result—in the Carter decision. At the same time, IRS revoked the discredited ruling.

Taxpayers owe a great deal to Eddie L. Carter and others like him. They stand firm for justice, heedless of the time and expense involved.

## TWO ATTAIN RANK OF EAGLE SCOUT

### HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DUNCAN. Mr. Speaker, recently I paid tribute to some outstanding Boy Scouts from my district who had attained the rank of Eagle Scout. Their names appeared in the RECORD.

Today I would like to add two more names of accomplished Scouts. Certainly deserving the rank of Eagle Scout are Douglas T. Coile, son of Mr. and Mrs. Harry F. Coile, Jr., and John A. Fee, son of Mr. and Mrs. Harold D. Fee, both of Knoxville, Tenn.

I congratulate these two young men and wish them continued success in Scouting.

## LIQUIDATION OF U.S. BUSINESS INTERESTS IN APARTHEID AND REPRESSIVE AFRICAN COUNTRIES: THE CONTEXT OF AMERICAN FOREIGN POLICY TOWARD SOUTHERN AFRICA

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DELLUMS. Mr. Speaker, on February 16, I introduced H.R. 13147 on behalf of the Congressional Black Caucus. This landmark proposal would force U.S. business concerns to liquidate their holdings in the Republic of South Africa, South-West Africa, Rhodesia and African territories under Portuguese control—or, in essence, those nations which practice unmitigated and totalitarian apartheid policies and practices against the majority inhabitants within their boundaries.

Over the coming months, I shall insert into the RECORD research material detailing public and private relationships of this Nation to the governments and policies of the Republic, Southwest Africa, Rhodesia and the Portuguese territories. Included will be many firsthand reports.

As an initial step, I would like to insert a new, and extremely important, study just completed by Dr. Ronald W. Walters, chairman of the political science department of Howard University.

I find this study to be an excellent introduction to the type of problems we must deal with if we are to end the absurd support from the United States for apartheid and other racist policies.

The study follows:

THE GLOBAL CONTEXT OF U.S. FOREIGN POLICY TOWARD SOUTHERN AFRICA

(By Ronald W. Walters, Ph. D.)

INTRODUCTION

In this background paper, the writer will attempt what is assuredly a difficult task in the least, and impossible at most, which is to give the reader a comprehensive summary of the global responsibilities of the U.S. in relation to South Africa. To assist in the pruning process, the writer will use two concepts to discipline the wide range of variables which one has to consider in approaching this subject; one such perspective relates to the interest of the global powers in South Africa, while the other perspective deals with the bilateral relationships between the U.S. and South Africa which have global significance. Before utilizing these concepts, however, it will be necessary to make statement about the overall policy environment within which U.S. African policy operates.

NIXONISM

From all accounts, the Nixon Administration seems to be dedicated to following a course of action not only designed to reduce American involvement in the Vietnamese war, but which also reduces American activity generally in foreign affairs. It is a policy which seems deliberately tailored to conform to the lessons of the Eisenhower period which successfully halted American involvement in another Asian war and returned national priorities to the domestic scene. President Nixon himself, time and again has said this was a "low profile" policy designed to reduce American prominence in international conflict, while at the same

time, reinforcing essential ties to close allies in order to ensure the maintainance of strong national security in the continuing conflict with communism. For example, in the recent testimony before the House Appropriations Committee with regard to FY 1972 expenditures, although the Secretary of State's statement assessing the international political situation was completely off the record, the Secretary of Defense spelled out in some detail elements of the Nixon Doctrine as it applied to DoD priorities. The Secretary listed them as follows:

1. A concept of strategic sufficiency which is based on specific criteria for the design of our strategic capabilities;
2. A strong conventional capability buttressed by increased burden sharing and improved defense capabilities of other free world nations;
3. Adequate peacetime general purpose forces for simultaneously meeting a major communist attack in either Europe or Asia, assisting allies against non-Chinese threats in Asia, and contending with a contingency elsewhere;
4. Smaller U.S. active forces, with great emphasis to be given to their readiness and effectiveness, including modernization;
5. Re-emphasis on maintaining and using our technological superiority;
6. Increased international security assistance for the defense needs and roles of other Free World Nations.[1]

One can see from the above concepts that the Nixon Doctrine attempts to balance strength (essential) with retrenchment to a point of flexible response to necessary commitments. The problem, of course, with any policy lies in its translation to actual usage, and recently political analysts have detected some misunderstandings of this policy between the U.S. and its European allies. Louis-Francois Duchene, head of the Institute for Strategic Studies, feels that the U.S. is trying to create a series of regional power centers; which would allow either indigeneous powers or NATO allies to share in the burden of international peace keeping. Failing to clearly establish such centers as autonomous functioning units under the wing of a Western alliance, Nixon has given to establishing a rapproachment directly with previously antagonistic nations such as China, and the Soviet Union (through the SALT talks).[2] The danger in such a policy is that it has been interpreted by some European leaders as the incipient stages of a wholesale American withdrawal from Europe. Some thinkers such as Duchene think that the prospect of an American pull out or drastic reduction in American obligations toward Europe would be basis enough for Europe to begin joint strategic planning.

However, others feel that such an American withdrawal would leave Europe seriously vulnerable to Soviet pressures due to the infantile state of the development of European common institutions, and their traditional reliance on the U.S. for such security matters.[3] It will, therefore, not be difficult to see that, quite frankly, under the pressures of such European centered concerns problems of southern Africa could seem very distant.

Some Europeans argue that it is not too important for their nations to agree on problems like the Middle East, Vietnam, and South Africa. What counts, it is said, is that they agree on their own European affairs.[4]

Nevertheless, as will be illustrated, just as the U.S. has not been able to ignore or retrench its vital interests in Southern Africa, similarly European states, whether by design or not, have continued to follow policy which shows a pattern of increasing concern and activity in that area of the world. Indeed while it may have been possible for the Nixon Administration to have followed a low-profile approach to the problems of the rest of Africa, the dynamics of the Nixon Doctrine may call for reinforcement of such basic interest as those in South Africa.

INTEREST OF THE GLOBAL POWERS

If one defines "global powers" as those states which possess the resources to pursue global interests, then one clearly has in mind the more affluent, primarily western European states with the inclusion of Japan, China, the Soviet Union, and the United States. In a broad sense the objectives of all states and certainly the substance of the foreign politics of the above states center on such areas as political stability, cultural harmony, military security and economic viability. All of these concerns have most consistently involved the interests of the U.S. and other global powers in interaction with South Africa.

THE CLOSED SYSTEM

In a recent study of the global powers in Africa, one writer characterized the state of affairs between them as a "closed system":[5] in actuality he was describing the wishes of U.S. policy makers who have slowly realized that although former colonial powers maintained maternal relationships with their newly independent African territories, the size of the economic (and in some cases the political) commitment was steadily deteriorating. This is not to say that all economic and political relationships were dissolving, to the contrary, they were changing from overt to covert techniques of exploitation and control of the lives of African peoples.

In any case, there has been a question about the extent to which the U.S. could play a role in Africa and take up some of those responsibilities which the colonial powers were laying down. The approach to this problem has depended basically on which administration was in office and what the predisposition of the President happened to have been. Africa was bewildering to President Eisenhower and he managed African concerns conservatively or not at all, while President Kennedy took a more activists posture toward Africa and African problems, viewing his tenure as an opportunity to make allies out of the newly independent nations within a Cold War context. In many ways President Nixon has returned to the Eisenhower era with his "low profile" approach to Africa, preferring the showmanship of concern to the substantive fulfillment of that concern. It is also interesting to note that there exists an almost perfect inverse relationship in the attitude of administrations in their treatment of black Africa and the whites in control of Southern Africa. That is to say, the American regimes that were most inactive toward black Africa have been the most conciliatory toward White Southern Africa and vice versa.

At least this element seems to blunt the notion of a "closed system" of relations existing in Africa outside of the influence of the U.S. The situation in some respects is similar in Britain to the U.S. if one notices that the control of the government by the Conservative party in the 50s, to Labor in the 60s back to the Conservatives in the 70s roughly parallels what has happened in this country to the Republicans and Democrats, and though the tenure of these parties may have been accidental, the attitudes which they collectively held toward Southern Africa were not. Clearly the political attitudes of the U.S. toward Southern Africa have been important and although it is difficult to say if they were pivotal within the Western alliance, one can say that the combined effect of those attitudes and political activities have produced roughly the same status quo results. The point here is that it would be impossible for any closed system to exist between Europe and Africa not only because of the impact of the U.S. upon European political affairs, but also because of the substantial interests which the U.S. has maintained in the affairs of the African continent. The writer is aware of the position that Africa should be a zone of deference to Europe because it has superior experience and interests there, and that this concept is sometimes conveniently made the basis for U.S. policy. It must be noted, however, that because of the strong identity of interests between the U.S. and Europe, their approach to problems of the African continent, including those of Southern Africa, have seldom been divergent, and where they have differed, the U.S. pursued its own policies independently.

STRATEGIC INTEREST

The military interests of the U.S. are expressed today as they have been since World War II in the embodiment of Security Pacts such as NATO, SEATO, etc., which are designed to act as a counterpoise to the conventional and nuclear threat potentialities of the Communists global powers. It is well known that the military weapons which are shared among NATO countries often are utilized by colonial countries such as Portugal in suppressing the protracted revolution in its African territories. What must be further speculated on is the extent to which South Africa itself has became part of NATO functionally but unofficially. Several pieces of evidence could easily lead to such a conclusion, among them are (1) the similarity of political postures toward Communism, (2) military and economic assistance from NATO countries (including trade), (3) and South Africa's membership in the White Alliance System.

The South African response to the cold war has always been to maintain a vigilant posture toward the elimination of Communism. Such vigorous anti-communism over the last two decades may seem puzzling in view of the fact that by all analysis communists have traditionally made only a few gains in Southern Africa. This leads one to believe that perhaps there are serious contradictions to this anti-communism since in fact black revolutionary activity has often been labeled as "communist inspired" both in South Africa and in other Western countries. But the question should also be put, if South Africa truly perceives facism, statism, and other aspects of social control as inherent in Communism and inimical to its way of life, why then would it sanction the entrance of former Nazis as residents, both in South Africa itself and in Namibia during the post war period and use such facist tactics on its powerless black inhabitants.

Could it be that such a posture toward Communism has in fact little to do with "Communism" as such and much more to do with the fact that the post war period has been synonymous with the increase of African Nationalism and the fruition of independence in most of the former colonial territories? In any case, it is clear that in the absence of sizeable numbers of real communists, South Africa fought a symbolic Cold War against what it conceived to be Communism which was thoroughly congruent to the Western stand on the same issue.

The United States, Great Britain, France, and West Germany, have been first-line contributors to the economies in Southern Africa. (See Appendix I) In South Africa the French have found an easy market for the sale of weapons because of the international boycott by the U.N. in which the U.S. participates, and, of course, the U.K., the U.S., West Germany and Japan are major trading partners. These countries are attracted to South Africa not only by its extremely healthy economy but by the position of South Africa in the international financial market. The financial health of the dollar is tied to the U.S. promises to exchange it for gold at $35 per ounce. South Africa, of

Footnotes at end of article.

course, enjoys a negative trade balance with the U.S. which is compensated for by the fact that the U.S. buys most of its gold from South Africa. This compensatory relationship may be illustrated in another way.

GOLD

The U.S. purchases of South African gold have been fueled by the poor state of U.S. balance of payments which have provoked gold outflows.[6] U.S. attempts to correct domestic inflation and its balance of payments problem recently by devaluation resulted in a modest (12.28) devaluation of the Rand which is keyed directly to the value of the dollar.[7] This devaluation, however, was a spur to gold prices which rose 14% in official price in South Africa from 22 Rand to 28.50 Rand a fine ounce. In fact, the decision of the U.S. revalue has touched off a flurry of market activity in Johannesburg; gold remained steady, as mining, financial, diamonds, and industrial issues all rose, and the future outlook for gold is even better as a result.

John West, an economist specializing in gold (at the U.S. Bureau of Mines) said that the increase of the government price for gold from $35 to $38 an ounce could encourage a further rise in open market prices and investments could be attracted to South Africa to take advantage of this situation.[8]

This revaluation of the U.S. dollar does not automatically mean that gold purchases from South Africa will slow up, to the contrary, commercial activity (both increased gold purchases and trade) could be induced from other countries. None other than the International Monetary Fund itself has had an agreement with South Africa to purchase gold since at least 1970*. Reports indicate that in 1970 the IMF purchased $640 million in gold from South Africa and $70 million more in June of 1971.[9] Thus, the fact that South Africa produces 74% of the total supply of the world gold stocks gives a global importance to the country beyond its size.[10]

RHODESIA

A recent agreement on November 30 between Rhodesia and the British Government resumed open British support of the rebel regime at the sacrifice of the rights of the African majority, but one must not be naive enough to dismiss the possibility that aid for Rhodesia had been coming from Britain all along via South Africa, and the Portuguese. Portugal receives some support from other global powers through NATO, recent example is the grant of nearly half a billion dollars from the U.S., December 9, in exchange for its rights to use the Azores military facility through 1974. Portugal has committed nearly 40% of her troops to suppressing the African revolution in the territories she controls, and such assistance enables her to continue the resistance to African independence.

WHITE ALLIANCE SYSTEM

One recent conceptualization of the problem between Europe and Africa casts the white Southern African states as members of a racial alliance system.

The centripetal white dominance system is best characterized by its value assumptions which are messianic and ethnocentric. Virtue is assumed to exist primarily in what is white and Western, and evil is equated with blackness and the assumed irreligious ways of non-white societies. These values, which blend color and culture, have explicitly justified slavery, the color bars of the Southern U.S., apartheid in South Africa, and even the discriminatory laws regulating Indian lands and non-white immigration.[11]

This assumption that there is an identity, a cultural unanimity beyond politics and economics that is the basis for shared feelings between the states of Southern Africa and the global powers of the West, should give pause to those who have felt it possible to isolate these states. In fact, it is reported that on one occasion when Prime Minister Vorster of South Africa returned from Europe, he reported, "we are not as isolated as our enemies try to make out." [12] This is all the more important to reveal because it is not only the assumed isolation of South Africa that is the basis for the attribution of all sorts of national psychoses, but it is also the basis for the urging of potentially unworkable political strategies as well. Finally, another observer links white culture to strategy as he suggests the following:

There is the recurring idea of a SATO alliance, a South Atlantic Treaty Alliance. There is the idea of a "white" Oceanic Association of Brazil, Argentina, South Africa, Australia and New Zealand.[13]

It is sometimes forgotten that the population of Southern Africa (particularly South Africa and Rhodesia) reflects that of Europe, and that the records of the U.S. Immigration and Naturalization Service indicate a long, virtually uninterrupted flow of immigrants specifically between the U.S. and South Africa since at least the end of the 19th century.

OIL STRATEGY

Within South Africa in particular, the suppression of the wages of black workers and their exclusion from the ranks of skilled labor in large numbers has created a highly profitable economy which serves as a favorable investment climate for foreign capital, and has also stimulated trade between them. For example, in the U.S. country, some of the most ardent lobbyists for the extention of the South African sugar quota were representatives from industries with subsidiaries functioning there. Western countries also purchase mainly agricultural products from Portuguese held Angola and Mozambique, and with increasing frequency in the last five years, drilling rights have been sold to Western oil companies. The nationalization of foreign oil companies by Northern African countries in recent years has put increased pressure on the Western states to seek alternatives in friendly states farther south (such as Nigeria) and into the white-held redoubt.

The question of oil also points up the strategic significance of shipping routes. Before the closure of the Suez Canal early in 1967 the main routes of oil flow to Europe was by way of the Mediterranean Sea. After that period, however, shipping routes were forced to traverse the Cape of Good Hope around the southern tip of Africa, up along the west African coast, and then to Europe. South African ports which are known to be excellent deep water facilities, therefore, serve as vital links in the need for natural resources for the West. This fact raises an additional problem for the West. What if the Indian Ocean were under the control of naval flag ships unfriendly to the West?

There is little question that as far as the U.S. is concerned, the maintenance of both U.S. and allied access to sources of oil in the Persian Gulf is a continuing and vital basis for involvement in the Indian Ocean area. Testifying on this subject before the House Subcommittee on National Security Policy and Scientific Developments, Ronald I. Spiers, Director of the State Department's Bureau of Politico-Military Affairs, said:

The oil of the Persian Gulf is vital to our allies and of considerable direct interest to us. About 30 of the 126 members of the U.N. belong to the Indian Ocean region and one-third of the world's population is there. Several of the states—India, Pakistan, Indonesia, Iran, the UAR, and in certain respects, South Africa—play a significant international role.[14]

At the same Hearings, Robert Pranger, Deputy Assistant Secretary of Defense for Policy Plans and National Security Council Affairs, supported Spier by the following statement:

The United States also has a major strategic interest in the Persian Gulf oil supply to Western Europe and Japan. Interdiction of the flow of Persian Gulf oil supply to Western Europe could cripple those economies in a very short period of time (security deletion). Although the United States has imported less than 3 percent of its oil from the Eastern Hemisphere in the past, the United States is expected to become increasingly dependent on these sources.

The United States would not want to see the oil, population, territory, and other resources of the region fall under the control of any adversary or combination of adversaries able to threaten the United States.[15]

THE INDIAN OCEAN

This question of the strategic importance of the Indian Ocean territories to Southern Africa should also be assessed in light of the increasing Soviet naval buildup in that area.[16] One may date the beginning of this intensified effort on the part of Russia from the British announcement to begin significant military withdrawals east of the Suez Canal in 1968, and many Western countries have become worried that the vacuum would be filled by the Soviets or by the Chinese who have maintained a significant presence in Tanzania since the early 1960's. In any event, the Indian Ocean has been the subject of strategic planning among the global powers in recent years in response to the small but increasing presence of the Soviets and the impact they are having on the politics of those states which ring the Indian Ocean littoral.

Concrete evidence of such planning has resulted in the decision by the U.S. and Britain to build a jointly managed $19 million Naval communications facility at Diego Garcia Island in the British Indian Ocean Territories. There will be a runway and limited means to service naval vessels of the U.S., the U.K. and its other allies. This event means, of course, that NATO now has an important foothold in the Indian Ocean with which to direct its counter-thrust against the Russians and Chinese. This should not be surprising to those who understand that although member states in NATO are limited to the application of its power to defend only European territories by treaty that, in fact, the interests of NATO are global and, therefore, its power is often used by member states to bring its prestige to bear on various problems in places other than in Europe. Representative Findley raised this question with Mr. Spiers in the Hearings on the Indian Ocean.

*Mr. Findley.* The British, French, Dutch, and Belgians all have major economic if not territorial interests in the Indian Ocean area. They have been brought together in the North Atlantic Treaty which, by its text, is confined to the territories of the treaty states. In view of he broad common interests of these countries in the Indian Ocean area, would it not make sense for these member states of NATO to try to coordinate warship activities in this region?

*Mr. Spiers.* The subject of the Indian Ocean, the question of the collective interests of the Western countries in that area, is a good subject for discussion in the North Atlantic Council.[17]

If we recall Spier's earlier comment to the effect that South Africa is among those countries which play a significant international role with regard to this area, we are left with the distinct impression that an increasing role for South Africa in this area is directly in line with the "essential but low-profile" policy of Nixon and the withdrawal desires of Great Britain. With respect to Britain, the increasing role of South Africa can be most clearly demonstrated by the security

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*Appendix II.

arrangement it has with South Africa exemplified by the Simondstown agreement.

The Simondstown Naval hase located at False Bay near Cape Town, originally under the control of the British since 1794, was constituted as a joint U.K.-South African base in 1955. The Agreement provided for an expansion of the South African Navy and provided that the base would be available for use by the Royal Navy in time of war "and by the navies of allies of Britain in any war in which Britain was involved." [18] At that time the base was managed by the British Commander in Chief, South Atlantic, but in April 1967, as part of the British Government's withdrawal plans, the Chief of the South African Navy was given command of the base and greater responsibilities for the South Atlantic in time of war, although the rights of Britain and its allies to Simondstown remain in full force.

It appears, therefore, that South Africa may have already reached the point where it functions as a Western proxy nation in the South Atlantic region as an unofficial arm of NATO. It is clear that South Africa has a conventional capability adequate to cover many military situations in the area which might arise, what is less than obvious is the extent to which it is prepared to function as a full fledged member of NATO by developing her own nuclear weapons. This question will be discussed in greater detail later, but the other one concerns the contingency which would cause South Africa to involve the nuclear deterrent of the NATO powers and specifically the United States.

These eventualities have been the basis for an African thrust to create "nuclear free zones" for the continent, and a demilitarized status for the contiguous waters. One governmental official says that the reason why proposals which would create such Zones in Africa or in the Indian Ocean relates to the sense in which the problem is not urgent.

As far as the U.S. Government position is concerned, I suppose all I can say that we really have not faced the problem at a high enough level yet to make any such decision. (security deletion) [19]

Nevertheless, the real reason for inaction here reflects the general disagreement between the Soviet Union and the U.S. with respect to nuclear matters. Spier says, for example,

I do not quite know how you would get an effective agreement (on Nuclear Free Zones) without the form of comprehensive inspection that the Soviets particularly have been resistent to.[20]

But, the "hardest" statement on this situation has come from Professor Mason Willrich, Director of the Center for Science and Technology at the University of Virginia, who says,

Preliminary steps have been taken by the Organization of African Unity to establish a nuclear-free zone in Black Africa. The Soviet bloc has for years urged the creation of a nuclear-free zone in Central Europe, which, if implemented, would result in the removal of U.S. nuclear forces from West Germany. As might be expected, all such proposals have been given short shrift in NATO thus far.[21]

It is, therefore, fairly clear that the effect of creating a nuclear-free zone would (following the Soviet definition) be to remove strategic Western defenses from the African and Indian Ocean areas, and, in the minds of Western officials, create power vacuums which the Russians would be eager to fill.

Finally, one cannot escape, in any discussion of the interests of the global powers in Southern Africa, the special relationship they bear to the policies of those regimes. One writer has characterized South African interests in particular as a "Southern Strategy" which is aimed at the northern black African nations.[22] In this regard, it seems only logical that if the global powers have substantially supported the Southern African white regimes economically, then despite qualifications to the contrary, they support the domestic and international policies of these countries as well.

This must be true despite protestations to the contrary. For example, while selling arms to South Africa, reputedly for external defense under the terms of the Simondstown Agreement, British Officials abhorred Apartheid and said the weapons were not to be used internally for the repression of the native population.[23] In fact, when a nation perceives its vital internal security to be at stake, can there be, has there ever been, a distinction made between the weapons it uses for external defense and those for internal defense? Reference is made to the post-riot situation in the United States wherein the U.S. Army has set up domestic tactical operations plans, and where one may see the most sophisticated plans being laid to use weapons which were last seen on the battle fields of Europe in defense against Nazi Germany. In view of such support for South Africa, British references to its anti-Apartheid position are at most meaningless!

A similar state of affairs applies to the Rhodesians. On one hand, the British have mounted support for the principles of majority (black) rule in Zimbabwe, while on the other making deals with the Rhodesians which negate all chances for such an eventuality. The outcome of recent talks in Zimbabwe between representatives of the British and Rhodesian Governments was an agreement for a new basis of independence for the Rhodesians. While a detailed analysis of the entrenched provisions for the new Constitution is outside the scope of this paper, the totality of this Agreement must be seen for what it is—a thorough sellout to the idea of Zimbabwe independence under black African rule. And the implications of this act are as Dennis Healy (Leeds, East) Labour member in the House of Commons, said during the debate on this issue;

Let us face the global implications of this issue. Rhodesia is one of the three main islands of white racialist rule on the continent of Africa, along with South Africa and the Portugese colonies. It is a small territory in which Africans outnumber the Europeans by more than 20 to one, and of the 250 thousand Europeans, only just over half were born there. The big question we must ask ourselves, if we are conscious of these global issues is this: do we want to hand over our remaining vestigial responsibilities in this territory in such a way as to involve ourselves in a long-standing collaboration with a racialist regime? [24]

The U.S. and U.K. in this, have had a special relationship to these Southern African regimes, but France, Japan, and West Germany are fast becoming major factors in their economies. The end result is, therefore, that while hiding behind the moral neutrality implied in the functioning of the capitalistic system, it is to the interest of the global powers to maintain a strong bulwark of white regimes in Southern Africa for economic benefits, but also a check to the exercise of "extreme" nationalism by the black African countries to the North, and Communist designs in the Indian Ocean.

THE GLOBAL EFFECT OF UNITED STATES-SOUTHERN AFRICAN RELATIONS

Because of South Africa's geographical position and the benefits it derives from exploitative economic and political policies, bilateral U.S. relations between these two countries have global significance. The U.S. relations with the Portugese in Angola and Mozambique, and with Zimbabwe and Namibia have lesser though important impact as well.

SOUTH AFRICA

Obviously in such a brief discussion one cannot deal with very many aspects of such relations, and so the writer will comment only on those which seem to have global significance. The presence of over 230 American companies within South Africa, however, is important and shows something of the magnitude of U.S. private commitment which translates into Governmental evasion and vascillation with respect to some aspect of South Africa policy.[25] The economic relations between the U.S. and South Africa, however, are well known and have been the subject of much analysis.[26] Less well known, however, is the panoramic view of basic cooperation between the U.S. and South Africa described in an article by D. S. Greenberg,[27] as he probes into the field of research and the activities of NASA cooperation in electronics; the Universities of Minnesota and California in Mineralogy and Metallurgical Engineering together with the U.S. Army Corps of Engineers in mining; the Educational Testing Service at Princeton, New Jersey in "classifying the annual turnover of 222,000 Africans who work in the mines; the U.S. Atomic Energy Commission's Oak Ridge National Laboratory in the development of the South African reactor; and the National Institutes of Health. This last project with NIH included a joint program with the U.S. Food and Drug Administration which used Africans as "human experimental subjects" to perform drug research. Greenberg went on to say about this one project, that although many Africans come to South African hospitals seeking help, few of them are "clinical material" and,

"* * * attuned to the nuances that underlie 'consent.' One long-term South African NIH grantee said, 'Of course, we have to be as ethical as possible.' But how am I to tell a wild and woolly African that he is to be a guinea pig?" [28]

In view of the time spent by those involved and concerned with the nature of U.S. activities in South Africa, it seems patently clear that they will have to widen their theatre of operation and the elements examined to include more than just economic relations.

Nevertheless, the importance of the healthy South African economy to the U.S. should not be overestimated because (1) the multinational corporations which do business there are allowed to channel quick profits from South African enterprises into subsidiaries in other countries, and (2) South Africa is one of the few countries which makes a *positive* contribution to the chronically serious U.S. balance of payments problem.

In addition, the value of South Africa to U.S. security interests is increasing. Since at least 1957, there has been cooperation between the U.S. and South African Governments in developing space tracking facilities. As U.S. requirements in this area have grown it has reached the point of utilizing three such stations inside South Africa, the Minitrack Radio tracking station located at Esselen Park, the Baker-nun optical tracking station located at Olifantsfontein, and the Project Syncom deep space probe tracking station recently completed at Hartebeesthoek farm in Krugersdorf district. The latter is the largest and most sophisticated of the NASA stations and operated jointly by American and South African personnel, under the rules and regulations of Apartheid.[29]

Although enthusiasm for space exploration has subsided under the current administration, there is little doubt that it will continue and even become vital to U.S. security. Even now, many of the satellites which circle the globe can be presumed to be observing much more than the weather patterns, and it is South Africa's facilitation of these efforts which makes her important to the U.S.

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South Africa's strategic importance was also discovered during the course of the Viet Nam war, when its ports served as regular refueling stops for U.S. Naval vessels. The problems began when it was discovered that these troops on integrated American ships had to conform to the rules of Apartheid when they went ashore. One such stop-over with the U.S.S. Franklin Delano Roosevelt in 1967 was brought to the attention of Government Officials by Congressman Charles Diggs (Democrat-Michigan) and members of the American Negro Leadership Conference on Africa which resulted in the prohibition of such visitations by U.S. military vessels.

Lastly, in writing about the concept of nuclear dispersion or "proliferation" it has been interesting to note that Leonard Beaton and other writers have not included South Africa in the list of countries which are "about to be" or "could go" nuclear if they so desired. The determination of such a status has been based primarily on the capibility of the nation's nuclear technology, combined with other rough indicators such as its level of GNP, and its overall state of technological sophistication. By these factors such countries as Egypt, India, and West Germany are potential members of the nuclear club, but it must be said that the South African GNP compares favorably with other nations on the list of possible nuclear countries. However, it is interesting that of one list of 13 nations which had reactors in operation in 1967, South Africa was not listed,[30] and this view is supported by the Atomic Energy Commission which in 1968 placed South Africa in a second-level group of states where the development of nuclear weapons would take more than ten years from the date of the decision.[31]

Nevertheless, we do not know when South Africa might have made the decision to "go nuclear" and recent articles appearing in the newspaper Mohammed Speaks (supposedly taken from the South African Press) indicate that a great deal of attention is being paid to the possibility of nuclear weapons development within South Africa recently.

Since at least 1947, there has been cooperation between the U.S. and the South African Government which began by the U.S. extracting uranium as a by product of gold mining operations, and moved to the grant of a reactor under the Johnson Administration when the first nuclear power plant was erected at Pelindaba. This means that if one dates a theoretical decision of South Africa to go nuclear from the time world attention began to be focused hotly on Apartheid in the mid-1960's, it would mean that South Africa might have a fully operational program of nuclear weapons development (according to the AEC standards) by around 1980.

Thus, just as many writers have worried about the effect of Communist China having become a nuclear power at a time when it was also xenophobic and highly nationalistic, it seems that South Africa might also pose just as serious a threat to international peace. One must assume that South Africa conceives of itself to be beseiged by the force of international public opinion and by activities of hostile black African states as well. There is the real possibility that if such opposition to its racist policies grows, the immediate effect will be to increase the virulence of Afrikanner nationalism, and if the "Laager mentality" is what it is purported to be, then the possession of nuclear weapons makes the situation all the more dangerous for the future.

On the other hand, it would be difficult to escape the implication that such development has been carefully calculated to insure the survival of the white regimes in southern Africa, in full knowledge of the fact that it will be decades before the black nations to the north will have the resources to match South African nuclear technology. If, therefore, South Africa does develop or is given nuclear weapons, there is even the possibility that she may be in a position to determine the fate not only of the politics of southern Africa but of a good bit of the entire continent. The duplicity of the global powers in this respect, then, must be squarely called into question. Why would they further the development of nuclear weapons in South Africa while pleading that weapons must be kept out of the rest of Africa to avoid costly arms races and localized wars. To repeat, the inconsistency suggests calculation, and in view of the previous suggestion about the confluence of strategic interest between South Africa and the Global powers, it seems highly plausible that the "White Western Proxy" notion is not only applicable to the Indian Ocean but to the whole of Africa in the long run as well.

PORTUGAL

For the last two years, the U.S. and Portugal have been negotiating the renewal of the U.S. rights to continue to use the Portugese base in the Azores as a military installation. The negotiations were completed on this December 9, and it was announced by the two governments that the U.S. would have use of the base until 1974.[32] In exchange for that privilege, the U.S. Government promised to give to the Portuguese Government $15 million per year worth of PL 480 surplus foods, a $400 million loan from the Export-Import Bank for various modernization projects, an oceanographic vessel, $1 million for educational development (unearmarked), and $5 million to purchase U.S. "non-military" excess equipment. This deal provides assurances to the U.S. that at least until 1974, it will have logistical support for its NATO operations in the southern theatre of the Atlantic, in view of the fact that the revolution in Libya resulted in the closing of the massive Wheelus U.S. air base.[33]

As previously stated, such aid gives life to the Portuguese repression of the incipient revolutions in its African holdings, but this assistance also ensures protection for a number of western companies (Shell, Mobil, and Gulf Oil among the largest) to continue their off-shore exploitation of the oil resources of Mozambique, South Africa Angola, and Namibia. Few remember that in a capitalist country it is the *duty* of the government to provide both the opportunities and the protection for private companies to exploit whatever possibilities for profitmaking they find. This fact can be attested to quite easily in the following exchange between Representative Rooney and Assistant Secretary of State for African Affairs, Newsom, at a House Appropriations Committee Hearing.

*Mr. Newsom.* The $100,000 is for the support costs of the reopened consulate in eastern Nigeria. In addition to the $100,000 of support costs we will be allocating five American positions and six local positions which will be obtained as a result of reprogramming within our present ceiling.

*Mr. Rooney.* That is quite a few people to start off with in a place called Port Harcourt with only 700 Americans in the consulate area—or is oil the most important thing?

*Mr. Newsom. The growing oil production is the most important thing.* There are seven American companies that are operating. Some now have production, and I think most expected to have production within the next few years. Nigeria is rapidly becoming one of the world's major oil producers and this is in the principal oil-producing area of Nigeria.[34]

Although this example is drawn from Nigeria, the reader can be certain that the concept explored above represents a consistent rationale for U.S. Policy as one moves a few hundred miles down the western coast where other oil discoveries have been made by American firms.

In the United Nations the U.S. has supported the charge by the Portuguese that the African territories are a valid extension of Portugal, that full rights (including those of citizenship) are available to African peoples or "assimilados" and that, therefore, Portugal's activities in Africa do not lend themselves to as close scrutiny as would those of the ordinary colonialist country. This simple concept, in all of its illogicity has been shattered before when the revolutions in former French African territories destroyed the concept of "France outre-mer" and even now when the revolutions in Mozambique, Angola, and Guinea-Bissau which are succeeding, except for the assistance which Portugal receives from the U.S. and the rest of Europe, threaten to destroy the concept of a "metropolitan Portugal."

The global implications of U.S.-Portuguese relations in this regard are clear; the structure of U.S. (NATO) security is maintained by a simple quid pro quo, and in doi g so the U.S. flagrantly abuses its prior support for such principles as the right to self-determination for all peoples. One might ask, at this point, what the real importance of the Azores base is to U.S. strategic security in view of the fact that in the renegotiations with Portugal the extensions of base rights only last until 1974. It may be that one answer makes the five year period of the renewed lease indicative of the time-table for American withdrawal from major NATO responsibility for Europe. Yet if this concept does fall squarely within the precepts of the Nixon doctrine, then there is an inevitable tension at this point, between the desires of the Nixon strategists and the dynamic imperatives of world politics. Some of those "imperatives" are as follows.

First, instability in southern Europe is beginning to take on realistic proportions. If one adds to the intransigence of the French toward NATO, the proposition that within five or ten years there may well be a freely elected Communist controlled regime in Italy (which would most surely opt out of the NATO alliance), and a maturation of the high tide of anti-U.S. feelings in Spain, the future of the NATO alliance seems uncertain at best. The U.S. then, may not be able to count on those respective bases for logistic and other necessary NATO functions.

Secondly, the U.S. seems to be building a communications network which stretches across Africa and which connects the newly begun station at Diego Garcia, with the Kagnew Military Communications facility in Ethiopia, with the Azores facility as the Western terminus of the system. One must include in such a system, at the southward extremity, the stations in South Africa, which gives to the U.S. a great facility to track satellites and shipping movements not only in the Mediterranean and Red Sea areas, but in the Indian Ocean and Southern Atlantic as well.

Thirdly, there has been a reversal of power along the Mediteranean littoral, which has seen a rise of Soviet Naval power in the last decade, and a decrease in the American base capability in that area.[35] The U.S., therefore, must not withdraw from the Mediterranean too swiftly, so as to leave those states vulnerable to the influence of the Soivet Union.[36]

The U.S., then, no doubt, feels it must maintain its facility at the Azores for the present and endure supporting Portugal which such a policy requires. It seems that the U.S. and Portugal will only give up the fiction of a metropolitan relationship with African territories when it becomes too costly to keep up the charade. The strategic questions here are, whether or not the revolutions in Mozambique and Angola will be sustained for another five year period or even be vic-

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tories, and if not, will the U.S. provide Portugal with another lease on these territories by another $500 million loan.

NAMIBIA

In 1967 when the International Court of Justice decided against deciding on the merits of the South West African case, the U.S. had pledged itself to uphold the ICJ opinion and its pledge was thereby rendered defunct. If at that time there had been ample opportunity for the U.S. to carry out its pledge, the global significance of that action would have been to give the force of law to the decision of the International Court, and in addition would have settled the question of Namibia's international status in relation to South Africa. Recently, however, South Africa not only maintains that it has a legal right to administer Namibia, but is in the process of extending the system of Apartheid into that territory.[37]

As a consequence of these actions by South Africa, the U.N. General Assembly declared South African administration of South-West Africa terminated, renamed it "Namibia" and set up a governing council for the territory. It is added evidence to the points raised earlier about collusion between the global powers and the white Southern African regimes that the U.S. and other European countries declined to sit on the Council. Surely here again there is an opportunity for the U.S. to join the Council and by so doing to give the force of law to an action of the General Assembly, but the absence of these states on the Council merely points up the over-riding considerations of their private interests.

*Zimbabwe*

When the Rhodesians declared their Unilateral Declaration of Independence in December of 1965, the United States issued a strong statement of disapproval and became a party to international sanction invoked through the United Nations under the leadership of Great Britain. Since that time, the British and Rhodesians have been able to get together again due chiefly to the conditions put forth by the British Government in 1966 aboard the HMS Tiger. The conditions basically assured independence for Zimbabwe under a "one-man-one-vote principle" and legal (eventual majority) rule for the Zimbabwes. In a recent agreement, however, the principle of one-man-one vote has been abrogated as a realistic electoral principle, and the question of majority rule by the Zimbabwes has been extended into the indefinite future by a set of complex political and economic qualifications for voting and holding office. The only act which might have won independence for Zimbabwe was not taken at the time of UDI and that was the use of force by Britain which had a legal right to do so. What is left is the hollow promise of independence built upon the back of the reticence of the Western powers to wrest power away from the illegal, racists and exploitative Rhodesian regime by force.

Part of that reticence to sanction the use of assured restorative measures rest squarely on the shoulders of the U.S., a member of the Security Council. Indeed every member of the Security Council had such an obligation, but failing that they should have at least gone along with the sanctions voted by the General Assembly. The U.S., however, threatens to fail also in this by allowing itself to purchase Rhodesian chromium ore in clear violation of the sanctions. One must hasten to add, however, that sanctions against the Rhodesians were never very effective; in July 1971 Assistant Secretary Newsom had judged U.S. sanctions only partially effective because of so many violations by others.[38] But, for the U.S. to destroy the remaining symbolism that there is some collective action against the Rhodesians gives them a mantle of legitimacy. And further, clearly demonstrates the limits of effective action within the United Nations given such issues.

From the U.S. standpoint, however, one notices again in the action of the U.S. Congress which voted to amend the U.N. participation treaty so that American companies could have access to Rhodesian chromium, added evidence that in a capitalist society it is the function of foreign policy to create opportunities for the exploitation of foreign markets. If it is not, then why didn't the President issue an Executive Order upholding the validity of the U.S. participation in the Rhodesian boycott, since it was clearly within his Constitutionally defined power to direct the foreign policy of the country. This point has been made often enough when Presidential policies in other geographical areas of the world were pursued contrary to the interests of Congress, in this matter, however, it may be to the advantage of the Nixon Doctrine to appear impotent.

CONCLUSION

The opportunity to address some of these issues was not so much to re-recite the massive documentation which exists on the Southern African political situation, but to focus narrowly on a few critical issues and making some calculated judgments. The record of U.S. political and economic behavior together with that of the other global powers and the white proxy states in Southern Africa strongly suggest a collusion of interests so powerful as to represent a closed system of international politics.[39] Certainly the place of the U.S. in such a system has been supportive of the policies of the major powers as well as those of the white Southern African countries. The U.S. must be aware that the day is over when it is able to have credibility for its foreign policy toward Southern Africa based on statements against Apartheid and other such protestations alone. There must be concrete and positive actions to support the view that the U.S. stands with those countries which oppose illegal and racists regimes in Africa. The hard evidence of U.S. support for South Africa, Portugal and the Rhodesians, however, makes it a ring leader in maintaining the existence of such regimes in Africa.

This conclusion about the role of the U.S. in Southern African international relations does not, however, summarize the basis for that relationship. Indeed, the two concepts juxtaposed in this study (the interests of the global powers in Africa, and the bilateral U.S. relationships in Southern Africa which have global significance) gave this writer a convenient device for determining the degree of variance between the approach of the global (primarily European) powers toward Southern Africa and the specific case of the U.S. approach. In fact, if we had substituted almost any one of the NATO powers for the U.S. we would have reached nearly the same conclusion about the basis for its involvement in Southern African affairs. Perhaps here the writer should list those factors which he considers the basis of that relationship.

1. An extension of "Cold War" rivalries into the Indian Ocean area by an increased presence of the Soviet Navy and a responsive extension of the NATO defense perimeter into the Indian and South Atlantic area.

2. The means of NATO extension include direct development of strategic facilities and the use of white Western proxy nations of Southern Africa.

3. The material objectives pursued as a part of the NATO defensive strategy include:

a. the maintenance and extension of worldwide communications network into the Indian Ocean and South Atlantic.

b. building bases of supply and access to existing air and naval facilities in the Southern African area.

4. A major economic objective which is at once related to basic military strategy in conventional terms is the protection of the flow of oil from the Persian Gulf to Europe and the U.S., and the development of alternative sources of oil production in Southern Africa.

5. Maintenance of an unarmed black population in Southern Africa is necessary to the continuation of white domination, as is the support of NATO power for the suppression of revolutionary movements there.

6. The extension of economic competition among the global powers into Southern Africa in the search for markets. To this end we note the increasing role of West Germany and Japan in Southern African trade as well as the role of France in supplying military equipment to the white regimes.

7. Southern Africa has become a viable linkage point in the chain of multi-national corporations, fully represented by the dominant economic interest in Europe and America, these capitalists have a great influence in the strategic and economic policies which their home countries pursue with regard to Southern Africa.

8. Because of the importance of gold in international exchange rates and the problem of balancing the payments between countries, South African production of 74% of the world supply is of global significance. Her ties, in this respect, extend not only to the countries of Western Europe but to important international economic organizations such as the International Monetary Fund.

9. The Southern African basic role in world economy, aside from South Africa, is still to serve as an area for the exploitation of raw materials for the benefit of other world economies.

10. The political cost of "image maintaining" has produced in most global powers a dichotomous policy toward the Southern African white regimes. On the one hand, they denounce racism, and on the other, they vigorously support the governments which practice racism.

11. Africa has always been low on the priority agenda of the U.S. because of the absence of sustained, substantial big power conflict in the area. It has always been a high priority issue that Africa and its resources should remain in the hands of the West when that status was threatened. Nevertheless, Southern Africa has a higher priority in the affairs of the global powers than the rest of the black African countries because of its strategic geographic position, and its control over the vast resources of that region of Africa.

12. The foreign policy of the global powers, regardless of appearances, is to serve fundamentally as shelter for those activities which the government deems essential whether it be military or commercial.

13. The basic approach of the global powers and the white Southern Africans to the political independence of the Southern African territories has been to deny those territories such freedom under the rule of the majority black African populations. This fear of black rule must be related to unreliability of such regimes where the interests of white Western powers are concerned.

14. Evidence of Western European and American collaboration with South Africa across a broad front of research necessary to its survival indicates the fundamental identity of interests involved and illustrates the viability of South Africa's role in a "white Alliance System" upon which such cultural cooperation is founded.

A FOREIGN POLICY FOR BLACK PEOPLE

Given such a diagnosis of the nature of forces arrayed against the interests of Afri-

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can peoples in Zimbabwe, in Angola and Mozambique, in Namibia, in Lesotho and Swaziland, and in South Africa, this writer would like to suggest three grand strategies in view of the knowledge that other papers will deal forthrightly with questions of strategy in each of these areas of concern.

One grand strategy falls squarely within the obligation of African peoples in various of the European countries cited to operationalize Pan-African nationalism and build a system of "linkages" concerning these issues throughout. For example, when the Polaroid Movement was actively challenging the efficacy of the company's policies in South Africa and London and elsewhere to let people know they were to boycott Polaroid products. Each of the European nations mentioned have sizeable black populations at least in some of the major cities and in addition to the issues they struggle with daily, they might be willing to take on a Pan-African issue provided the linkages are viable and the strategies sound. The Polaroid Movement provides to date the only concrete proof that such a movement can be partially successful; one of the weaknesses of the Political action taken against Polaroid was its status as a multinational corporation with minor holdings in South Africa. But if the multinational Pan-African world were working in concert, it is at least plausible that the returns would have been greater, that is, Polaroid might have been forced to leave South Africa because of other losses, or it might have been forced to increase the size of the benefits to African workers it eventually granted.[40]

Another grand strategy is also within the realm of Pan-African activity but is more directly focused on the continent of Africa itself. Because of the geo-political significance of Southern Africa to the global powers African states themselves must take the initiative to see that there is no "power vacuum" in areas such as the Indian Ocean. The great powers define a situation as having a power vacuum when one of their representatives either from the Eastern or Western bloc is not active. But what would happen if three or four African states near the eastern coast formed a naval consortium for the purpose of controlling the valuable water ways below the Mediterranean, or in fact inviting nations of their choice to patrol these waters by treaty.

A third strategy would be to develop coalitions of "third world peoples" around some of the issues involved in the exploitation and subjugation of Southern Africa. For example, the concerted foreign policies of Nigeria, Libya, (a free) Mozambique and Angola, together with Saudi Arabia and Kuwait could virtually control industrial production in the developed countries because they would control the major current and future sources of oil. (Other sources of energy at the present time being too costly to develop into full scale production.) The implication of this is that our diplomacy must be broadened to include certainly the Arab states but India as well. Those actors who have the obligation to guide a "black foreign policy" must begin to define some of these international issues as Pan-African and non-western where it is strategically propitious to do so.

Finally, African states must not be deterred from gaining the most modern and sophisticated weapons available as their development allows. Currently in many of the African states their former metropoles still exercise great influence over the military forces and over crisis situations in which the country may be involved which would require the commitment of armed troops. But this is a dangerous state of affairs, and it is always tenuous, given the interests of the "protectors", whose interests they are actually pursuing in the guise of protection. African countries must not let South Africa put them in a state of nuclear blackmail. One counter to this state of affairs would be a decision by Egypt to go nuclear and provide defense guarantees (in effect provide an African defensive umbrella) to nuclear threat from South Africa. In the long run, the Organization of African Unity should be able to protect the continent with whatever weapons are needed.

All of us in the African world must do better at supporting the liberation movements which currently exist in each of the white proxy areas of Southern Africa. Ultimately, as one revolutionary from Guinea-Bissau said, "what matters most is what we do in Africa." It is to the success of these movements that we must increasingly address grand, as well as specific strategies. The global powers are resourceful and it could be that in the short-run Southern Africa belongs to them, but there are limits to money and to patience, and if there is consistent enough danger to their continued stay in Africa, then in the long run Africa will indeed belong once again to African peoples.

FOOTNOTES

[1] *Department of Defense Appropriations for 1972, House of Representatives, Subcommittee on Appropriations, Hearings, Part 1,* Government Printing Office, Washington, D.C., 1971, pp. 18–19.

[2] Fankel, Max, "U.S. at Era's End: As Powers Change Alignments, America Must Find Its Place," *The New York Times,* December 22, 1971, p. 16.

[3] Shub, Anatol, foreign editor, Harpers; see his "Supermarket or Superpower," *Harpers Magazine,* January 1972, p. 59.

[4] *Ibid.*

[5] Nielson, Waldemar, *The Great Powers and Africa,* Praeger, New York, 1969, pp. 337–348.

[6] 1971 was the first negative net trade year for the U.S. since the latter end of the 19th century.

[7] *New York Times,* December 22, 1971.

[8] *Washington Post,* December 24, 1971, p. 2.

[9] *New York Times,* January 8, 1971, p. 47.

[10] *New York Times,* July 6, 1971, p. 47.

[11] LeMelle, Tilden J. and Shepherd, Jr., George W., "Race in the Future of International Relations," *Journal of Internal Affairs,* Vol. XXV, Number 2, 1971, p. 304.

[12] Greenberg, D. S., "South Africa," *Science,* Vol. 169, July 10, 1970, p. 157.

[13] Testimony of Dr. Gary Gappert, "The Indian Ocean: Political and Strategic Future", Committee on Foreign Affairs, House of Representatives, Subcommittee on National Security Policy and Scientific Developments, Hearings, July 20, 22, U.S. Government Printing Office, Washington, 1971, p. 129.

[14] "The Indian Ocean: Political and Strategic Future", op. cit., p. 164.

[15] *Ibid.,* p. 171.

[16] See the testimony of Admiral Zumwalt before the House Appropriations Committee on the Department of Defense Budget for FY 1972. (Appendix 3)

[17] "The Indian Ocean: Political and Strategic Future," op. cit., p. 175.

[18] *Survey of British and Commonwealth Affairs,* "The Supply of Arms to South Africa," August 14, 1970, Vol. 4, Number 17, p. 730.

[19] "The Indian Ocean:" op. cit., p. 173.

[20] "The Indian Ocean:" op. cit. p. 176.

[21] "Strategy and Science:" op. cit., p. 176.

[22] Bowman, Larry W., "South Africa's Southern Strategy and its Implications for the United States," International Affairs, Vol. 47, Number 1, January 1971.

[23] "The Supply of Arms to South Africa," op. cit., p. 726.

[24] Vol. 827, Number 22, November 25, 1971, p. 499.

[25] One recalls the absent-minded manner in which the U.S. FAA recently granted a license to South African Airways to operate from the U.S.

[26] See, for example, previous testimony before the House of Representatives, Subcommittee on Africa in March, April and May, 1966; March, 1969; and in seven months of 1970. Also, the Africa Research Group has published two useful studies, "The Powers Behind Apartheid," by G. Fasulo; and "Race to Power: The Struggle for Southern Africa."

[27] Greenberg, D. S., "South Africa", *Science,* Vol. 169, July 10, 1970, pp. 157–163.

[28] *Ibid,* p. 161.

[29] "United States-South African Relations", House of Representatives, Subcommittee on Africa, Hearings, 86th, Part 1, March 8, 1966, pp. 115–126.

[30] Cockcroft, Sir John, "The Perils of Nuclear Proliferation", in Nigel Calder Ed., *Unless Peace Comes,* Viking, New York, p. 33.

[31] "Non-proliferation Treaty", Senate, Committee on Foreign Relations, Hearings, 90th, July, 1968, U. S. Government Printing Office, Washington, D.C., 1968, p. 31.

[32] "Extention Azores Agreement", *State Department Press Release,* Number 290, December 9, 1971.

[33] Also, recently the British base at Malta in the Mediterranean has been closed to NATO forces by the Maltese Government's decision to ask the British to vacate the base immediately.

[34] Department of State Appropriations for 1972, House Appropriations Committee Hearings, p. 148.

[35] See "The Changing Strategic Naval Balance: U.S.S.R. vs. U.S.A.", Committee on Armed Services, House of Representatives, 90th, December, 1968, U.S. Government Printing Office, Washington, D.C., 1968. Also, Remarks by Assistant Secretary David Newsome at Princeton University, November 18. 1971, "The US and North Africa", State Department Press Release Number 268, November 18, 1971.

[36] "Supermarket or Superpower", op. cit., p. 63. Shub reports that American Officials in Europe express this same sentiment.

[37] Apparently some aspects of the new policy are not working and are being resisted by the Ovambo population, as press reports indicate large-scale work stoppages recently. *New York Times,* December 19, 1971, p. 13.

[38] Statement of Assistant Secretary for African Affairs, David Newsom, before the Subcommittee on Africa of the Senate Foreign Relations Committee, July 7, 1971, pp. 5–6.

[39] This usage of "closed system" further refines the concept suggested by former Undersecretary of State, George Ball of a Europe-Africa union to a primary union between primarily Western European states and the European regimes of Southern Africa.

[40] The Polaroid organization counterattacked the Movement by undertaking a costly publicity campaign some of which appeared in black publications like Black Times and Ebony, but also in more costly white sheets and on television. In view of the magnitude of this effort and the cost involved, one can guage another aspect of the hidden success of the Movement.

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[From International Financial News Survey, Jan. 16, 1970]

ARRANGEMENTS FOR SOUTH AFRICAN GOLD SALES TO FUND

In view of public interest in details of the recently announced arrangements relating to sales of gold by South Africa to the International Monetary Fund (see this *News Survey,* Vol. XXII, p. 2), the South African and U.S. authorities have requested the Fund to publish the following correspondence.

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MINISTRY OF FINANCE,
*Pretoria, December 23, 1969.*

DEAR MR. SCHWEITZER: As you know, for some time the Republic of South Africa has been discussing with the United States, with other members, and with you procedures for the orderly sale of newly-mined gold in the market and the sale of gold to the Interna-

tional Monetary Fund. I wish to inform you that as a result of these discussions, the South African authorities have adopted a policy with respect to gold sales and I would like to request that the Fund confirm that it will be prepared in the light of this statement of policy to buy gold from South Africa in the circumstances and under the conditions set forth below.

The following are the intentions of the South African authorities as to the handling of newly-mined gold and reserves.

(1) Without prejudice to the determination of the legal position under the Articles of Agreement of the Fund, the South African authorities may offer to sell gold to the Fund for the currencies of other members at the price of 35 Dollars per ounce, less a handling charge, as follows:

(*a*) During periods when the market price of gold falls to 35 Dollars per ounce or below, at which times offers to sell gold to the Fund under this paragraph (*a*) would be limited to amounts required to meet current foreign exchange needs, and

(*b*) regardless of the price in the private market, up to the extent that South Africa experiences needs for foreign exchange over semi-annual periods beyond those which can be satisfied by the sale of all current new gold production on the private market or by sales to the Fund under paragraph (1)(*a*) above.

(2)(*a*) The South African authorities intend to sell current production of newly-mined gold in an orderly manner on the private market to the full extent of current payments needs. It is anticipated that new production in excess of those needs during a semi-annual period may be added to reserves.

(*b*) When selling gold other than in the private market, the South African authorities intend in practice normally to offer such gold to the Fund.

(*c*) The South African authorities may use gold in normal Fund transactions, e.g. in repurchase of appropriate drawings from the Fund, and to cover the gold portion of any South African quota increase, and to obtain currency convertible in fact to exchange against special drawing rights for which South Africa is designated by the Fund. Rand drawn from the Fund by other members would generally be converted into gold when Rand are included in drawings under normal Fund procedures. These Fund-related transactions, which may take place without regard to the market price of gold, will be reflected by changes in the composition of South Africa's reserves but will not affect the volume of sales of newly-mined gold in the market.

(3) Notwithstanding paragraphs (1)(*b*) and (2)(*a*) above, the amount of gold held by South Africa on March 17, 1968, reduced by sales by South Africa to monetary authorities (including Fund-related transactions) after that date and further reduced by such future sales to monetary authorities as may be made to finance deficits or as a result of Fund-related transactions, will be available for such additional monetary sales as the South African authorities may determine, up to 35 million Dollars quarterly beginning January 1, 1970. It is also contemplated that an implementation of this understanding, the Fund would agree to purchase the amount of gold offered to it by South Africa in May 1968.

In order to determine whether South Africa has balance of payments surpluses or deficits as well as to indicate other operational and procedural points with respect to this policy, I enclose a memorandum which clarifies these particular matters.

It would be appreciated if, in the light of these policy intentions, the Fund were able to decide that it would purchase gold from South Africa in the circumstances outlined above. I would expect that the Fund would review the situation at any time if there were a major change in circumstances and in any event after five years.

The South African authorities will work out with the Managing Director consultation procedures on the currencies to be purchased from the Fund with gold.

I hope that this announced policy, the implementation of which I believe will be a contribution to the stability of the International Monetary System, and my suggestion meet with the concurrence of the Fund. A copy of this letter has been sent to the Secretary of the Treasury of the United States.

Yours sincerely,

/S/ N. DIEDERICHS,
*Minister of Finance,*
*Republic of South Africa.*

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THE SECRETARY OF THE TREASURY,
*Washington, D.C., December 24, 1969.*

Mr. PIERRE-PAUL SCHWEITZER,
*Managing Director, International Monetary Fund, Washington, D.C.*

DEAR MR. SCHWEITZER: I have received a copy of the letter dated December 23, 1969, sent to you by Mr. Diederichs in which he sets forth the intentions which South Africa proposes to follow with respect to the handling of its newly-mined gold and reserves. This matter bears importantly on the continued effective functioning of the two-tier gold market which was initiated at a meeting on March 16–17, 1968, which you attended.

In view of the intentions of South Africa, and in view of discussions we have had with other Fund members, I should like to inform you that I have instructed the U.S. Executive Director to take the following position. The United States is prepared to support decisions of the International Monetary Fund to purchase gold offered for sale by South Africa in the circumstances and under the conditions described in that letter, asuming that there is an understanding among Fund members generally that they do not intend to initiate official gold purchases directly from South Africa. With this understanding, I believe that the policies to be followed will be consistent with the stability and proper functioning of the international monetary system.

Sincerely yours,

PAUL A. VOLCKER,
*Acting Secretary.*

TABLE I.—SOUTH AFRICAN TRADE (RAND)[1]

| | 1964 | 1965 | 1966 | 1967 | 1969 |
|---|---|---|---|---|---|
| IMPORTS | | | | | |
| Australia | 16,076 | 18,805 | 22,095 | 31,200 | 10,801,047 |
| Belgium | 17,585 | 26,912 | 18,399 | 23,600 | 23,952,156 |
| France | 41,221 | 46,870 | 41,200 | 53,800 | 61,167,545 |
| West Germany | 165,382 | 191,360 | 175,986 | 231,780 | 292,865,637 |
| United Kingdom | 437,288 | 494,511 | 148,934 | 497,100 | 499,430,706 |
| United States | 271,985 | 330,985 | 291,299 | 322,600 | ---------- |
| EXPORTS | | | | | |
| France | 56,412 | 37,209 | 39,115 | 30,800 | 42,955,209 |
| West Germany | 58,113 | 55,677 | 68,911 | 90,900 | 102,274,059 |
| Japan | 84,587 | 76,078 | 82,802 | 174,900 | ---------- |
| United Kingdom | 342,275 | 357,795 | 403,555 | 410,300 | 510,309,743 |
| United States | 88,668 | 99,796 | 99,796 | 107,300 | ---------- |

[1] Source: The Europe Yearbook, 1969, vol. II, pp. 1295–6.

TABLE II.—AUSTRALIA, NEW ZEALAND, AND SOUTH AFRICA TRADE[1]

PERCENT CHANGE OF EXPORT VALUES IN CURRENT PRICES OVER PREVIOUS YEAR

| | West Europe | East Europe | World |
|---|---|---|---|
| 1968 | 4 | 23 | 4 |
| 1969 | 13 | 2 | 18 |

[1] Australia, New Zealand, South Africa. total exports to world markets declining: 1969—28 (1,000 shares)

Source: U.N. Economic Bulletin for Europe, vol. 22, No. 1, 1971, p. 119. Also, U.S. Department of Commerce, Bureau of African Affairs. South Africa Desk.

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SOVIET PRESENCE IN INDIAN OCEAN

Mr. SIKES. The Indian Ocean is, of course, a very important part of the world. Shipping lanes in the Indian Ocean are vital to the free world, yet our presence there historically has been very limited and continues to be very limited.

The British have been withdrawing at a rather rapid rate from the area, and apparently that is to continue.

Are you in a position to discuss the extent of U.S.S.R. presence in the Indian Ocean, the areas where they have port agreements, and the extent of those port agreements?

(Off the record.)

Mr. SIKES. I appreciate your frankness in discussing this matter. It is a serious matter, one that I fear is all too often overlooked in this country.

The Soviets have made considerable penetration throughout most of the Indian Ocean area. This is certainly a matter which could result in increasing problems for us in the years ahead.

It is strange to me that the protests which always seem to be provoked in foreign countries when the United States seeks to establish base rights or otherwise to conduct essential operations for our security and that of the free world never seem to accompany penetration by the Soviets. Were there any objections by the Indian Government and the press of India, or other countries, about Soviet intrusions into the Indian Ocean areas comparable to the objections raised to our very limited operation on Diego Garcia?

Admiral ZUMWALT. I am unaware of any, sir.

I would be able to discuss it in general terms, and would like to provide a more dealled answer for the record.

Mr. SIKES. Provide the detail for the record, if you will.

(The information follows:)

"In response to your questions on the extent of the U.S.S.R. presence in the Indian Ocean, I shall preface my answer with a general comment in order that you may appreciate how the Soviets view that region.

"Since 1954, the U.S.S.R. has offered some ——— in economic and military aid to 15 Indian Ocean littoral countries. This is approximately 65 percent of the Soviet Union's total aid to free world nations.

"Focusing now on Soviet naval operations; they began in earnest in March 1968 shortly after the United Kingdom announcement of its planned withdrawal from East of Suez. Since then the Soviet navy has maintained an almost continuous presence in the Indian

Ocean with an average of 3-4 naval combatants deployed at any given time. Soviet ships have made about 150 visits to 26 ports in 16 bordering countries including Ceylon, Ethiopia, India, Iran, Iraq, Kenya, Kuwait, Maldives, Mauritius, Pakistan, Somalia, South Yemen, Sudan, Tanzania, UAR, and Yemen. Soviet naval ship operating days in the Indian Ocean have risen from approximately 1,900 in 1968 to about 3,400 in 1970.

"The Soviets have not yet secured base rights in the area, but make extensive use of anchorages———The U.S.S.R. has assisted in the development of port facilities———. The present Soviet Indian Ocean fleet consists of a cruiser, destroyer, mine sweeper, an LST with naval infantry, a repair ship and several other auxiliaries."

Mr. SIKES. I find it difficult to understand that, but it is a fact of life.

Mr. Rhodes, have you a question?

Mr. RHODES. Just a statement, really, along the lines of the chairman's questioning.

SOURCE: Department of Defense Appropriations for 1972, Part 1, p. 998.

## GEORGIA AND SAVANNAH CELEBRATE 239TH BIRTHDAY

### HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. HAGAN. Mr. Speaker, there are not many American cities or States that can celebrate their 239th birthday. Among these are the State of Georgia and the city of Savannah, established in 1733 when Gen. James E. Oglethorpe landed his English colonists at Yamacraw Bluff and signed a peace treaty with Indian Chief Tomochichi.

The State of Georgia held a week of festivities during the second week of February, concluded on February 12 with a pageant reenacting Oglethorpe's landing. Over the State the celebration was known as "Georgia Week."

Georgia was one of the Original 13 States and has come to be known as the "Empire State of the South." From the mountains to the sea are found almost the entire range of climate conditions in this country. Atlanta, the capital city, now has on the drawing boards two 70-story towers, one of which will be the world's tallest hotel. The airport is one of the six busiest in the country and rapidly expanding. Diversified agriculture and livestock raising offer a good balance to an ever increasing manufacturing industry.

The Georgia of today has come a long way from the landing of Oglethorpe in 1733.

An account of some of the activities of "Georgia Week" was carried in the Savannah Morning News of February 14, 1972, as follows:

STATE'S 239TH BIRTHDAY—OGLETHORPE LANDING HIGHLIGHTS "WEEK"

(By Ron Cannon)

Gen. James E. Oglethorpe, founder of Georgia, Saturday was brought to life in the reenactment of his landing at Yamacraw Bluff during the annual pageant highlighting Georgia Week activities.

Following a script revised by director John Suchower, the pageant compressed into less than 30 minutes of action events which occurred over a period of several days.

The pageant depicted in pantomime the 1733 landing of Oglethorpe and colonists from England, the signing of the treaty between Oglethorpe and Tomochichi and the settling of Savannah.

MOVED INDOORS

Traditionally the pageant is performed outdoors, but for the first time the show was staged indoors. Suchower, drama professor and director of the "Masquers" at Armstrong State College, was commissioned by the foundation to stage the pageant in the Civic Center Arena.

Based on historical fact, the pageant in past years has followed a script which is revised and altered each year. In the past the pageant opened with a narrative summation of the events to take place followed by the pantomime.

However, with this staging some of the audience could not see the pantomime while others could not hear the opening summation, said Suchower. Consequently, he revised the script so that the narrative dialogue followed the re-enactment of events throughout the pageant.

"We had great success using this new method of presenting the pageant," Suchower said.

The 13 principal characters and some supporting participants began rehearsing for the pageant several weeks ago.

REUSABLE SETTING

The elaborate and colorful costumes used in the show are passed along from year to year, but for the first time the setting was constructed so that it, too, could be stored and used again.

Wardrobe supervisor was Mrs. Thomas Clay, and Suchower designed the sets. He was aided in building the setting by persons from the Savannah Little Theater and the Armstrong State "Masquers."

Businessman Sam Morgan portrayed Oglethorpe and attorney Robert Duffy appeared as Tomochichi. Curt Avery was narrator for the program.

The colonists were portrayed by members of the local Daughters of the American Revolution and Children of the American Revolution. The Indians were members of the Order of the Arrow and the British troops were students from Benedictine Military School.

Several hundred persons were present for the pageant and other Georgia Week activities in observation of the state's 239th birthday.

The day began with cooking exhibitions and displays of "spinning, spindle and wheel," and several lectures on life in Colonial Georgia.

SHOW FOR YOUNG

Activities arranged especially with the young in mind got off to a big start with a puppet show, "Coming to Georgia" presented by the Community Children's Theatre.

## HAVES E. STREETER, MODEL CITIZEN

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. EDWARDS of California. Mr. Speaker, I would like to pause here for a moment to take note of a man whose dedication to youngsters and efforts to better his community have just recently come to my attention.

Mr. Haves E. Streeter, a young engineer from San Jose, is the kind of person our country needs if we are ever to bring hope to those who have been so far excluded from the fulfillment of the American dream. Among his many efforts are the establishment of a boy's club in East San Jose to help fatherless boys develop in manhood, scholarship, and perseverance, providing assistance in transportation, funds, and food to send 30 underprivileged boys to camp last summer, raising $600 for the capitol building program at Nairobi College in East Palo Alto, raising $350 for the San Jose State College education opportunity program to provide scholarships for minority students and in raising funds to send 25 underprivileged children from San Jose to visit Marine World in Redwood City, Calif. In addition, he has been active as the chairman of the sickle cell anemia drive in San Jose and he is also a "big brother" to an 11-year-old boy under the Big Brothers program. He regularly accompanies groups of fatherless boys to sports events around the bay area. Of his efforts Streeter says:

I believe every youngster should be encouraged to reach his highest ambitions. But if a child can't see opportunity, if he has no example of accomplishment as a model, he can't set ambitions and goals for himself.

Haves Streeter is doing all that he can to change that situation where youngsters are left without hope. He is to be commended and we all might well use his efforts as a model for our own.

## THE COUNCIL ON ENVIRONMENTAL QUALITY'S 102 MONITOR REPORT

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DINGELL. Mr. Speaker, I insert the text of the February 1972 issue of the Council on Environmental Quality's 102 Monitor at this point in the CONGRESSIONAL RECORD:

[From 102 Monitor, February 1972]

NRDC v. MORTON: SIGNIFICANT NEW APPELLATE DECISION ON SECTION 102 OF NEPA

On January 13 the U.S. Court of Appeals for the District of Columbia Circuit handed down an opinion which represents the first appellate review of the NEPA requirement that agencies discuss alternatives in their 102 statements. The decision is *Natural Resources Defense Council v. Morton* (No. 71-2031, Jan. 13, 1972), the text of which is reproduced in full in this issue of the *102 Monitor*.

The case involved a proposed sale of offshore oil and gas leases by the Department of the Interior. The sale was enjoined by the lower court on the grounds that the impact statement did not adequately discuss "(iii) alternatives to the proposed action" as required by Section 102(2)(C) of NEPA. In upholding the injunction, the Court of Appeals provided an illuminating discussion of the range of "alternatives" which this section of NEPA was designed to encompass. In particular, agencies may not limit consideration only to alternatives which could be adopted and put into effect by the official or agency issuing the statement. All "reasonable" alter-

natives must be discussed, including those which depend for implementation on legislative or executive action outside of the direct control of the agency. This is because: [t]he impact statement is not only for the exposition of the thinking of the agency, but also for the guidance of those ultimate decision-makers, and must provide them with the environmental effects of both the proposal and the alternatives, for their consideration along with the various other elements of the public interest.

The opinion sets forth the specific alternative possibilities for meeting the energy crisis—other than offshore gas and oil drilling—which should have been discussed in the 102 statement in this case. In response, the Department of the Interior has since withdrawn the proposed sale for further consideration.

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[U.S. Court of Appeals for the District of Columbia Circuit—No. 71-2031]

NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL., APPELLEES

v.

ROGERS C. B. MORTON, IN HIS OFFICIAL CAPACITIY AS SECRETARY OF THE DEPARTMENT OF INTERIOR, ET AL., APPELLANTS

Appeal from the United States District Court for the District of Columbia.

On Appellants' Motion for Summary Reversal.

Decided January 13, 1972.

*Mr. Edmund B. Clark,* Attorney for the Department of Justice, with whom *Messrs. Shiro Kashiwa,* Assistant Attorney General, and *Thomas L. McKevitt,* Attorney, Department of Justice, were on the pleadings for appellants.

*Mr. Thomas B. Stoel, Jr.,* for appellees.

*Mr. John H. Pickering,* Attorney for Chevron Oil Company, by special leave of Court was permitted to file a suggestion as amicus curiae.

Before TAMM, LEVENTHAL and MACKINNON, *Circuit Judges.*

Opinion for the Court filed by LEVENTHAL, *Circuit Judge.*

Opinion filed by MACKINNON, *Circuit Judge,* concurring in part and dissenting in part, at p. 22.

LEVENTHAL, *Circuit Judge:* This appeal raises a question as to the scope of the requirement of the National Environmental Policy Act (NEPA)[1] that environmental impact statements contain a discussion of alternatives. Before us is the Environmental Impact Statement filed October 28, 1971, by the Department of Interior with respect to its proposal, under § 8 of the Outer Continental Shelf Lands Act,[2] for the oil and gas general lease sale, of leases to some 80 tracts of submerged lands, primarily off eastern Louisiana. The proposal was finally structured so as to embrace almost 380,000 acres, about 10% of the offshore acreage presently under Federal lease. Opening of bids for the leases was scheduled for December 21, 1971, and three conservation groups[3] brought this action on November 1, to enjoin the proposed sale. On December 16, the District Court held a hearing and granted a preliminary injunction enjoining the sale of these leases pending compliance with NEPA. The Government appealed, and filed a motion in this court for summary reversal and immediate hearing. We granted the immediate hearing, and on December 20, heard the presentations and issued an order permitting the bids to be received on condition they remain unopened pending further order of the court. As to the motion for summary reversal, we conclude that this must be denied.

I. BACKGROUND

*A. Chronology and impact statements*

On June 15, 1971, Secretary of Interior Rogers Morton, a defendant in this litigation, announced that a general oil and gas lease sale of tracts on the Outer Continental Shelf (OCS) off eastern Louisiana would take place in December, 1971. This was responsive to the directive in President Nixon's June 4, 1971, Message on Supply of Energy and Clean Air.[4] On July 31, 1971, Mr. Burton W. Silcock, Director of the Bureau of Land Management, also a defendant, promulgated and circulated for comment a "Draft Environmental Impact Statement" pursuant to § 102(2)(C) of NEPA and § 10(b) of the Guidelines of the Council on Environmental Quality.[5] Plaintiffs submitted comments on this draft statement. Hearings were held in September 1971 in New Orleans, at which oral testimony was presented. On October 28, 1971, Mr. Silcock promulgated the "Final Environmental Impact Statement," (hereafter Statement), 36 Fed. Reg. 20707 (1971). On November 20, 1971, the Interior Department announced that the proposed lease sale would take place, that 80 tracts would be offered for leasing, and that sealed bids would be received until December 21.

*B. Statement—Adverse environmental impact disclosed*

While the Statement presents questions, subsequently delineated, this document—67 pages in length, exclusive of appendices—is not challenged on the ground of failure to disclose the problems of environmental impact of the proposed sale. On the contrary, these problems are set forth in considerable range and detail. Indeed, the complaint voiced by the Audubon Society's witness in testimony was that the draft Statement gives a green light for the sale while its contents seem to cry out for the opposite conclusion. Without purporting to summarize, we identify some of the Statement's highlights:

Adjacent to the proposed lease area is the greatest estuarine coastal marsh complex in the United States, some 7.9 million acres, providing food, nursery habitat and spawning ground vital to fish, shellfish and wildlife, as well as food and shelter for migratory waterfowl, wading birds and fur-bearing animals. This complex provides rich nutrient systems which make the Gulf of Mexico, blessed also with warm waters and shallow depths, the most productive fishing region of the country. It yielded $71 million of fish and shellfish to Louisiana and Mississippi commercial fishermen in 1970, and some 9 million man-days of sport fishing.

The coastal regions of Louisiana and Mississippi contain millions of acres suitable for outdoor recreation, with a number of state and federal recreation areas, and extensive beach shorelines (397 miles for Louisiana, and 100 miles for Mississippi). These serve millions—not only the residents of the seven-state region (23 million in all; 10 million within 250 miles of the coast), but visitors attracted to the beaches in increasing numbers (estimated at 3.5 millions within five years and ultimately 10 millions).

As to probable impact of issuance of leases on the environment the Statement did not anticipate continuation of debris from drilling operations, in view of recent regulations prohibiting dumping of debris on the OCS. The Statement acknowledged some impact from construction of platforms, pipelines and other structures. A concluding section (III D) on "Unavoidable Adverse Environmental Effects" particularly noted the destruction of marsh and of marine species and plants from dredging incident to pipeline installation, and the effect of pipeline canals in *e.g.,* increasing ratio of water to wetlands and increasing salt water intrusion.

Oil pollution is the problem most extensively discussed in the Statement and its exposition of unavoidable adverse environmental effects. The Statement acknowledges that both short and long term effects on the environment can be expected from spillage, including in that term major spills (like that in the (Santa Barbara Channel in 1969); minor spills from operations and unidentified sources; and discharge of waste water contaminated with oil.

These adverse effects relate both to the damage to the coastal region—beaches, water areas and historic sites; and the forecast that oil pollution "may seriously damage the marine biological community"—both direct damage to the larger organisms, visible more easily and sooner, and to smaller life stages which would lead one step removed to damage later in the food chain.

The Statement noted the diverse conclusions and comments in existing reports on oil spills, some minimizing damage done, others stressing that oil spillage has effects beyond the period of visible evidence; that oil may mix with water, especially in a turbulent sea, and disperse downward into the sea; that emulsifiers used to remove surface oil may have toxic consequences, etc.

The Statement asserted that while past major spills in the Gulf resulted in minimal damage, this was due to a fortunate combination of offshore winds and surface currents. The Statement rates blocks in the sale on an estimated probability of impact basis, calculated principally on proximity to high value/critically vulnerable area.

*C. Statement—Discussion of alternatives*

Section IV of the Statement, containing its discussion of Alternatives, is attached as an Appendix. Subsection A deals with possible modifications to delete tracts with higher environmental risks. Government counsel advises that, in order to lessen environmental risk, the acreage covered by the proposed sale was reduced from that originally contemplated, with the withdrawal of eight of the tracts most nearly located to the Delta Migratory Waterfowl Refuge.

Subsection IV B ("Withdraw Sale"), containing the material principally involved in this case, will be discussed subsequently in this opinion.

*D. Ruling of district court*

The District Court recognized both that there is a profound national energy crisis and that the Outer Continental Shelf has been a prolific source of oil and gas. But it further noted that the Shelf, in President Nixon's words, "has been the source of troublesome oil spills in recent years." The Court found that the Statement failed to provide the "detailed statement" required by NEPA of environmental impact and alternatives. The Court stated:

The Court finds that the defendants failed to comply with NEPA by failing to discuss some alternatives at all, such as meeting energy demands by federal legislation or administrative action freeing current onshore and state-controlled offshore production from state market demand prorationing or a change in the Federal Power Commission's natural gas pricing policies. In addition the defendants only superficially discussed the alternatives listed in their Final Impact Statement, and they failed to discuss in detail the environmental impacts of the alternatives they listed in the statement. The Court does not wish to give the impression that it believes the alternatives are better than the proposed lease sale, but it believes that these alternatives must be explored and discussed thoroughly in order to comport with the intent and requirements of Section 4332(2)(C) of NEPA.

*E. Scope of appellate consideration*

We pause before our discussion of the meaning of NEPA to take note of plaintiff's contention that the Government's motion should be denied because the granting or denial of a preliminary injunction calls for the exercise of judicial discretion, and is not to be disturbed on appeal except on a finding of abuse or improvident exercise of judicial dicretion.[6] And a party moving in an appellate court for a summary reversal—

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Footnotes at end of article.

*i.e.*, on motion papers, without usual briefs and full argument—has a "heavy burden of demonstrating both that his remedy is proper and that the merits of his claim so clearly warrant relief as to justify expeditious action." [7]

However, a greater amplitude of judicial review is called for when the appeal presents a substantial issue that the action of the trial judge was based on a premise as to the pertinent rule of law that was erroneous. Not only the avowed forecast as to probability of success on the merits, but also the analysis of injury to either or both parties, the public interest, and the balancing of interests, may well come to depend on an assumption of underlying legal premise. When this can be identified, the appellate court furthers the interest of justice by providing a ruling on the merits to the extent that the matter is ripe, though technically the case is only at the stage of application for preliminary injunction.[8] And a reversal based on a disagreement with the underlying legal premise of the trial court is not based on, or to be construed as, a determination of arbitrary abuse of judicial discretion.[9]

Similarly this court's function extends to disposition on motion for summary reversal—when the critical issue in cases of public moment, and the appraisal of the possibility of irreparable harm to the public interest, depend on the applicable legal premise. This conception of the motion for summary reversal does not require that the case be free of troublesome issues, but is rather based on the approach that there is a public interest in expedition in extraordinary cases, whether the appeal is brought by the Government or others, and that the case is ripe for decisions, *e.g.*, is unlikely to turn significantly on fact findings or further legal researches, as in legislative history.

Although the case is not presented on customary printed briefs the court has the benefit of the legal researches and positions of the parties. While it is typical for oral argument on such motions to be scheduled initially at 15 minutes per side, it is also typical for time to be extended in accordance with the needs of counsel and the court and the complexity of the issues.

The present case is one of public moment, where expedition should be provided if possible. While the application was for a preliminary injunction, the District Court properly made its determination on the basis of underlying legal assumptions. We think it appropriate to give full consideration to the Government's motion for summary reversal, and to the issue, insofar as ripe for determination, of the rightful scope of NEPA's requirement as to alternatives.

II. DISCUSSION OF REQUIREMENT OF NEPA AS TO ALTERNATIVES

The pertinent instruction of Congress appears in § 102 of NEPA, 42 U.S.C. § 4332:

The Congress authorizes and directs that, to the fullest extent possible:

* * * * *

(2) all agencies of the Federal Government shall—

* * * * *

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which canont be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

* * * * *

(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternatives uses of available resources.

Paragraph (iii) of § 102(2)(C) is a terse notation for: "The alternative ways of accomplishing the objectives of the proposed action and the results of not accomplishing the proposed action." [10]

Congress contemplated that the Impact Statement would constitute the environmental source material for the information of the Congress as well as the Executive, in, connection with the making of relevant decisions, and would be available to enhance enlightenment of—and by— the public.[11] The impact statement provides a basis for (a) evaluation of the benefits of the proposed project in light of its environmental risks, and (b) comparison of the net balance for the proposed project with the environmental risks presented by alternative courses of action.[12]

*Need to discuss environmental consequences of alternatives*

We reject the implication of one of the Government's submissions which began by stating that while the Act requires a detailed statement of alternatives, it "does not require a discussion of the environmental consequences of the suggested alternative." [13] A sound construction of NEPA, which takes into account both the legislative history and contemporaneous executive construction (see notes 10 and 12), requires a presentation of the environmental risks incident to reasonable alternative courses of action. The agency may limit its discussion of environmental impact to a brief statement, when that is the case, that the alternative course involves no effect on the environment, or that their effect, briefly described, is simply not significant. A rule of reason is implicit in this aspect of the law, as it is in the requirement that the agency provide a statement concerning those opposing views that are responsible.[14]

*Alternative as to oil import quotas*

We think the Secretary's Statement erred in stating that the alternative of elimination of oil import quotas was entirely outside its cognizance. Assuming, as the Statement puts it, that this alternative "involves complex factors and concepts, including national security, which are beyond the scope of this statement," it does not follow that the Statement should not present the environmental effects of that alternative. While the consideration of pertinent alternatives requires a weighing of numerous matters, such as economics, foreign relations, national security, the fact remains that, as to the ingredient of possible adverse environmental impact, it is the essence and thrust of NEPA that the pertinent Statement serve to gather in one place a discussion of the relative environmental impact of alternatives.

The Government also contends that the only "alternatives" required for discussion under NEPA are those which can be adopted and put into effect by the official or agency issuing the statement. The Government seeks to distinguish the kind of impact statement required for a major Federal action from that required with a legislative proposal.[15] And it stresses that the objective of the Secretary's action was to carry out the directive in the President's clean energy message of June 4, 1971.

While we agree with so much of the Government's presentation as rests on the assumption that the alternatives required for discussion are those reasonably available, we do not agree that this requires a limitation to measures the agency or official can adopt. This approach would be particularly inapposite for the lease sale of offshore oil lands hastened by Secretary Morton in response to the directive which President Nixon set forth in his message to Congress on the Supply of Energy and Clean Air, as part of an overall program of development to provide an accommodation of the energy requirements of our country with the growing recognition of the necessity to protect the environment. The scope of this project is far broader than that of other proposed Federal actions discussed in impact statements, such as a single canal or dam.[16] The Executive's proposed solution to a national problem, or a set of inter-related problems, may call for each of several departments or agencies to take a specific action; this cannot mean that the only discussion of alternatives required in the ensuing environmental impact statements would be the discussion by each department of the particular actions it could take as an alternative to the proposal underlying its impact statement.

When the proposed action is an integral part of a coordinated plan to deal with a broad problem,[17] the range of alternatives that must be evaluated is broadened. While the Department of the Interior does not have the authority to eliminate or reduce oil import quotas such action is within the purview of both Congress and the President, to whom the impact statement goes. The impact statement is not only for the exposition of the thinking of the agency, but also for the guidance of these ultimate decision-makers, and must provide them with the environmental effects of both the proposal and the alternatives, for their consideration along with the various other elements of the public interest.

An evaluation of the environmental effects of all the alternatives in the area of the energy crisis might have been provided by an impact statement issued by an officer or agency with broad responsibility, This could have been done in June 1971 when the President abstained from exercising his authority to invoke a change in import quota administration and issued the Message that included the directive as to offshore leasing. This course would have been in furtherance of the NEPA objective of securing impact statements in case of a "major Federal action significantly affecting the quality of the human environment," though we do not suggest it was improper to defer the impact statement from the time of programmatic directive to the time of the implementing specific actions. The impact statement function could have been assigned to the group designated by the President to coordinate and analyze overall energy questions for the executive branch—the Energy Subcommittee of the Domestic Council.[18] In the absence of assignment of the impact statement function to an agency with broader responsibility, the implementation of the statutory requirement of the environmental review mandated by NEPA fell on the Interior Department when it took the first step in carrying out the broader energy program.

In defense of the Statement as written Government counsel suggest that nothing else was required because it was apparently assumed that there would be no adverse environmental impact from increased imports. This was not stated—and, for all we know, a contrary implication may have been intended by the Statement (at p. 37) when it referred to the problem of spillage from drilling as not even approaching the pollution from routine discharges of tankers and other vessels. As to this contention—like another statement of counsel, unsupported in the record, that offshore drilling has less adverse environmental impact that onshore drilling because the oil produced has lower sulfur content—our comment is simply this: The subject of environmental impact is too important to relegate either to implication or to subsequent justification by counsel.[19]

Footnotes at end of article.

The Statement must set forth the material contemplated by Congress in form suitable for the enlightenment of the others concerned.

The need for continuing review of environmental impact of alternatives under NEPA cannot be put to one side on the ground of past determinations by Congress or the President. We are aware that the 1953 Outer Continental Shelf Lands Act contains a finding of an urgent need for OCS development and authorization of leasing. Similarly we are aware that the oil imports quota program was instituted by the President on a mandatory basis in 1959, following earlier voluntary programs, and that the President's authority, based on national security considerations, is contained in legislation derived from a 1955 enactment and subsequent amendments, 19 U.S.C. § 1862. But these enactments are not dispositive. As to both programs Congress contemplated continuing review. The OCS leasing was specifically made subject to executive authority to withdraw unleased lands from disposition from time to time, 43 U.S.C. § 1341(a). Import controls were from the outset dependent on continuing Presidential findings as to the nature and duration of controls deemed necessary. A Cabinet Task Force on Oil Import Control was created in March 1969 to conduct a review of mandatory oil import restriction and its report, in February 1970, recommended a substantial change in the method and direction of import controls.

What NEPA infused into the decision-making process in 1969 was a directive as to environmental impact statements that was meant to implement the Congressional objectives of Government coordination, a comprehensive approach to environmental management, and a determination to face problems of pollution "while they are still of manageable proportions and while alternative solutions are still available" rather than persist in environmental decision-making wherein "policy is established by default and inaction" and environmental decisions "continue to be made in small but steady increments" that perpetuate the mistakes of the past without being dealt with until "they reach crisis proportions." S. Rep. No. 91-296, 91st Cong., 1st Sess. (1969) p. 5.

We reiterate that the discussion of environmental effects of alternatives need not be exhaustive. What is required is information sufficient to permit a reasoned choice of alternatives so far as environmental aspects are concerned. As to alternatives not within the scope of authority of the responsible official, reference may of course be made to studies of other agencies—including other impact statements. Nor is it appropriate, as Government counsel argues, to disregard alternatives merely because they do not offer a complete solution to the problem. If an alternative would result in supplying only part of the energy that the lease sale would yield, then its use might possibly reduce the scope of the lease sale program and thus alleviate a significant portion of the environmental harm attendant on offshore drilling.

*Other "alternatives"*

The foregoing establishes that we cannot grant the Government's motion for summary reversal. We discuss other aspects of the case in anticipation that the Secretary may choose to supplement or modify the Statement—perhaps even, assuming approval by the District Court, in an effort to open the sealed bids without a new offering.

We think there is merit to the Government's position insofar as it contends that no additional discussion was requisite for such "alternatives" as the development of oil shale, desulfurization of coal, coal liquefaction and gasification, tar sands and geothermal resources.

The Statement sets forth (see Appendix) that while these possibilities hold great promise for the future, their impact on the energy supply will not likely be felt until after 1980, and will be dependent on environmental safeguards and technological developments. Since the Statement also sets forth that the agency's proposal was put forward to meet a near-term requirement, imposed by an energy short-fall projected for the mid-1970's, the possibility of the environmental impact of long-term solutions requires no additional discussion at this juncture. We say "at this juncture" for the problem requires continuing review, in the nature of things, and these alternatives and their environmental consequences may be more germane to subsequent proposals for OCS leases, in the light of changes in technology or in the variables of energy requirements and supply.

Furthermore, the requirement in NEPA of discussion as to reasonable alternatives does not require "crystal ball" inquiry. Mere administrative difficulty does not interpose such flexibility into the requirements of NEPA as to undercut the duty of compliance "to the fullest extent possible." [20] But if this requirement is not rubber, neither is it iron. The statute must be construed in the light of reason if it is not to demand what is, fairly speaking, not meaningfully possible, given the obvious, that the resources of energy and research—and time—available to meet the Nation's needs are not infinite.

Still different considerations are presented by the "alternatives" of increasing nuclear energy development, listed in the Statement, and the possibilities, identified by the District Court as a critical omission, of federal legislation or administrative action freeing current offshore and state-controlled offshore production from state market demand prorationing, or changing the Federal Power Commission's natural gas pricing policies.

The mere fact that an alternative requires legislative implementation does not automatically establish it as beyond the domain of what is required for discussion, particularly since NEPA was intended to provide a basis for consideration and choice by the decision-makers in the legislative as well as the executive branch. But the need for an overhaul of basic legislation certainly bears on the requirements of the Act. We do not suppose Congress intended an agency to devote itself to extended discussion of the environmental impact of alternatives so remote from reality as to depend on, say, the repeal of the antitrust laws.

In the last analysis, the requirement as to alternatives is subject to a construction of reasonableness, and we say this with full awareness that this approach necessarily has both strengths and weaknesses. Where the environmental aspects of alternatives are readily identifiable by the agency, it is reasonable to state them—for ready reference by those concerned with the consequences of the decision and its alternatives. As already noted, the agency may make references to studies already made by other agencies (including impact statements) or appearing in responsible journals.

There is reason for concluding that NEPA was not meant to require detailed discussion of the environmental effects of "alternatives" put forward in comments when these effects cannot be readily ascertained and the alternatives are deemed only remote and speculative possibilities, in view of basic changes required in statutes and policies of other agencies—making them available, if at all, only after protracted debate and litigation not meaningfully compatible with the time-frame of the needs to which the underlying proposal is addressed.

A final word. In this as in other areas, the functions of courts and agencies, rightly understood, are not in opposition but in collaboration, toward achievement of the end prescribed by Congress.[21] So long as the officials and agencies have taken the "hard look" [22] at environmental consequences mandated by Congress, the court does not seek to impose unreasonable extremes or to interject itself within the area of discretion of the executive as to the choice of the action to be taken.[23]

Informed by our judgment that discussion of alternatives may be required even though the action required lies outside the Interior Department, the Secretary will, we have no doubt, be able without undue delay to provide the kind of reasonable discussion of alternatives and their environmental consequences that Congress contemplated.

*Motion denied.*

APPENDIX

Excerpt from Final Environmental Impact Statement on Proposed 1971 Outer Continental Shelf Oil and Gas General Lease Sale Offshore Eastern Louisiana Prepared by the Department of the Interior

*IV. Alternatives to the proposed action*

A. Hold the sale in modified form

The proposed sale could be held offering only those tracts determined to have a lower potential for environmental risks. Those tracts believed to have high environmental risks could be deleted from the sale and considered for offering at a later date, should improved technology or other circumstances warrant.

This alternative could also allow for special stipulations of any proposed tract where additional requirements might be necessary to protect the environment or to minimize or eliminate possible conflicts with or potential damage to other resource values or commercial uses of the Gulf of Mexico and the adjacent land areas.

B. Withdraw sale

The proposed sale could be withdrawn from consideration for leasing on the basis of possible environmental impacts. If such a decision were made, new domestic sources of clean energy would need to be developed. In the long run, new technology must be made available to produce clean energy at a cost to help offset the critical need for oil and gas; in the short run, few alternatives exist and the ones that do exist are of questionable practicability. The following possible sources of energy for short-run needs are "alternatives" [24] to offshore oil and gas.

Many of these alternatives have their individual environmental effects which must be considered: however, analysis of these impacts is beyond the scope of this statement.

1. Eliminations of import quotas.
2. Increase onshore exploration and development.
3. Development of oil shale.
4. Increase nuclear energy development.
5. Increase use of low sulfur coal and/or desulfurization of coal.
6. Development of coal liquification [*sic*] and gasification.
7. Development of geothermal resources.
8. Development of tar sands.

While the elimination of oil import quotas could be an alternative to continued development of offshore oil and gas, such a determination involves complex factors and concepts, including national security, which are beyond the scope of this statement. The remaining alternative energy sources should best be considered as supplements, not true alternatives, in the short run (e.g. 5 to 15 years). While the development of oil shale, nuclear energy, desulfurization of coal, coal liquification, [*sic*] coal gasification, tar sands and geothermal resources hold great promise for the future, their impact on the energy supply will not likely be felt until after 1980, and will be dependent on environmental safeguards and technological developments. Until recently, the petroleum industry has been able to satisfy domestic demand for oil and gas from the onshore areas. With the exception of Alaska, however, current seismic exploration techniques have not been able to identify sufficient numbers of new prospective oil and gas bear-

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ing geologic structures onshore that are suitable for further exploration or development investments. This has been reflected by a significant decline in both onshore drilling and proved reserves. In contrast, however, the geologic structures in the relatively unexplored or virgin areas are more easily identifiable using current seismic technology.

C. Delay Sale Until New Technology Is Available To Provide Increased Environmental Protection

Since basically safe technology is available provided its application and use are properly regulated and controlled, there appears to be no advantage in the postponement of the proposed sale for this specific reason.

As new technology relating to safety and environmental protection is developed, it can be incorporated with the existing requirements and applied to all OCS leases so that bringing on additional production now will not generally preclude adaptation of new advances to the prospective leases.

Delay of the proposed sale could result in retarded developing of energy resources.

MacKinnon, *Circuit Judge, concurring in part and dissenting in part:* The District Court enjoined the sale of oil leases involving in excess of $500 million based upon an alleged failure of the Government to discuss certain alternatives in its Final Environmental Impact Statement (hereafter the Impact Statement). The critical language in the court's finding in this respect reads as follows:

The Court finds that the defendants failed to comply with NEPA by failing to discuss some alternatives at all, such as meeting energy demands by federal legislation or administrative action freeing current onshore and state-controlled offshore production from state market demand prorationing or a change in the Federal Power Commission's natural gas pricing policies. In addition the defendants only superficially discussed the alternatives listed in their Final Impact Statement, and they failed to discuss in detail the environmental impacts of the alternatives they listed in the statement. The Court . . . believes that these alternatives must be explored and discussed thoroughly in order to comport with the intent and requirements of Section 4332 (2) (C) of NEPA.

* * * * *

[T]he Court suggests that the defendants reassess their position as to alternative sources of energy other than the lease sale of the tracts on the Outer Continental Shelf and the environmental impact of such alternatives.

When this general language is translated to the facts of this case it requires the Impact Statement to discuss the environmental impact of: (1) meeting energy demands by federal legislation or administrative action freeing current domestic production from state restrictions on production; (2) changing the Federal Power Commission's policy with respect to the pricing of natural gas; (3) elimination of import quotas; (4) increasing onshore exploration and development; (5) development of oil shale; (6) increasing nuclear energy development; (7) increasing use of low sulfur coal and/or desulfurization of coal; (8) development of coal liquefaction and gasification; (9) development of geothermal resources, and (10) development of tar sands.

As I interpret the majority opinion it clearly holds that there is no need to discuss (5), (7), (8), (9), or (10). Obviously these are not reasonably to be considered as present alternatives. I concur in such conclusions. Whether the majority opinion requires a discussion in the Impact Statement of (1), (2) and (6) is not clear in view of its statement that there is no need to discuss "remote and speculative possibilities in view of basic changes required in statutes and policies of other agencies." I assume however that the opinion intended to require these three to be covered and so I will discuss these later together with (3) and (4).

(1) General principles

It is my view that the range of alternatives that must be discussed in an Impact Statement is generally limited to realistic alternatives that will be reasonably available within the time the "decisionmaking"[25] official intends to act.

In this connection I would not normally consider alternatives to executive action under existing laws to be realistic if they would require substantial changes in existing laws or in long established patterns of production and consumption of industrial products that could not reasonably be expected to be changed within the time available. When the subject action is a legislative proposal addressed to Congress the Impact Statement must of course cover a wider range, *i.e.*, it should cover alternatives that are reasonably available to Congress and would include legislative alternatives.

I thus take issue with that portion of the majority opinion that treats every Impact Statement as being addressed to Congress and the President and which would always require the discussion particularly of so-called legislative alternatives. A *copy* of the Impact Statement is made "available to the President," but that does not require *every* Impact Statement to discuss alternatives (and also their environmental impact) which might be alleged to be open to the President. In my view, the congressional committee report, quoted below, insofar as it refers to "subsequent reviewers and decisionmakers" generally refers only to those officials who are within the "existing agency review process" and generally only requires the discussion of alternatives within the power of Congress or the President when Congress or the President may be the decisionmaker. (There may be some exceptions). The committee report states:

The agency shall develop information and provide descriptions of the *alternatives* in adequate detail for *subsequent reviewers and decisionmakers,* both within the executive branch and the Congress, to consider the alternatives along with the principal recommendations.

S. Rep. No. 296, 91st Cong., 1st Sess. 21 (1969) (emphasis added). This ties into the provision of 42 U.S.C. § 4332 which provides that:

The Congress authorizes and directs that, to the fullest extent possible: . . . (2) all agencies of the Federal Government shall— . . . (C) include in every recommendation or report on proposals for *legislation* and *other major Federal actions* significantly affecting the quality of the human environment, a detailed statement by the responsible official. . . . (emphasis added)

The plain intent of Congress in the Committee Report, when read in conjunction with this statute, is to call for information concerning legislative alternatives to be addressed to Congress when the report contains "proposals for legislation" but not in all cases when the recommendation proposes "other major Federal actions" by the executive branch. While it could not be stated categorically that no action by an executive official would require the discussion of legislative alternatives, existing laws and reason dictate that it would not be required here or in all cases. As the congressional committee report indicates, *the Impact Statement is addressed primarily to the "subsequent reviewers and decisionmakers"* and this stops short of Congress and proposals for legislative changes in statutes where the decisionmaker is carrying out programs established by pre-existing laws enacted by Congress. It would be unreasonable to hold that Congress intended to require *every* Impact Statement under NEPA addressed to an *executive official* to discuss all possible *legislative* alternatives together with the possible environmental impact of all such alternatives. Such construction of the act would result in extending Impact Statements to limitless proportions. The act deserves to be given a liberal interpretation to the fullest extent possible to acomplish a substantial change in our treatment of matters affecting our environment, but while no absolute rule can be laid down for all cases, I see no evidence in the statute that Congress intended to require a discussion of remote or speculative alternatives, or alternatives that were not presently available.

(2) Elimination of import quotas on foreign oil

The conclusion that it is necessary to discuss the elimination of import quotas on foreign oil in the Impact Statement rests upon the claim that it is an alternative to the present sale of offshore leases. Technically such suggestion does seem to have some aspects of being a partial alternative but I do not consider that it is a realistic alternative. In the event that all import quotas were removed and all the oil production of our Outer Continental Shelf could be replaced by foreign oil, it is common knowledge that such course would not be adopted because the United States would then be wholly dependent upon foreign oil. We would be powerless as a nation to resist exorbitant prices for that oil, and we would be powerless to defend ourselves in a national emergency. It is thus essential to our national survival that we develop our own national production. It seems plain to me that that is precisely the policy that Congress declared on August 7, 1953 when it passed the act authorizing the Secretary of the Interior, as a matter of national policy, to lease the lands of the Outer Continental Shelf for oil exploration. At that time there were no restrictions on the importation of foreign oil so I fail to see how the return to conditions which existed at the time Congress originally passed the OCS (by the removal of the subsequently imposed import restrictions) would cause Congress to change its mind and terminate the development of our offshore oil. Under such circumstances the suggestion that import quotas be removed is not a realistic alternative. In passing the Outer Continental Shelf Lands Act in 1953, Congress recognized the *"urgent need"* for developing our offshore oil.

Sec. 8. Leasing of Outer Continental Shelf.—(a) In order to meet the *urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf,* the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act.

Outer Continental Shelf Lands Act of 1953, § 8, ch. 345, § 8, 67 Stat. 468, *codified at* 43 U.S.C. § 1337 (1970) (emphasis added).

The national needs behind this congressional declaration of policy were also referred to in the committee reports which accompanied the bill for the Outer Continental Shelf Lands Act. These stated that the development and operation of such lands through leases for oil and gas operations are vital to our national economy and security:

Representatives of the Federal departments, the States, and the off-shore operators all urged the importance and necessity for the enactment of legislation enabling the Federal Government to lease for oil and gas operations the vast areas of the Continental Shelf outside of State boundaries. They were

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Footnotes at end of article.

unanimously of the opinion, in which this committee agrees, that no law now exists whereby the Federal Government can lease those submerged lands, *the development and operation of which are vital to our national economy and security*. It is, therefore, the duty of the Congress to enact promptly a leasing policy for the purpose of encouraging the discovery and development of the oil potential of the Continental Shelf.

H.R. REP. No. 413, 83d Cong., 1st Sess. 2-3, 1953 U.S. CODE CONG. & AD. NEWS 2178 (emphasis added).

Congress has thus officially committed our government officials by statute to a policy of developing our offshore oil resources. The wisdom of that decision, having been made by Congress and being still in effect, in my opinion, need not be reargued every time some additional action is taken to carry out the declared policy of the statute. To my mind to so hold is an unreasonable interpretation of the statute. In reaching this conclusion I do not minimize the obligation of the Impact Statement to discuss to the fullest extent possible the environmental impact of the proposed action and all reasonable present alternatives to the immediate action being taken that materially affect the environment. But *the Impact Statement here has done that very thoroughly* and I consider that to be adequate compliance with the statute.

(3) Meeting energy demands by Federal legislation or administrative action freeing current production from State restrictions on production

Plaintiffs also contend that the Impact Statement should discuss the possibility of meeting energy demands by federal legislation or administrative action with respect to state restrictions on domestic production. Again it seems to me that this is not realistically a present alternative since the matter is for Congress and the President. Moreover, the overall considerations implicit in such alleged alternatives were considered and found wanting by the Congress when it made the findings and passed the legislation authorizing the Secretary of the Interior to lease the lands of the Outer Continental Shelf. Congress was certainly mindful of the domestic oil production situation at that time, as illustrated by their finding an urgent need for other oil and gas. Congress passed the Connally Hot Oil Act in 1935 (49 Stat. 30 *et seq.*) and since Congress has left that act unamended and the President has not found that the statutory conditions exist for declaring its provisions inoperative,[26] the Act remains part of the general national policy that here exists.

I thus consider that the existence of the national policy declared in the Outer Continental Shelf Act, the silence of Congress in not repealing or amending the Connally Hot Oil Act, and the fact that the statutory standards of the Act do not authorize the President to lift the restrictions of the Connally Hot Oil Act for the purpose plaintiffs suggest, indicate that our national policy provides for the leasing, exploration and development of the offshore oil and gas lands and that as long as the Secretary of the Interior is carrying out such policy, the possibility that Congress might change this national policy is not an alternative that must be discussed in the Impact Statement here involved.

(4) The President's message

We next come to the President's June 4, 1971 Energy Message to Congress which comprehensively discussed the energy needs of the Nation. The full statement appears in the CONGRESSIONAL RECORD, volume 117, part 14, pages 18049-18053. This message contained six sentences relating to offshore oil and gas leases:

LEASING ON THE OUTER CONTINENTAL SHELF—AN ACCELERATED PROGRAM

The Outer Continental Shelf has proved to be a prolific source of oil and gas, but it has also been the source of troublesome oil spills in recent years. Our ability to tap the great potential of offshore areas has been seriously hampered by these environmental problems.

The Department of the Interior has significantly strengthened the environmental protection requirements controlling offshore drilling and we will continue to enforce these requirements very strictly. As a prerequisite to Federal lease sales, environmental assessments will be made in accordance with section 102 of the National Environmental Policy Act of 1969.

Within these clear limits, we will accelerate our efforts to utilize this rich source of fuel. In order to expand productive possibilities as rapidly as possible, the accelerated program should include the sale of new leases not only in the highly productive Gulf of Mexico, but also some other promising areas. I am therefore directing the Secretary of the Interior to increase the offerings of oil and gas leases and to publish a schedule for lease offerings on the Outer Continental Shelf during the next five years, beginning with a general lease sale and a drainage sale this year.

The foregoing statements are seized upon by the majority opinion as announcing some new program, but in my view that is not supported. All that the President has done here is provide for a mild acceleration in an existing program that was first authorized twenty years ago. He has not changed any leasing procedures and, insofar as oil and gas lands in the Gulf of Mexico are concerned he has not added any new areas to the scheduled leasing program. He has merely accelerated by less than three months[27] the leasing of lands already scheduled to be leased. *This minimal acceleration does not involve any impact on the environment that would not have been caused by existing policy when the same lands were leased for the same purpose a few months hence on the normal schedule.* (In fact the delay caused by this lawsuit has practically eliminated any effect whatsoever.)

There is nothing in NEPA to indicate that Congress intended to require Impact Statements for the continuation of existing laws and programs. The statute merely required a policy review of "present statutory authority" to be made and reported to the President by July 1, 1971.[28] Such review does not require Impact Statements.

I thus find nothing in the President's message, or in the acts of the Secretary of the Interior which followed said message, that imposes any threat to the environment that was not already present in existing programs being carried on pursuant to previously existing laws which were required to be fully reviewed prior to July 1, 1971. When the majority here require the subject Impact Statement to discuss alternatives to existing laws *which it is not proposed to change*, and also to discuss the environmental impact of such indefinite alternatives, I consider that the opinion is not soundly based in law.

I also find nothing in the Act to support the assertion of the majority opinion that because the President did not issue an Impact Statement in connection with his Energy Message to Congress that a duty to do so fell upon the Secretary of the Interior when he acted to carry out a minor part of the program. By such holding the majority opinion would require the Secretary of the Interior to support the entire Energy Message in an Impact Statement which is only required because he is implementing a microscopic portion of it. To merely state this result is sufficient to indicate its unsoundness. If such were the law subordinate officials would be required to promulgate Impact Statements far beyond the relevant act of decisionmaking. While the relevant authority of the decisionmaker may not constitute an absolute limit on the scope of subjects required to be covered by an Impact Statement, his decisionmaking authority with respect to the proposed action is certainly the most important consideration in determining the limits of that document and constitutes the principal frame of reference to which the statement should be addressed.

(5) Nuclear energy, increasing onshore exploration and FPC pricing policy on natural gas

As to nuclear energy, increasing onshore exploration and changing the pricing policy on natural gas by the Federal Power Commission, these all involve actions by other agencies and individuals not realistically within the scope of the decisionmaking authority here involved. Many of the principals involved are not controlled by the United States Government. Whether any of these proposals individually or collectively would constitute a partial or adequate present alternative to the action here proposed is highly problematical. Actually all of them are being pursued to some extent. They also have their own environmental problems.

Certainly we consider we are proceeding with research and development of nuclear energy with all deliberate speed. The present state of our research and development is on the borderline of producing equipment that has practical value of commercial uses. *See Cities of Statesville, et al.* v. *Atomic Energy Commission*, —— *U.S.App.D.C.* ——, 441 F.2d 962 (*en banc*, 1969). But atomic energy is not a present alternative to the oil needed to supply our internal combustion engines and meet our other fuel demands.

Certainly if any person knew where to explore for more onshore oil or gas in substantial quantities in the United States, he would not want for support. Moreover, the Impact Statement did discuss this suggestion and pointed out that it had been weighed and found to be inadequate:

Until recently, the petroleum industry has been able to satisfy domestic demand for oil and gas from the onshore areas. With the exception of Alaska, however, current seismic exploration techniques have not been able to identify sufficient numbers of new prospective oil and gas bearing geologic structures onshore that are suitable for further exploration or development investments. This has been reflected by a significant decline in both onshore drilling and proved reserves. In contrast, however, the geologic structures in the relatively unexplored or virgin areas are more easily identifiable using current seismic technology.

*Final Environmental Impact Statement* 52-53. I see no reasonable necessity to discuss the environmental impact of a suggested alternative that has been rejected because it is not a practicable alternative.

The majority opinion is not specific as to whether in its treatment of increasing onshore exploration and development it requires the Impact Statement to discuss the alternative of substituting oil from the North Slope of Alaska for this Gulf oil and to discuss the environmental impact of that alleged alternative. If such discussion is so required, I would take judicial notice of those facts of common knowledge that the production and transportation facilities necessary for North Slope oil to constitute a realistic present alternative to this proposal are presently non-existent. The North Slope field also has its own well known environmental problems. To the extent that plaintiffs or the majority opinion may contend that this Impact Statement needs to discuss the effect on the environment of the North Slope alternative it is to my mind, presently an unreasonable suggestion.

Notice is also taken of our own decision upholding the Federal Power Commission in altering its pricing policies on natural gas

Footnotes at end of article.

to stimulate the domestic production of natural gas. *City of Chicago* v. *Federal Power Commission*, —— U.S.App.D.C. ——, —— F.2d —— (No. 23740, Dec. 2, 1971, slip op. 11–12).

So, much of what is suggested by these so-called alternatives is already being done and is a matter of common knowledge. Some of the suggested alternatives would require immediate changes in existing federal laws and decisions of independent federal agencies; some are impractical because they would require officials to act in a manner they have indicated is contrary to their declared intent; some suggest alternatives involving uncertain results, highly speculative probabilities or experimental uncertainties; some suggest as alternatives proposals that would not satisfy the same need; some would only be partial alternatives; and some involve ideas that are years away, if ever, from fruition. *None can be said to be realistic present alternatives.* Because of these circumstances, and others referred to in the Impact Statement, I do not find any of the suggestions to be alternatives within the meaning of the Act. I would thus not enjoin the sale here to require their discussion in the Impact Statement. To do so would make delay the only victor.

I am not unmindful of the ease with which some of the required additional discussion can be inserted in the Impact Statement. I just do not consider that the law requires, or that reason dictates, the discussion of unrealistic alternatives or their environmental impact. In so requiring it is my view that the majority opinion extends the law to extreme and impractical ends. I would confine the interpretation of NEPA to call for full discussion of reasonably practical present alternatives rather than lay down requirements for the exposition of every hopeful project and legislative change that may be said to be even remotely related to the subject. To my mind, the former rule would better serve the environment. To this extent I dissent from the views of the majority opinion.

In my opinion the motion for summary reversal should be granted upon the ground that the decision of the trial court was based upon an erroneous legal premise, *i.e.*, that NEPA required the Impact Statement to discuss alternatives that were highly speculative and remote and which are not realistic present alternatives.

FOOTNOTES

[1] *See, e.g.*, Calvert Cliffs' Coordinating Committee, Inc. v. Atomic Energy Commission, 449 F.2d 1109, (D.C. Cir. 1971); Committee for Nuclear Responsibility, Inc. v. Seaborg, No. 71–1732, October 5, 1971.

[2] 43 U.S.C. § 1337 (1970). This Act, P.L. 83–212, appears at 43 U.S.C. § 1331 *et seq.*

[3] Natural Resources Defense Council, Inc., Friends of the Earth, Inc., Sierra Club, Inc.

[4] The text of this Message appears in the CONGRESSIONAL RECORD, volume 117, part 14, pages 18200–18204.

[5] *See* 36 F.R. 7724 (1971) for the Council's Guidelines for the preparation of Statements on Proposed Federal Actions Affecting the Environment.

[6] *See* Meccano, Ltd. v. Wanamaker, 253 U.S. 136, 141 (1920); A Quaker Action Group v. Hickel, 137 U.S.App.D.C. 176, 180, 421 F.2d 1111, 1115 (1969).

[7] United States v. Allen, 133 U.S.App.D.C. 84, 85, 408 F.2d 1287, 1288 (1969).

[8] *See* Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 584–85 (1952).

[9] *See* Delaware and Hudson Ry. Co. v. United Transportation Unit, — U.S.A. App. D.C. ——, —— F. 2d —— (March 31, 1972).

[10] This is the language of the Section-by-Section Analysis presented by Senator Jackson, in charge of the legislation and chairman of the Senate Interior Committee, in explaining and recommending approval of the bill as agreed in conference. 115 CONG. REC. 40420 (Dec. 20, 1969).

[11] *See* Committee for Nuclear Responsibility, Inc. v. Seaborg, No. 71–1732, October 5, 1971, slip opin., p. 7; No. 71–1854, October 28, 1971, slip opin., pp. 2, 12.

[12] The legislative history indicates the importance of this source of environmental input into the decision making process. *See* S. Rep. No. 91–296, 91st Cong., 1st Sess., 21:

. . . the agency shall develop information and provide descriptions of the alternatives in adequate detail for subsequent reviewers and decision makers, both within the executive branch and the Congress, to consider the alternatives along with the principle recommendations.

That the impact statement is the proper instrument to provide this focus is recognized by the guidelines promulgated by the Council on Environmental Quality:

A rigorous exploration and objective evaluation of alternative actions that might avoid some or all of the adverse effects is essential. Sufficient analysis of such alternatives and their costs and impact on the environment should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might have less detrimental effects.

36 F.R. 7724, 7725 (1971).

[13] Defendants' Memorandum of Points and Authorities, Dec. 8, 1971, p. 7.

[14] Committee for Nuclear Responsibility, Inc. v. Seaborg, October 5, 1971, slip opin., p. 7.

[15] *See* Defendants' Memorandum, Dec. 8, 1971, at 11:

When proposing legislation the responsible official may properly be expected to consider alternative methods of achieving the same goal which require legislation, because his impact statement is to assist the Congress in determining how it should act and the Congress is able to enact any legislation within the scope of the Constitution. When the responsible official is considering a major Federal action which he is to take himself, he is properly concerned only with those alternatives which he himself has discretion to adopt.

[16] *See, e.g.*, Environmental Defense Fund, Inc. v. Corps of Engineers, 325 F. Supp. 749 (E.D. Ark. 1971) (dam), Environmental Defense Fund v. Corps of Engineers, 2 E.R.C. 1173 (D.D.C. 1971) (canal).

[17] The President's message set out eleven areas of research and development toward the goal of clean energy; three areas of making available the energy resources of federal lands, including the leasing of offshore oil lands; and further discussed six other aspects of the overall problem.

[18] In his message to Congress, the President designated the Energy Subcommittee as the body with the power to make overall policy in the field until his proposed Department of Natural Resources comes into being. 112 CONG. REC. 8317.

[19] *Cf.*, Burlington Truck Lines, Inc. v. United States, 371 U.S. 156, 168–169 (1962); Braniff Airways, Inc. v. CAB, 126 U.S. App. D.C. 399, 411, 379 F.2d 453, 465 (1967); National Air Carrier Assn. v. CAB, 141 U.S. App. D.C. 31, 41, 436 F.2d 185, 195 (1970). While these cases relate to fact findings, this aspect—the need for agency statement, as opposed to counsel's rationalization—is a requirement that applies to environmental impact statements.

[20] *See* NEPA § 102, quoted above.

[21] *Cf.*, United States v. Morgan, 307 U.S. 183, 191 (1939); Niagara Mohawk Power Corp. v. FPC, 126 U.S. App. D.C. 376, 383, 379, F. 2d 153, 160 (1967); Greater Boston TV Corp. v. FCC, 444 F. 2d 841, 851 (D.C. Cir. 1970), *cert. denied* 35 U.S.L.W. 3549, June 14, 1971.

[22] *Cf.*, WAIT Radio v. FCC, 135 U.S. App. D.C. 317, 418, F. 2d 1153 (1969); Greater Boston TV Corp. v. FCC, *supra*, 444 F. 2d at 851.

[23] *See* Calvert Cliff's Coordinating Committee, Inc., *supra*, note 1, 449 F. 2d at 1115.

[24] In many cases, they are not necessarily alternatives, but are supplemental to other sources. The national energy requirement exceeds the potential of any one "alternative."

[25] 42 U.S.C. § 4332(2)(A).

[26] 15 U.S.C. § 715c (49 Stat. 31).

[27] The Secretary of the Interior's announcement of the sale in the Federal Register reported:

This sale was originally planned for February 1972 and has been advanced to December 1971, in accordance with the President's June 4, 1971, energy message to Congress.

36 FED. REG. 11604 (June 16, 1971).

42 U.S.C. § 4333 provides:

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

National Environmental Policy Act of 1969, § 103, Pub. L. No. 91–190, 83 Stat. 854.

[28] Insofar as the majority opinion requires Impact Statements under NEPA to cover alternatives to the 1953 Outer Continental Shelf Lands Act and the Oil Import Quota Program of 1959, it overlooks the fact that NEPA required such existing programs to be reviewed and proposals reported to the President for such measures as may be necessary to bring their policies into conformity with the intent of NEPA. The fact that Congress dealt with existing programs in this manner in NEPA is a clear indication that it did not intend in NEPA to require Impact Statements to cover the same ground.

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SOURCES FOR ENVIRONMENTAL IMPACT STATEMENTS

In order to receive more efficient and prompt service, requestors are urged to order draft and final impact statements from the Department of Commerce's National Technical Information Service (NTIS) rather than the preparing agency. Each statement will be assigned an order number that will appear in the *102 Monitor* (at the end of the summary of each statement) and also in the NTIS semi-monthly Announcement Series No. 68, "Environmental Pollution and Control." (An annual subscription costs $5.00 and can be ordered from the NTIS, U.S. Department of Commerce, Springfield, Virginia 22151.)

Final statements will be available in microfiche as well as paper copy. A paper copy of any statement can be obtained by writing NTIS at the above address and enclosing $3.00 and the order number. A microfiche costs $0.95. (Paper copies of documents that are over 300 pages are $6.00.)

NTIS is also offering a special "package" in which the subscriber receives all statements in microfiche for $0.35 per statement.

Statements will still be available for public scrutiny in the document rooms of the various agencies. However, only limited copies will be available for distribution.

Yet another possible source of statements is from the Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036. To order a document, please indicate the Department, date, and ELR Order # (given at the end of each summary). The Institute charges $0.10 per page, and as you will note the number of pages is also given at the end of the summaries. Please enclose the correct amount of money with your order and mark the envelope to the attention of the 'Document Service."

SOURCE FOR BACK ISSUES OF THE 102 MONITOR

Because the supply of past issues of the 102 Monitor is not sufficient to meet all requests,

a list is provided below indicating where the various issues of the 102 Monitor appeared in the Congressional Record. You may wish to order these Congressional Records from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($.25 per copy).

Vol. 1, Nos. 1, 2 and 3, Congressional Record (page E3607)—April 28, 1971.

Vol. 1, No. 4, Congressional Record (page E5151)—May 27, 1971.

Vol. 1, No. 5, Congressional Record (page E6023)—June 16, 1971.

Vol. 1, No. 6, Congressional Record (page E8458)—July 28, 1971.

Vol. 1, No. 7, Congressional Record (page E9483)—September 13, 1971.

Vol. 1, No. 8, Congressional Record (page E10002)—September 24, 1971.

Vol. 1, No. 9, Congressional Record (page E11596)—November 1, 1971.

Vol. 1, No. 10, Congressional Record (page E12213)—November 15, 1971.

Vol. 1, No. 11, Congressional Record (page E13322)—December 11, 1971.

Vol. 1, No. 12, Congressional Record (page E76)—January 18, 1972.

On the following pages are environmental impact statements received by the Council from January 1 through January 31, 1972.

NOTE.—At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, (202) 388-7803.

*Agricultural Research Service*

Draft

Imported fire ant cooperative federal-state control and regulatory program. Aerial application of Mirex to 20 million acres in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Texas. (ELR Order No. 1555, 48 pages) (NTIS Order No. PB-205 344-D) December 28.

*Forest Service*

Draft

Federal-State cooperative 1972 Gypsy Moth suppression program. Treatment of 300,000 acres in Alabama, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and Wisconsin with carbaryl. Will temporarily reduce certain beneficial insects and arthropods. (ELR Order No. 1579, 104 pages) (NTIS Order No. PB-205 589-D), December 13.

Transfer of 2,240 acres of Lincoln National Forest, New Mexico, to the Department of the Interior to be held in trust for the Mescalero Apache Tribe. Operating the Sierra Blanca Ski area under a special-use permit from the Forest Service, the Tribe has requested the transfer on the premise that obtaining title to the land would facilitate obtaining financing for further expansion and development of the Area. (ELR Order No. 1560, 24 pages) (NTIS Order No. PB-205 450-D), January 4.

Mt. Bailey winter sports site, Douglas County, Oregon. Construction of a major regional winter sports complex on Mt. Bailey to include base area, aerial lifts, 11 miles of ski runs and trails and an access road to base area. Will affect 1,300 acres. (ELR Order No. 1571, 8 pages) (NTIS Order No. PB-205 454-D), January 6.

Poverty Creek Unit, Blacksburg Ranger District, Jefferson National Forest, Montgomery County, Virginia. Management plan, including primary use for environmental learning, improvement of creek and timber management. (ELR Order No. 1645, 105 pages) (NTIS Order No. PB-205 931-D) January 19.

Federal-state cooperative spruce budworm suppression project—1972, Aroostock and Penobscot Counties, Maine. Chemical treatment of 500,000 acres of state and private commercial woodland with Zectran. (ELR Order No. 1683, 84 pages) (NTIS Order No. PB-206 057-D), January 21.

*Rural Electric Administration*

Draft

Title, description, and date

Dixon, Missouri, to Kansas state line transmission line, Pulaski, Laclede, Dallas, Polk, Dade and Jasper Counties, Missouri. Loan to Associated Electric Cooperative, Inc., for construction of 160-mile, 345 kv transmission line from Dixon to 10 miles south of Pittsburg, Kansas, including a new substation at Franks. (ELR Order No. 1526, 111 pages) (NTIS Order No. PB-205 330-D), December 22.

*Soil Conservation Service*

Final

Title, description, and date

Winnebago-Bean Creek Watershed, Richardson County, Nebraska. Conservation land treatment of 3,100 acres over a 5-year period and construction of 16 grade stabilization structures. Will inundate 6 miles of intermittent stream channels and periodically inundate 90 acres in the detention pools. Comments made by Army, EPA, HEW, DOI, Neb. Game and Parks Commission and Neb. Soil and Water Conservation Commission. (ELR Order No. 1586, 32 pages) (NTIS Order No. PB-201 254-F), January 5.

Eighteen Mile Creek Watershed, Pickens and Anderson Counties, South Carolina, work plan, involving conservation land treatment on 7,845 acres, construction of 2 floodwater retarding structures and 1 multi-purpose structure for flood prevention and water supply, 1.9 miles of channel improvement and 650 acres of critical area stabilization. Will eliminate 3 miles of stream fishery, inundate 225 acres and periodically inundate 500 acres. Comments made by Army, EPA, HEW, DOI, Appalachian Regional Commission and 2 state offices. (ELR Order No. 1631, 31 pages) (NTIS Order No. PB-198 973-F), January 14.

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 29545, (202) 973-5391. For Regulatory Matters: Christopher L. Henderson, Assistant Director of Regulation for Administration, Washington, D.C. 20545, (202) 973-7531.

Draft

Title, description, and date

Midland Plant Units 1 and 2, Midland, Michigan. Application for construction permit and operating license by Consumers Power Co. for 2 pressurized water reactors (1300 mgw); 4,050,000 lbs. per hour of stream will be delivered to Dow Chemical Co. Will affect downstream flow of Tittabawassee River. Docket 50-329 and 50-330. (ELR Order No. 1580, 134 pages) (NTIS Order No. PB-205 573-D), January 7.

Rio Blanco gas stimulation project, Rio Blanco County, Colorado. Experimental project involving simultaneous detonation of three 30-kiloton nuclear explosives 5000-7000′ below the surface in a natural gas-bearing geologic formation to gather data on the feasibility of using nuclear explosions to stimulate natural gas production from low-permeability reservoirs. Will result in release of radioactivity to atmosphere and entrapment of radioactive materials in the natural gas formations. (ELR Order No. 1601, 84 pages) (NTIS Order No. PB-205 782-D), January 12.

Rover fuels processing facility, National Reactor Testing Station, Bingham, Bonneville, Butte, Clarke and Jefferson Counties, Idaho. Modification of a portion of the Idaho Chemical Processing Plant to store and reclaim usable enriched uranium from fuels used in testing nuclear rocket engines (ELR Order No. 1609, 147 pages) (NTIS Order No. PB-205 780-D), January 12.

Plutonium-238 fuel fabrication facility, Savannah River Plant, Aiken and Barnwell Counties, South Carolina. The $^{238}$Pu isotope has been processed to the oxide form for shipment to other AEC sites for further processing into a stable fuel form followed by encapsulation into heat sources. AEC proposes to transfer the fuel form fabrication processing operations to the Savannah River Plant. (ELR Order No. 1610, 33 pages) (NTIS Order No. PB-205 779-D), January 12.

Bedrock waste storage exploration, Savannah River Plant, Aiken and Barnwell Counties, South Carolina. Exploration by sinking a shaft into the bedrock and excavating lateral tunnels to study the rock formation to determine the feasibility of a full-scale storage vault, with the ultimate goal of transferring the large quantity of radioactive waste from existing storage tanks at the Savannah River Plant. (ELR Order No. 1622, 94 pages) (NTIS Order No. PB-205 781-D), January 14.

Solid radioactive waste volume reduction facility, Los Alamos Scientific Laboratory, Los Alamos County, New Mexico. Construction and operation of the facility as part of an experimental program to develop safe and effective sorting, compaction and incineration procedures for low-level plutonium contaminated wastes. (ELR Order No. 1620, 42 pages) (NTIS Order No. PB-206 080-D), January 14.

Rocky Flats plant, Boulder County, Colorado, acquisition of 4,640 acres. (ELR Order No. 1688, 21 pages) (NTIS Order No. PB-206 081-D), January 25.

Wagon wheel gas stimulation experimental project, Sublette County, Wyoming. Sequential detonation of five 100-kiloton nuclear explosives 9,000-12,750′ below the surface in a natural gas bearing geologic formation to gather data on the feasibility of using nuclear explosions to stimulate natural gas production from low-permeability reservoirs. Will cause ground motion and resultant architectural damage, release radioactivity to the atmosphere and entrap in the natural gas formation radioactive materials at or near the points at which the nuclear explosives are detonated. (ELR Order No. 1689, 50 pages) (NTIS Order No. PB-206 082-D), January 25.

Radioactive waste evaporator and auxiliaries, Richland, Washington. Addition of a large-scale radioactive waste evaporator and auxiliaries to the smaller evaporators at the AEC Hanford Plant, doubling the evaporative capacity of the system and accelerating reduction of the liquid wastes stored in underground steel-lined tanks to a solid-cake form. (ELR Order No. 1690, 64 pages) (NTIS Order No. PB-206 083-D), January 25.

Contaminated soil removal facility, Richland, Washington. A part of the waste disposal system at the AEC Hanford plant. Soil containing significant quantities of plutonium will be removed from a covered trench and reprocessed for recovery of the plutonium and ultimate final disposal of the remaining radioactive material. (ELR Order No. 1691, 53 pages) (NTIS Order No. PB-206 084-D), January 25.

Final

Title, description, and date

National Accelerator Laboratory, Batavia, Illinois. Construction 60% complete on high energy physics laboratory centered around a 200-500 billion electron volt energy proton synchrotron on a 6,800-acre site. (ELR Order No. 1549, 44 pages) (NTIS Order No. PB-205 359-F), December 30.

Reactor testing during FY 1972 at the Nuclear Rocket Development Station, Nevada. (Statement issued jointly by AEC and NASA.) Testing of a new type of reactor, the Nuclear Furnace, which permits individual

fuel element testing at one-fortieth of the power of a full scale reactor. Comments made by USDA, DOC, EPA, HEW, DOI, DOT, Ariz. Dept. of Economic Planning and Development, Colo. Dept. of Health, Idaho State Planning and Community Affairs Agency, Idaho Dept. of Health and Office of the Governor of Oregon. (ELR Order No. 1550, 61 pages) (NTIS Order No. PB-200 539-F), December 30.

Los Alamos Scientific Laboratory, Los Alamos County, New Mexico. Construction to replace existing facility to meet recent requirements to upgrade safety characteristics of buildings and equipment for plutonium operations. R&D activities include plutonium metal, alloys and compounds. Comments made by USDA, DOC, EPA, HEW, DOI, DOT and state of New Mexico. (ELR Order No. 1687, 50 pages) (NTIS Order No. PB-198 710-F), January 25.

Plutonium recovery facility, Rocky Flats Plant, Jefferson County, Colorado. Replacement of facility to be used to recover plutonium from scrap generated in operations of plant which fabricates plutonium components for nuclear weapons. Comments made by USDA, DOC, EPA, HEW, DOI, DOT, and state of Colorado. (ELR Order No. 1692, 55 pages) (NTIS Order No. PB-198 762-F), January 25.

DEPARTMENT OF DEFENSE

*Department of Air Force*

Contact: Col. Cliff M. Whitehead, Room 5E 425, Pentagon, Washington, D.C. 20330, (202) OX-5-2889.

Draft

Title, description, and date

Disposition of Orange herbicide (a defoliant) by commercial incineration at Deer Park, Harris County, Texas, and at Sauget, Illinois. The empty drums will be decontaminated, crushed and buried in a landfill pit. Involves discharge of 44.68 million lbs. of $CO_2$ into the atmosphere, and the liquid water-salt effluent from the HCl acid scrubbing action will discharge 12.4 million lbs. of NaCl into a public stream. (ELR Order No. 1672, 46 pages) (NTIS Order No. PB-206 061-D), January 20.

*Department of Navy*

Contact: Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of Navy, Washington, D.C. 20350, (202) 697-0892.

Draft

Title, description, and date

Relocation of target facilities to Cross Cay, Atlantic Fleet Weapons Range, Puerto Rico. To relocate necessitates clearing a shallow draft boat channel, preparing an access roadway, constructing a helicopter landing pad and preparing the target area. (ELR Order No. 1680, 35 pages) (NTIS Order No. PB-206 051-D), January 19.

*Corps of Engineers*

Contact: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office, Office, Chief of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314 (202) 693-6346 or 6329.

For the reader's convenience we have listed the numerous statements from COE by State in alphabetical order.

*Draft*

Title, description and date

Corte Madera Creek, Marin County, California. Flood control by dredging and channel excavation (completed), rectangular concrete channel on Tamalpais Creek (completed), rectangular concrete channel with stilling basin from earth channel to 600' below Lagunitas Rd. Bridge (under construction) and rectangular concrete channel upstream to Sir Francis Drake Blvd. Involves loss of marshland and riparian woodland associations. (ELR Order No. 1570, 38 pages) (NTIS Order No. PB-205 455-D), January 6.

Mullet Key Beach erosion control, Pinellas County, Florida. Nourishment of beach and fronting protective beach, construction of a 420' anchor groin and construction of a 1,150' revetment. About 325,000 cu. yds. of sand will be dredged, destroying benthic invertebrates and covering those in the beach area. (ELR Order No. 1686, 53 pages) (NTIS Order No. PB-206 052-D), January 24.

Perico Island, Manatee County, Florida. Application of Curtiss-Wright Corp. for a permit to dredge and fill to produce 370 acres of upland and 92.4 acres of canals from the former upland for development. A total of 43.9 acres of submerged grass flats, 9.0 acres of mud flats, and 8.6 acres of intertidal flats and associated fauna will be covered by dredged material. Dredging will remove another 67.4 acres of submerged grass flats, 15.5 acres of mud flats, 516 acres of intertidal flats and 0.4 acre of coon oyster beds. (ELR Order No. 1710, 22 pages) (NTIS Order No. PB-206 105-D), January 26.

Long Hollow Creek channel clearing, Nez Perce, Lewis County, Idaho. Clearing and reshaping of a 5,000' reach to provide capacity for a maximum flow of 700 cfs for flood protection. (ELR Order No. 1621, 17 pages) (NTIS Order No. PB-205 676-D), January 12.

Diked disposal area, Ontonagon Harbor, Ontonagon, Michigan. Diking of 20 acres of land area for containment of polluted dredge spoils previously deposited in open waters of Lake Superior. Will produce some noxious odors. (ELR Order No. 1588, 15 pages) (NTIS Order No. PB-205 587-D), January 5.

Levee Unit No. L-246, Missouri River levee system, Chariton County, Missouri. Flood control project consisting of a system of levees, interior drainage structures, channel (Palmer Creek) relocation (2-6 miles) and modification (5 miles). Will alter wildlife habitat and stream biota. (ELR Order No. 1539, 26 pages) (NTIS Order No. PB-205 338-D), December 30.

Newark Bay, Hackensack and Passaic Rivers, New Jersey. Maintenance dredging for navigation, with dredged material to be disposed of at sea 7 miles east of Sandy Hook. (ELR Order No. 1540, 14 pages) (NTIS Order No. PB-205 337-D), December 29.

South Branch, Rahway River, Rahway, New Jersey. Flood protection by channel improvement and construction of levees, walls, roadway bridge, drainage facilities, and land filling. Levees and filling, occupying about 15 acres, will eliminate tidal mud flats along banks of the river. (ELR Order No. 1538, 5 pages) (NTIS Order No. PB-205 339-D), January 3.

B. L. England Generating Station, Unit No. 3, Great Egg Harbor Bay, Beesley's Point, Cape May County, New Jersey. Application of Atlantic City Electric Co. for a permit to construct and dredge a cooling water intake channel and to lay a discharge pipe in the Bay in connection with proposed expansion of the Generating Station. (ELR Order No. 1618, 17 pages) (NTIS Order No. PB-202 671-D), January 12.

Hudson River Channel, New York. Maintenance dredging, with spoil disposal in Atlantic Ocean 7 miles off Sandy Hook. (ELR Order No. 1536, 8 pages) (NTIS Order No. PB-205 335-D), December 29.

Rochester Harbor, Monroe County, New York. Maintenance by dredging approximately 360,000 cu. yds. of sediment annually, dumping the material in Lake Ontario and occasional work on breakwaters. (ELR Order No. 1638, 7 pages) (NTIS Order No. PB-205 796-D), January 14.

Black Rock Channel and Tonawanda Harbor, Erie and Niagara Counties, New York. Operation and maintenance of the ship lock and maintenance of the channels by dredging 100,000 cu. yds. of sediment annually, with disposal of 70% of sediment in an enclosed disposal area and the remainder in Lake Erie. (ELR Order No. 1637, 7 pages) (NTIS Order No. PB-205 792-D), January 17.

Little River, Inlet, North Carolina and South Carolina, navigation project, including a 3200' entrance channel, a 9100' inner channel, a 3200' jetty, a 3000' jetty and transition dikes connecting the jetties to the shore. Approximately 1,141,000 cu. yds. of sandy material will be dredged; it will be used in building the dikes. (ELR Order No. 1697, 23 pages) (NTIS Order No. PB-206 056-D), January 20.

Cleveland Harbor, Ohio. Maintenance of breakwaters and maintenance dredging of 1,125,000 cu. yds. of sediment annually, with 55% placed in enclosed area and the remainder dumped in Lake Erie. (ELR Order No. 1648, 7 pages) (NTIS Order No. PB-205 930-D), January 14.

Fairport Harbor, Lake County, Ohio. Maintenance of channel by dredging 400,000 cu. yds. of sediment and dumping the material in Lake Erie. (ELR Order No. 1636, 10 pages) (NTIS Order No. PB-205 791-D), January 14.

Sandusky Harbor, Erie County, Ohio. Maintenance of channels by dredging about 6,000,000 cu. yds. of sediment annually and dumping the material in Lake Erie. (ELR Order No. 1635, 6 pages) (NTIS Order No. PB-205 795-D), January 14.

Lorain Harbor, Ohio: Annual maintenance dredging of 300,000 cu. yds. of sediment and maintenance of breakwaters. The dredge spoils, some of which are polluted, are dumped in Lake Erie 4 miles offshore. (ELR Order No. 1628, 6 pages) (NTIS Order No. PB-205 787-D), January 14.

Kingstree Branch flood control project, Black River Basin, Kingstree, South Carolina. Enlargement of channel from confluence of Kingstree Branch and Black River upstream 1.83 miles to the city limits. (ELR Order No. 1715, 35 pages) (NTIS Order No. PB-206 109-D), January 19.

Houston Ship Channel, Texas. Maintenance dredging of channels and basins, with spoil disposal in land and open bay areas used for disposition of dredged materials for many years. (ELR Order No. 1537, 11 pages) (NTIS Order No. PB-205 336-D), December 29.

Diked disposal area, Ashland Harbor, Ashland, Wisconsin. Diking of 6 acres of land area for containment of polluted dredge spoils previously deposited in open waters of Lake Superior. Will produce some noxious odors. (ELR Order No. 1587, 18 pages) (NTIS Order No. PB-205 586-D), January 5.

Final

Title, description, and date

Gillham Lake, Cossatot River, Howard, Polk and Sevier Counties, Arkansas. Completion of lake, involving completion of embankment, modification of outlet works, clearing the reservoir area and constructing recreation facilities, for flood control, water supply, water quality control. Comments made by USDA, DOC, EPA, EPC, HEW, DOI, State, DOT, 7 Ark. agencies, 1 Okla. agency, 7 local offices, 35 conservation organizations, 91 individuals and 4,289 individuals who signed petitions. (ELR Order No. 1578, 1839 pages) (final, NTIS Order No. PB-202 134-F, $3; Appendix I, Correspondence, No. PB-202 134-F-1, $6; Appendix I. Public Meeting Transcripts, No. PB-202 134-F-2, $3; Appendix II, Photographs, and Appendix III, Environmental Elements, No. PB-202 134-F-3, $3; Appendix IV, Literature Cited, Appendix V, Court Proceedings, and Appendix VI, Qualifications of Personnel, No. PB-202 134-F-4, $6; Appendix III-F Annex, Hydrographs and Duration Curves, No. PB-202 134-F-5, $6), April 10.

Revised final statement (April 15). Trumbull Lake, Pequonnock River, Connecticut. Flood protection by construction of concrete dam and storage reservoir extending 2.5 miles up the Pequonnock River. Will inundate 200 acres of land, involve loss of a valley with pools and rapids, result in loss of stream fishing and cause relocation of 30 families. Comments made by EPA, DOI, 5 state agencies and the town of Trumbull. (ELR Order No. 1704, 37 pages) (NTIS Order No. PB-206 104-F), January 27.

Anacostia River and Tributaries, Prince Georges County, Maryland. Flood control by widening, deepening and realigning 20,410' of channels in the Northwest and Northeast Branches and Indian Creek. Comments made by USDA, EPA, HEW, DOI, DOT, 4 state agencies, Prince Georges and Montgomery Counties, Washington Suburban Sanitary Commission, Metropolitan Washington Council of Governments, Ntl. Capital Planning Commission and Md.-Ntl. Capital Park and Planning Commission. (ELR Order No. 1547, 64 pages) (NTIS Order No. PB-200 797-F), January 3.

Great Lakes connecting channels, St. Marys River, Michigan. First of three phases of widening 6 bend areas in the river, the first phase involving dredging and blasting 3 bends in the Middle Neebish Channel area. Spoils to be deposited off Neebish Island. Comments made by DOC, EPA, FPC, DOI, DOT, 2 state agencies, 6 conservation organizations, Lake Carriers Assn. of Cleveland and Chippewa County Commissioner. (ELR Order No. 1557, 86 pages) (NTIS Order No. PB-199 855-FB, January 3.

Long Branch Lake, East Fork, Little Chariton River, Macon County, Missouri. Floor protection by construction of an earthfill dam and lake. Will inundate 2,430 acres of land and eliminate 14 miles of the East Fork and associated habitat. Comments made by USDA, EPA, DOI, 4 state agencies, American Fisheries Society and Wildlife Society. (ELR Order No. 1721, 33 pages) (NTIS Order No. PB-201 518-F), January 27.

Aquatic plant control program, Hudson and Mohawk Rivers, New York. Control and progressive eradication of waterchestnut in and from the waters within the two rivers by spraying with 2,4-D. Comments made by USDA, EPA, N.Y. Dept. of Environmental Conservation and N.Y. Dept. of Health. (ELR Order No. 1707, 18 pages) (NTIS Order No. PB-200 003-F), January 27.

Battery Park City Authority bulkhead and fill project, Hudson River, Borough of Manhattan, New York. Bulkhead and fill to be placed in Hudson River between the Battery and Reade St., extending 600-950' offshore to create 90.8 acres of land. Involves demolition of old structures and dredging. Comments made by USDA, DOC, EPA, DOI, DOT, N.Y. State Dept. of Environmental Conservation and 3 city agencies. (ELR Order No. 1562, 35 pages) (NTIS Order No. PB-202 086-F), January 4.

Wallisville Lake, Trinity River, Chambers and Liberty Counties, Texas. Construction of a low dam, a navigation channel and lock, recreational areas, various ancillary facilities and minor bend easings in the channel. Involves loss of 7,200 acres of estuarine nursery area, destruction of archeological sites and inundation of others. Comments made by USDA, EPA, DOI, 6 state agencies, Trinity River Authority of Texas, Chambers-Liberty Counties Navigation District, City of Houston, Sierra Club, Environmental Protection Fund, Inc., Citizens' Environmental Coalition, Outdoor Nature Club, Houston Sportsmen's Club, Help Eliminate Pollution, Inc. and interested citizens. (ELR Order No. 1676, 275 pages) (NTIS Order No. PB-206 058-F, $6).

ENVIRONMENTAL PROTECTION AGENCY

Contract: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460.

Draft

Title, description, and date

Palm Beach County, Florida, sewerage improvement program. A regional system connecting to one waste water treatment facility. Four projects: new and expanded secondary waste water treatment and disposal facilities owned and operated by West Palm Beach to serve coastal region of the county and interceptor sewers, major sewage pumping stations and force mains to connect with the facilities, part to be owned and operated by the County. Projects WPC-FLA-328, -329, -330, and -331. (ELR Order No. 1589, 176 pages (NTIS Order No. PB-205 588-D), January 4.

Application of Richland, Washington, for financial assistance to modify sewage treatment plant, install alarm reporting systems to all lift stations and construct a 21" gravity and 10" pressure sewer and life station to serve the Badger Mountain area. Principal concern involves Richland development of Badger Mountain area into residential area and the project's impact on wildlife and land use. Project WPC-WN-419. (ELR Order No. 1619, 15 pages) (NTIS Order No. PB-205 672-D), January 11.

Application for assistance for construction of wastewater facilities, Pittsburg, Camp County, *Texas*, to include additions to Sparks Branch wastewater treatment plant, construction of a new wastewater treatment plant on Dry Creek and construction of interceptor sewers to the proposed plant. Project WPC-TEX-722. (ELR Order No. 1666, 57 pages) (NTIS Order No. PB-205 921-D), January 21.

FEDERAL POWER COMMISSION

Contact: Frederick H. Warren, Advisor on Environmental Quality, 441 G Street, NW., Washington, D.C. 20426, (202) 386-6084.

Draft

Title, description, and date

Application by Niagara Mohawk Power Corp. for a new license for the Green Island Project No. 13, Albany County, New York. Project consists of a forebay downstream and at the west end of the U.S.-owned dam and bulkhead; a powerhouse containing 4 turbines, each directly connected to a 1500 kw generator; and a tailrace channel. (ELR Order No. 1643, 22 pages) (NTIS Order No. PB-206 050-D), January 17.

El Paso Natural Gas Co., proposed tariff revisions under Section 4 of the Natural Gas Act, relative to a natural gas curtailment plan. Establishment of criteria by which curtailments will be effected in the event of a natural gas shortage or insufficient available capacity. Establishment of priorities of service applicable to all El Paso's Southern Division Mainline System customers. Docket No. RP72-6. (ELR Order No. 1677, 140 pages) (NTIS Order No. PB-206 066-D), January 21.

Application by the Susquehanna Power Co. and Philadelphia Electric Power Co. for amendment of license to provide additional recreational facilities at the constructed Conowingo Project No. 405, Harford and Cecil Counties, Maryland, and York, Lancaster, Chester, and Montgomery Counties, Pennsylvania. (ELR Order No. 1693, 7 pages) (NTIS Order No. PB-206 053-D), January 26.

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Acting Administrator, GSA-AD, Washington, D.C. 20405, (202) 343-6077.

Alternate Contact: Aaron Woloshin, Director, Office of Environmental Affairs, GSA-AD, Washington, D.C. 20405, (202) 343-4161.

Draft

Title, description, and date

Disposal of 198 acres of Fort Des Moines, Des Moines, Iowa, by assigning 95 acres to HEW for conveyance to Des Moines for educational use and 103 acres to BOR for conveyance to Polk County for park and recreational use. (ELR Order No. 1568, 12 pages) (NTIS Order No. PB-205 446-D), January 7.

Disposal of the Naval Supply Center, Puget Sound, Seattle Division (Pier 90/91), Seattle, Washington by negotiated sale of 185.8 acres to the Port of Seattle, by transferring 2.5 acres to the U.S. Postal Service for construction of a postal station and by assigning 4.12 acres to HEW for transfer for use for the area handicapped. (ELR Order No. 1671, 11 pages) (NTIS Order No. PB-205 926-D), January 18.

Final

Title, description, and date

Disposal of Caven Point Army Reserve Center, Jersey City, Hudson County, New Jersey by negotiated sale to Jersey City. Comments made by Army COE, CEQ, EPA, Tri-State Regional Planning Commission and 3 state agencies. (ELR Order No. 1545, 18 pages) (NTIS Order No. PB-201 255-F), January 3.

Disposal of Don-Ce-Sar Building and the 5.43-acre site, St. Petersburg Beach, Florida, by negotiated sale to the city. Comments made by EPA, HUD, DOI, 2 state offices and City of St. Petersburg Beach. (ELR Order No. 1630, 22 pages) (NTIS Order No. PB-205 783-F), January 14.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental & Land Use Planning Division, Washington, D.C. 20410, (202) 755-6186.

Draft

Title, description, and date

Broomfield Water Transmission Line, Broomfield, Colorado. Construction of a pipeline, a 25 mgd pump station and a 2 mg storage reservoir to serve areas generally north and west of Denver to be funded in part by HUD. Project WSP CO-08-00-01100. (ELR Order No. 1529, 50 pages) (NTIS Order No. PB-205 349-D), December 23.

Low-Rent Public Housing Project, Borough of Queens, New York, New York. Ongoing construction of 840 units in three 24-story residential buildings in a neighborhood of low-medium and high-medium residential densities. Project NY 5-108. (ELR Order No. 1626, 33 pages) (NTIS Order No. PB-205 670-D), January 14.

Final

Title, description, and date

HUD Project Selection Criteria or Subsidized Housing. Establishment of criteria for evaluating priority ranking of applications under 4 programs: § 235(i) Interest Supplements on Home Mortgages, § 236 Interest Supplements on Home Mortgages, § 236 Interest Supplements on Rental and Cooperative Housing Mortgages, Low-Rent Public Housing (including Leased Public Housing), and Rent Supplement. Comments made by USDA, Army COE, AEC, EPA, GSA, HEW, DOI, DOT, Appalachian Regional Commission and National Capital Planning Commission. (ELR Order No. 1548, 35 pages) (NTIS Order No. PB-202 596-F), December 30.

Pike Plaza redevelopment project, Seattle, Washington. The City of Seattle is requesting a loan and grant contract for clearance and redevelopment of 22.81 acres except for the Public Market, about 7 acres, to include shops, markets, apartments, office buildings, etc. Comments made by EPA, HEW, DOT, Wash. Planning and Community Affairs Agency, Advisory Council on Historic Preservation and Puget Sound Governmental Conference. (ELR Order No. 1553, 30 pages) (NTIS Order No. PB-201 252-F), January 7.

Portland Student Services, Inc., Portland, Oregon. Application for a loan of $3,193,000 to construct a 16-story apartment building in the Goose Hollow area in order to provide moderately priced student housing. Comments made by EPA, HEW, OEO, DOT, 2 state offices, 2 city offices and the Goose Hollow Foothills League. (ELR Order No. 1633, 62 pages) (NTIS Order No. PB-204 014-F), January 17.

San Antonio Ranch New Community, Bexar County, Texas. Proposed offer of commitment to guarantee up to $18 million over a 30-year period for development of a new community located on 9,318 acres about 20 miles from downtown San Antonio with an ultimate population of 87,972 residents in 28,676 housing units. Comments made by

USDA, Army COE, AEC, EPA, FPC, HUD, DOI, 4 state offices, Alamo Area Council of Governments, San Antonio River Authority, City of San Antonio, Citizens for a Better Environments and Sierra Club. (ELR Order No. 1679, 154 pages) (NTIS Order No. PB-202 588-F), January 20.

DEPARTMENT OF INTERIOR

Contact: Office of Comunications, Room 7214, Washington, D.C. 20240, (202) 343-6416.

*National Park Service*

Draft

Title, description, and date

Legislative proposal for designation as wilderness 6,925 acres of Chiricahua National Monument, Cochise County, Arizona. (ELR Order No. 1681, 20 pages) (NTIS Order No. PB-206 055-D), January 24.

*Bureau of Reclamation*

Draft

Title, description, and date

East Greenacres Unit, Prairie Division, Rathdrum Prairie project, Kootenai County, Idaho. Construction of deep wells and pumps, pipe distribution systems and public recreation areas to supply irrigation, domestic, municipal and industrial water. (ELR Order No. 1530, 18 pages) (NTIS Order No. PB-205 351-D), December 22.

China Meadows Dam and Reservoir, Lyman Project, Utah. Construction of an earthfill dam and dike on the East Fork of Smiths Fork. Inundation of 372 acres of meadow and forest will result in loss of 2 miles of trout stream, 205 acres of timber, grazing for 24 cows, forage for wildlife and 13 family campground units. (ELR Order No. 1606, 73 pages) (NTIS Order No. PB-205 581-D), January 6.

South Gila Valley, Colorado River front work and levee system, Yuma County, Arizona. Concrete lining of main outlet drain (8 miles long) to prevent seepage of saline water into the Gila River Pilot Channel and the groundwater table of the valley. (ELR Order No. 1706, 25 pages) (NTIS Order No. PB-206 102-D), January 26.

Correction to the November 1971 issue of the *Monitor* (Vol. 1, No. 10), P. 26 Gila Gravity Main Canal: Yuma County, Arizona. NTIS Order number should read No. PB-203 228-D.

Palmetto Bend Dam, Navidad River, Jackson County, Texas. Construction of an earthfill dam with a concrete spillway. Will inundate 11,300 acres, change 40 miles of the river and tributaries to impounded and regulated streams, change the fresh water inflow to Matagorda Estuary and displace 9 families. (ELR Order No. 1719, 27 pages) (NTIS Order No. PB-206 113-D), January 26

*Bureau of Sport Fisheries and Wildlife*

Draft

Title, description, and date

Legislative proposal to designate as wilderness 3,000 acres of the Blackbeard Island National Wildlife Refuge, offshore from McIntosh County, Georgia. (ELR Order No. 1714, 21 pages) (NTIS Order No. PB-206 111-D), January 26.

Legislative proposal to designate as wilderness 4,218 acres of the Wolf Island National Wildlife Refuge offshore from Darien, McIntosh County, Georgia. (ELR Order No. 1717, 18 pages) (NTIS Order No. PB-206 109-D), January 26.

Legislative proposal to designate as wilderness 5,577 acres of the Lostwood National Wildlife Refuge, Burke and Mountrail Counties, North Dakota. (ELR Order No. 1705, 18 pages) (NTIS Order No. PB-206 103-D), January 26.

Legislative proposal to designate as wilderness 4,155 acres of the Chase Lake National Wildlife Refuge, Stutsman County, North Dakota. (ELR Order No. 1708, 18 pages) (NTIS Order No. PB-206 112-D), January 26.

Legislative proposal to designate as wilderness 7 islands of the San Juan Archipelago, San Juan and Skagit Counties, Washington. (ELR Order No. 1709, 15 pages) (NTIS Order No. PB-206 110-D), January 26.

*Bureau of Outdoor Recreation*

Draft

Title, description, and date

Legislative proposal for establishment of the Potomac Heritage National Scenic Trail, generally following the Potomac River shore and passing through the District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia (874 miles) (ELR Order No. 1612, 25 pages) (NTIS Order No. PB-205 577-D), January 10.

*Bureau of Land Management*

Final

Title, description, and date

Supplement to final (10/21), Proposed Oil and Gas Lease Sale, Outer Continental Shelf, Gulf of Mexico, offshore eastern Louisiana. (ELR Order No. 1058, supplement—112 pages) (final, NTIS Order No. PB-201 517-F; supplement, NTIS Order No. PB-205 677), January 15.

*Bureau of Mines*

Draft

Title, description, and date

Synthane coal gasification pilot plant, Bruceton, Allegheny County, Pennsylvania, for evaluating the feasibility of commercial conversion of coal to sulfur-free substitute natural gas (SNG). (ELR Order No. 1684, 16 pages) (NTIS Order No. PB-206 048-D), January 24.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Ralph E. Cushman, Special Assistant, Office of Administration, Washington, D.C. 20546, (202) 962-8107.

Final

Title, description, and date

Pioneer F/G Program to conduct exploration beyond the orbit of Mars of the interplanetary medium, the nature of the Asteroid Belt and the planet Jupiter. Comments made by AEC, SEQ, EPA and the Attorney General of Massachusetts. (ELR Order No. 1585, 37 pages) (NTIS Order No. PB-202 085-F), January 10.

Goddard Space Flight Center, Greenbelt, Maryland. The environmental background by which Goddard was established, the environmental considerations in planning and operating the facilities and the role and mission of the Center as it pertains to the surrounding environment. (ELR Order No. 1673, 47 pages) (NTIS Order No. PB-206 049-F), January 21.

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser,* Director, Office of Program Co-Ordination, 400 7th Street, S.W., Washington, D.C. 20951, (202) 462-4355.

For the reader's convenience we have listed the numerous statements from DOT by State in alphabetical order.

*Federal Aviation Administration*

Draft

Title, description, and date

Aniak Airport, Aniak, Alaska. Reconstruction of runway safety area; extension of runway and lighting system; and construction of taxiway, apron and access road. (ELR Order No. 1533, 11 pages) (NTIS Order No. PB-205 332-D), December 30.

Dade County Airport, Trenton, Georgia. Construction of a basic utility airport adequate for 95% of propeller-driven aircraft weighing less than 12,500 pounds. (ELR Order No. 1611, 23 pages) (NTIS Order No. PB-205 578-D), January 10.

Effingham County Memorial Airport, Effingham, Illinios. Construction of a crosswind runway with medium intensity lights. (ELR Order No. 1632, 21 pages) (NTIS Order No. PB-205 790-D), January 12.

Macomb Municipal Airport, McDonough County, Illinois. Reimbursement for land purchased in 1967 and for construction, marking and lighting of runway extension. (ELR Order No. 1644, 19 pages) (NTIS Order No. PB-205 794-D), January 18.

Schoolcraft County Airport, Michigan. Expansion by construction of runway, taxiway and apron; runway extension; relocation of road; relocation of beacon and lighting controls; etc. (ELR Order No. 1711, 32 pages) (NTIS Order No. PB-206 106-D), January 25.

Springfield Municipal Airport, Brown County, Minnesota. Development of a new airport, including construction of a runway, connecting taxiway, apron and tie-down area. (ELR Order No. 1718, 15 pages) (NTIS Order No. PB-206 107-D), January 25.

Medford Municipal Airport, Medford, Grant County, Oklahoma. Acquisition of land for clear zone; construction of runway, taxiway and apron; installation of lighting, beacon, wind cone and fencing. (ELR Order No. 1669, 18 pages) (NTIS Order No. PB-205 924-D), January 18.

Goldsby Airport, Norman, McClain County, Oklahoma. Reconstruction, realignment and extension of runway and installation of lighting system, rotating beacon and tower, segmented circle and lighted wind cone. (ELR Order No. 1720, 30 pages) (NTIS Order No. PB-206 108-D), January 25.

Tri-State Airport (Walker Long Field), Wayne County, West Virginia. Extension of runway, runway grooving, construction of a graded overrun area, relocation of glide slope facility and approach lighting system, and strengthening of pavements. (ELR Order No. 1534, 21 pages) (NTIS Order No. PB-205 333-D), December 30.

Door County-Cherryland Airport, Sturgeon Bay, Wisconsin. Construction of a runway extension and parallel taxiway; overlay of runway, taxiway, apron and turnaround; installation of medium-intensity lighting system and acquisition of land to accommodate turbojet aircraft. (ELR Order No. 1641, 18 pages) (NTIS Order No. PB-205 793-D, January 18.

John F. Kennedy Memorial Airport, Ashland, Wisconsin. Extension of runway, acquisition of land for development and clear zones, burial of power line, installation of lights and perimeter fencing to accommodate general aviation turbojet aircraft. (ELR Order No. 1670, 19 pages) (NTIS Order No. PB-205 925-D), January 18.

Final

Title, description, and date

Dillingham Airport, Dillingham, Alaska. Land acquisition, extending and widening runway, constructing an apron and base course, resurfacing of runway, installing a new lighting system and relocating a road. Comments made by Army COE, DOC, EPA, HEW and DOI. (ELR Order No. 1664, 25 pages) (NTIS Order No. PB-201 523-F), January 19.

Fleming-Mason Airport, Flemingsburg, Kentucky, land acquisition, construction and lighting of runway and taxiway, and construction of turn-around apron and entrance road to provide a 24-hour landing capability. Comments made by USDA, KY. Program Development Office and Buffalo Trace Area Development District. (ELR Order No. 1663, 14 pages) (NTIS Order No. PB-203 604-F), January 19.

Lafayette Airport, Lafayette, Louisiana Construction of runway, associated taxiways, parallel taxiway and crash, fire and rescue facility; extension of runway; relocation of communication towers; and installation of

*Mr. Convisser's office will refer you to the correct regional office from which the statement originated. In the case of the Federal Highway Administration, a separate page is included in this Monitor giving the names of the Regional Administrators (see page 68).

homer beacon for runway. Comments made by USDA, Army COE, EPA, HEW, DOI, and DOT. (ELR Order No. 1546, 41 pages) (NTIS Order No. PB-201 577-F), December 23.

Pittsfield Municipal Airport, Pittsfield, Massachusetts. Installation of a medium intensity lighting system on one runway and relocation of existing system to another runway. Comments made by DOI, DOT, Mass. Office of Planning and Program Coordination, Berkshire County Regional Planning Commission and Pittsfield Conservation Commission. (ELR Order No. 1569, 25 pages) (NTIS Order No. PB-203 471-F), January 5.

Manchester Municipal Airport, Manchester, New Hampshire. Acquisition of easements and removal of trees and poles obstructing runway approaches. Comments made by EPA, FPC, HEW, HUD, DOI, DOT and 10 state offices. (ELR Order No. 1607, 29 pages) (NTIS Order No. PB-203 226-F), January 12.

Lincolnton-Cherryville Airport, North Carolina. Construction of new airport south of juncture of NC-182 and SR-1187 adequate for 95% of propeller-driven aircraft of less than 12,500 pounds and some light twin engine propeller-driven aircraft. Comments made by USDA, EPA, DOI, 5 state agencies and Central Piedmont Regional Council of Local Governments. (ELR Order No. 1713, 19 pages) (NTIS Order No. PB-204 024-F), January 25.

University Park Airport, University Park, Pennsylvania. Construction of runway and taxiway and extension of runway. Comments made by USDA, Army COE, EPA, HUD, DOI, DOT, 4 state agencies, 3 Pa. State Univ. Offices, Phillipsburg Area Chamber of Commerce and 5 businesses. (ELR Order No. 1574, 45 pages) (NTIS Order No. PB-202 798-F), January 5.

Shively Field, Saratoga, Wyoming. Extension and paving runway, construction of taxiway and enlargement of apron. Comments made by USDA, Army COE and EPA. (ELR Order No. 1561, 34 pages) (NTIS Order No. PB-203 475-F), January 5.

*Federal Highway Administration*

Draft

Title, description, and date

US-80: Dallas County, Alabama. Improvement to 4 lanes from near Browns to Ala-14 intersection (17.6 miles). Involves acquisition of 320 acres of rural land and dislocation of 3 individuals, 30 families, 7 business owners and 2 tenants, and 5 farm owners. Project S-335-I. (ELR Order No. 1532, 8 pages) (NTIS Order No. PB-205 348-D), December 29.

FAS Route 2218: Garden City, Cullman County, Alabama. Construction from US-31 to the Mulberry Fork of the Black Warrior River. Project S-457-C. (ELR Order No. 1554, 9 pages) (NTIS Order No. PB-205 343-D), January 3.

FAP-95, Gastineau Channel bridge: Juneau, Alaska. Construction of bridge to Douglas Island (.5-1.0 mile). (ELR Order No. 1649, 39 pages) (NTIS Order No. PB-205 955-D), January 18.

SR-189 (Nogales Truck Compound Rd. Section of the Nogales Primary Connection): Santa Cruz County, Arizona. Construction from Nogales south to the border (2.8 miles). Project F-032-1-301. (ELR Order No. 1556, 22 pages) (NTIS Order No. PB-205 345-D), January 4.

SR-95, Lake Havasu City—I-40 Hwy.: Mohave County, Arizona. Construction from south boundary of Lake Havasu City north to 1 mile south of I-40. Projects S-405-601 (R/W) and S-405-602 (R/W). (ELR Order No. 1566, 13 pages) (NTIS Order No. PB-205 449-D), January 5.

Route 86: Riverside County, California. Freeway construction between the Imperial County line and Indio (21 miles). Will displace 69 people. Project 11-Riv.-86, 11 201-094111, -094121, -094131, -094141. (ELR Order No. 1600, 13 pages) (NTIS Order No. PB-205 580-D), January 7.

Supplement to draft (5/21), 4(f) information relating to 1.6 acres of Windsor Meadow Management Resource Area. I-291 Windsor to Manchester, Connecticut, connection between I-91 and I-86. Project I-291-5(1). (ELR Order No. 1575, supplement 50 pages) (draft, NTIS Order No. PB-199 252-D; supplement, NTIS Order No. PB-205 572), January 5.

Supplement to draft (8/26), 4(f) information relating to 1 acre of land abutting Talcottville Pond and a length of the Tankerhoosen River. I-86, Manchester, South Windsor and Vernon, Connecticut. Project I-86-1(31)8, 76-89. (ELR Order No. 1696, 12 pages) (NTIS Order No. PB-202 182-D), January 25.

US-202 (Concord Pike): Brandywine Hundred, New Castle County, Delaware. Construction from I-95 interchange north to the Pennsylvania state line (5.3 miles). Will displace 40 families and 30 businesses. Contract 68-01-007. (ELR Order No. 1625, 31 pages) (NTIS Order No. PB-205 673-D), January 14.

Wilson Bridge and approaches: Wahiawa, Oahu, Hawaii. Replacement of bridge and widening of Kamehameha Hwy. to Kilani Ave. (2,500'). Will displace residences and businesses. Project F-080-1(3) (ELR Order No. 1577, 40 pages) (NTIS Order No. PB-205 453-D), January 6.

Illinois Route 21 (Milwaukee Ave.): Cook County, Illinois. Improvement to four lanes from West Lake Ave. to the Chicago and Northwestern Rwy. Project F-238 ( ), I.D. 05-11-72-1. (ELR Order No. 1629, 37 pages) (NTIS Order No. PB-205 788-D), January 12.

FA Route 430 (Fox Valley Freeway): Cook, Kane, DuPage and Will Counties, Illinois. Construction from the Elgin O'Hare Freeway southwest of Elgin to the general vicinity of Ill.-53. 4(f) determination required for crossing the Illinois Prairie Path. (ELR Order No. 1528, 186 pages) (NTIS Order No. PB-205 346-D), December 17.

FA Route 412 Corridor: Winnebago, Ogle, Lee, Bureau, LaSalle, DeKalb, McLean, Woodford, Livingston and Marshal Counties, Illinois. Construction of 4-lane freeway from near Rockford to a point just south of Bloomington (130 miles). 4(f) determination required for use of parks and forest preserve lands. (ELR Order No. 1678, 190 pages) (NTIS Order No. PB-206 059-D), January 18.

F.A. Route 7 Spur, Franklin St. Connector: Chicago, Illinois. Construction from the Dan Ryan and Stevenson Expressway interchange to Lower Wacker Dr. (ELR Order No. 1657, 31 pages) (NTIS Order No. PB-205 933-D), January 19.

Ill. Route 23: LaSalle County, Illinois. Widening and partial relocation, including widening bridge and replacing 4 others, from Livingston Rd. in Streator to the west limits of Cornell (12.1 miles). Involves displacement of 17 families, 6 farm units and 2 businesses. (ELR Order No. 1694, 15 pages) (NTIS Order No. PB-206 060-D), January 24.

SR-37: Perry County, Indiana. Relocation from Tell City to SR-62/I-64 interchange north of St. Croix (20.8 miles). 4(f) determination required for use of 72 acres of Hoosier National Forest for right-of-way. Project F-19(3)A-D. (ELR Order No. 1563, 25 pages) (NTIS Order No. PB-205 451-D), January 3.

SR-107: Jefferson County, Indiana. Widening from intersection with old US-421 to intersection with SR-62 (2.86 miles). (ELR Order No. 1665, 21 pages) (NTIS Order No. PB-205 922-D), January 13.

Project 24-44, F 072-1(19): Jefferson County, Kansas. Grading and surfacing from the end of the 4-lane pavement near Grantville east to Newman Corner and the proposed junction of K-237 (4.2 miles) (ELR Order No. 1716, 16 pages) (NTIS Order No. PB-206 100-D), January 26.

Project U 117 (27)—SP 56-993-1L: Louisville, Jefferson County, Kentucky. Improvement from Dutchmans Lane/Taylorsville Rd. (KY-155) intersection, along Dutchmans Lane to Cannons Lane (KY-2048), along Cannons Lane to Lexington Rd. (US-60) (2.07 miles). (ELR Order No. 1559, 44 pages) (NTIS Order No. PB-205 341-D), January 3.

US-31-E: Allen County, Kentucky. Construction from just south of US-231 1.5 miles west of Scottsville to a point south of Jefferson School Rd. (4.55 miles) Will displace 11 families and 1 business. Project F 28 (17), SP 2-95-9L (sec. 1). (ERL Order No. 1613, 20 pages) (NTIS Order No. PB-205 576-D), January 10.

KY-10: Mason County, Kentucky. Upgrading from Fernleaf east to US-68 (5.5 miles). Will displace 7 families and 1 business. (ERL Order No. 1467, 8 pages) (NTIS Order No. PB-205 928-D), January 17.

US-1A: Harrington, Washington County, Maine. Reconstruction and/or relocation from West Harrington to north end of the town center (3.5 miles). Four alternatives are being considered. Project F-044-1(11). (ERL Order No. 1623, 47 pages) (NTIS No. PB-205 674-D), January 14.

I-69: Clinton County, Michigan. Construction from I-96 to US-27 (8.5 miles). Will remove 11-15 homes. Project I69-3(2)83. (ELR Order No. 1558, 36 pages) (NTIS Order No. PB-205 342-D), January 4.

FAS Route 297 (County Rd. 531) and Cisco-Lindsley Bridge: Gogebic County, Michigan. Relocation from FAS Rte. 1043 (C.R. 535) to FAS Rte. 295 and construction of a bridge and approaches connecting Cisco and Lindsley Lakes on relocated route. Project S 297( ). (ELR Order No. 1572, 30 pages). (NTIS Order No. PB-205 457-D), January 6.

C.S.A.H.-39: Norman County, Minnesota. Reconstruction from 6.4 miles east of Borup to TH-32/TH-113 junction at Syre. 4(f) determination required for use of 609.5 acres within a Wildlife Management Area. Project S.P. 54-639-10, S6598(9). (ELR Order No. 1531, 18 pages) (NTIS Order No. PB-205 347-D), December 28.

I-394: Minneapolis, Minnesota. Freeway construction from 250' west of 30th St. N. and Hawthorne Ave. northeast to 3rd Ave. N./Washington Ave. N. junction (0.91 mile). Involves acquisition of 82 business and 82 dwelling units. Project 2789-01 (T.H. 394), I-394-6. (ELR Order No. 1535, 25 pages) (NTIS Order PB-205 334-D), December 29.

US-2 (Arrowhead Bridge and approaches): Duluth, Minnesota and Superior, Wisconsin. Relocation of bridge over St. Louis River. Minn. project F 170001-4( ); Wis. project F 08-5, I.D. 8680-0-00. (ELR Order No. 1576, 25 pages) (NTIS Order No. PB-205 452-D), January 3.

TH-23 and TH-274: Lyon, Yellow Medicine, Renville and Chippewa Counties, Minnesota. Improvement and rerouting of TH-23, bypassing Cottonwood, Hanley Falls, Maynard and Clara City (32.8 miles). A 0.5-mile section of TH-274 will connect with TH-23. Requires removal of 4 homes, a town hall and several other buildings and involves severance of farmsteads. Projects F 023-1, F 023-2, S 4025; 4203, 8701, 6505, 1204, 1205, and 8714. (ELR Order No. 1667, 22 pages) (NTIS Order No. PB-205-929-D), January 20.

Route AC: Buchanan County, Missouri. Construction from Rte. 6 south to Rte. YY (1.9 miles). Will displace 24 people. Job 1-S-AC-36. (ELR Order 1551, 8 pages) (NTIS Order No. PB-205 350-D), January 3.

US-65: Greene County, Missouri. Construction from Rte. AF south to Rte. I-44 (12.5 miles), requiring 3 bridges. Involves destruction of some wildlife habitat, severance of farms and removal of 20 houses and 2 commercial buildings. Job 8-P-65-20. (ELR Order No. 1627, 8 pages) (NTIS Order No. PB-205 786-D), January 13.

US 73-75 and Neb.-1 (Murray intersection

and Murray East): Cass County, Nebraska. Improvement of intersection of US 73–75/N–1 intersection, improvement on US 73–75 (0.9 mile) and rebuilding of N–1 from intersection to Murray (1.1 miles). Requires removal of service station, mobile homes, a dwelling and various other buildings. Projects F–28(10) and S–534(11). (ELR Order No. 1573, 10 pages) (NTIS Order No. PB–205 456–D), January 6.

I–80, Brownson Interchange; I–80, West Sidney Interchange; Brownson connecting link road; and West Sidney connecting link road, Cheyenne County, Nebraska. The first two projects, construction from Brownson to Sidney (10.68 miles); the third, construction from I–80 interchange southwest of Brownson northeast to US–30/Ordville Spur Rd. intersection (1.69 miles); and the fourth, construction from I–80 interchange 2 miles southwest of Sidney north to US–30 intersection (1.68 miles). Projects I–80–1(11) and (12), S–259(4) and S–620–A. (ELR Order No. 1685, 16 pages) (NTIS Order No. PB–206 065–D), January 24.

Passaic St. Bridge and approaches: New Providence Borough, Union County, and Chatham Township, Morris County, New Jersey. Replacement of bridge over the Passaic River from Commonwealth Ave. to River Rd. (ELR Order No. 1624, 8 pages) (NTIS Order No. PB–205 675–D), January 6.

I–25, Las Vegas Bypass: Las Vegas, New Mexico. Construction of a 4-lane divided highway from south of Las Vegas north to US–85 (4.7 miles). Requires relocation of families. Project I–IG–025–5(18)342. (ELR Order No. 1639, 62 pages) (NTIS Order No. PB–205 784–D), January 17.

US–74: Columbus County, North Carolina. Relocation from Hallsboro to Bolton. Will displace 12 families and affect wildlife in cutting through Friar Swamp. Project 6.801570. (ELR Order No. 1602, 16 pages) (NTIS Order No. PB–205 584–D), January 11.

I–95 (Fayetteville Bypass): Cumberland County, North Carolina. Construction from 6.6 miles south of Fayetteville to 4.8 miles north of Fayetteville (15.2 miles). Will displace 29 families. Project 8.1347401, FA I–95–2(24)32. (ELR Order No. 1603, 30 pages) (NTIS Order No. PB–205 583–D), January 11.

SR–1216 and SR–1201: Carteret County, North Carolina. Improvement from the new Bogue Sound Bridge to Atlantic Beach (17.3 miles). Project 9.8025201 (ELR Order No. 1605, 21 pages) (NTIS Order No. PB–205 582–D), January 11.

SR–2000–2180: Kannapolis, Cabarrus County, North Carolina. Widening Lane St. from I–85 west to Cannon Blvd. Project 6.803080. (ELR Order No. 1614, 14 pages) (NTIS Order No. PB–205 574–D), January 11.

SR–29: Auglaize and Shelby Counties, Ohio. Relocation and improvement from US–33 to SR–274. Project AUG/SHE–29–4.67/0.00. (ELR Order No. 1527, 20 pages) (NTIS Order No. PB–205 331–D), December 23.

US–50A and SR–7: Marietta, Washington County, Ohio. Relocation from near southerly junction of routes to I–77 interchange east of Marietta (2.3 miles) including a bridge over the Muskingum River. Involves taking of 202 residences and 40 businesses. Project WAS–50A–22.00, WAS–7–21.80. (ELR Order No. 1552, 28 pages) (NTIS Order No. PB–205 340–D), December 30.

SR–16 and SR–76: Coshocton County, Ohio. Improvement of alignment of SR–16 from Township Rd. 285 east to County Rd. 6 and construction of interchange at SR–16/SR–76 intersection. Will affect 26 families, 2 farms and 2 businesses. Project COS–16/76–4.42/8.82. (ELR Order No. 1565, 11 pages) (NTIS Order No. PB–205 448–D), January 3.

I–505 (Industrial Freeway): Northwest Portland, Multnomah County, Oregon. Freeway construction from I–405 west to St. Helens Rd. (US–30). Will displace residents and commercial/industrial units. (ELR Order No. 1608, 28 pages) (NTIS Order No. PB–205 579–D), January 10.

US–30 (Columbia River Hwy.): Columbia County, Oregon. Improvement to 4 lanes from Scappoose to Warren (4.6 miles). Will dislocate 29 residential units and 10 businesses. (ELR Order No. 1615, 8 pages) (NTIS Order No. PB–205 575–D), January 11.

Junction City-Eugene Hwy., Santa Clara-Eugene Section: Lane County, Oregon. Improvement to 4 lanes (3 miles). Will displace 2 family units and 4 businesses. (ELR Order No. 1668, 13 pages) (NTIS Order No. PB–205 923–D), January 20.

L.R. 1052, Section 1 Cross Valley Expressway: Luzerne County, Pennsylvania. Construction of a 2.5-mile, 4-lane, limited access highway through Courtdale, Pringle, Luzerne, Kingston and Forty Fort. 4(f) information relates to use of 3.6 acres of Connolly Field, 5.1 acres of Scandlon Field and .6 acre of Park Place. Will displace 226 families. (ELR Order No. 1640, 93 pages) (NTIS Order No. PB–205 785–D), January 19.

SH–40: Pennington County, South Dakota. Grading and surfacing from 1 mile east of Scenic southeast to county line (30 miles). 4(f) determination required for traversing the Bad Lands National Monument. Project S 1041 CN 52932, 52928, and 52939. (ELR Order No. 1646, 22 pages) (NTIS Order No. PB–205 927–D), January 18.

Codington County, South Dakota. Construction of 2-lane facility beginning 4.75 miles east of Wallace east 3.5 miles and then northeast 3.5 miles to intersection with US–81 and SH–20. Probable designation as SH–20. Project SA 9963. 4(f) determination required for use of 2.4 acres of U.S. Fish and Wildlife area. (ELR Order No. 1675, 17 pages) (NTIS Order No. PB–206 085–D), January 21.

SR–60 Bypass: Bradley County, Tennessee. Construction of last link of bypass around central Cleveland (2.2 miles). Will displace 16 residences and 3 businesses. Project F–086–1( ), 06069–5207–04 (ELR Order No. 1567, 16 pages) (NTIS Order No. PB–205 447–D), January 7.

SH–288: Brazoria County, Texas. Construction on new location from north of Angleton to SH–322 in Lake Jackson and along SH–332 from Oyster Creek Drive to SH–288 in Clute (20 miles). Involves taking of 21 single-family residences, 2 two-family duplexes and 4 mobile homes. Special efforts will be made regarding an inactive bald eagle nest. 4(f) determination required for use of 30 acres of proposed T. J. Dunbar (formerly Thumb) Park. (ELR Order No. 1698, 23 pages) (NTIS Order No. PB–206 064–D), January 24

US–87 (designated I–27): Lubbock and Hale Counties, Texas. Construction from 1.5 miles north of Monroe Overpass in Lubbock County to 0.2 mile northeast of the north city limits of Hale Center (25 miles). Involves taking of 10 homes and 1 business. (ELR Order No. 1695, 9 pages) (NTIS Order No. 206 062–4), January 25

Route 258: Smithfield, Isle of Wight County, Virginia. Construction of a bridge over Cypress Creek to replace a drawbridge (0.478 mile). (ELR Order No. 1634, 18 pages) (NTIS Order No. PB–205 789–D), January 17.

West Seattle Freeway, 36 Ave. S.W. to I–5: Seattle, Washington. Construction of a limited access highway in the Spokane St. corridor, including a bridge over the Duwamish River (3.2 miles). Will displace 20 families and 50 businesses. (ELR Order No. 1674, 300 pages) (NTIS Order No. PB–206 086–D), January 21.

County route 40/8 (Wheeling hospital access road): Wheeling Ohio County, West Virginia. Upgrading and extension of Mt. De Chantel Rd. from Washington Ave. southeast to the new hospital site (0.83 mile). Project APL–9422(001). (ELR Order No. 1604, 40 pages) (NTIS Order No. PB–205 585–D), January 11.

Final

Title, description, and date

US–43: Fayette County, Alabama. Relocation and upgrading from Bobo to Whites Chapel Church, including a concrete bridge over Sipsey River (7 miles). Project S–2904 (101). Comments made by USDA, DOC, DOD, EPA, HUD, DOI DOT, Ala. Development Office and Coosa Valley Planning Agency. (ELR Order No. 1520, 42 pages) (NTIS Order No. PB–205 355–F), December 30.

US–82: Bibb County, Alabama. Widening to 4-lane divided facility from the Tuscaloosa-Bibb County line to a point about 0.8 mile west of Eoline (5.5 miles). Project F–397(1), S–320–I. Comments made by USDA, DOD, DOI, EPA, HUD, DOT, and Ala. Dept. of Conservatxion. (ELR Order No. 1661, 35 pages (NTIS Order No. PB–201 381–F) January 19.

Winfield Bypass: Fayette and Marion Counties, Alabama. Construction of 2-lane bypass (1.93 miles). Project S–1726–A, F–437. Comments made by USDA, Army COE, DOC, DOD, EPA, HUD, DOI, DOT, Ala. Historical Commission, Ala. Development Office and Ala. Dept. of Conservation. (ELR Order No. 1655, 51 pages) (NTIS Order No. PB–205 934–F), January 19.

I–40 (Topock-Kinsman Hwy.) McConnico Section: Mohave County, Arizona. Construction from Shingle Canyon Wash northeast to near Kingman city limits (6.29 miles). Project I–IG–40–1(27). Comments made by DOI, Ariz. Health Dept. and Santa Fe R.R. (ELR Order No. 1521, 19 pages) (NTIS Order No. PB–202 912–F), December 30.

I–10, FAS–274 (Willcox-Fort Grant Hwy.): Cochise County, Arizona. Construction from Willcox just north of I–10 along Fort Grant Rd. (9 miles). Projects S–272 (2) and (5). Comments made by DOI, Ariz. Game and Fish Dept. and City of Willcox. (ELR Order No. 1522, 22 pages) (NTIS Order No. PB–202 641–F), December 30.

Batesville Topics, Broad St. grade separation: Independence County, Arkansas. Construction of an overpass across the Missouri Pacific R.R. and Polk Bayou to connect Broad St. with Bayou St. (1500'). Project T–8020(3), Job 5613 (5622). Comments made by DOI, 6 state agencies and White River Planning and Development District. (ELR Order No. 1598, 19 pages) (NTIS Order No. PB–200 209–F), January 6.

I–15: Riverside and San Bernardino Counties, California. Construction of 6- and 8- lane freeway between the San Diego County line and Devore along SR–71, SR–31 (70 miles). Will displace 144 living units, 1 church and 16 businesses. 4(f) information relates to use of Rivertrails Park. Comments made by DOI, DOT, Army COE, USDA, Corona City Council, Ontario City Council, Riverside, San Bernardino, March AFB, Calif. Public Health, W. San Bernardino Co. Water Dist., Univ. of California, Chambers of Commerce of Riverside and Grand Terrace, Riverside Co. Medical Assn., Calif. Roadside Council, Norco Property Owners Assn. and L. A. Bur. of Airport Comm. (ELR Order No. 1642, 75 pages) (NTIS Order No. PB–198 962–F), January 17.

SH–101: Mendocino County, California. Widening highway from 2 to 4 lanes on new location between Sonoma County line and Hopland Overhead (8.9 miles). Project 01–Men–101–0.0/8.9 (F–001). Comments made by EPA, HEW, DOI, DOT, 3 state agencies, Univ. of California and the Northcoast Environmental Center. (ELR Order No. 1650, 35 pages) (NTIS Order No. PB–199 856–F), January 19.

Delaware Route 14, Rehobeth Bypass and New Savannah Road Bridge: Sussex County, Delaware. Construction of additional 2 lanes from near Rte. 14A/Rte. 14 intersection to Dewey Beach (1.42 miles) and of twin bridges over the Lewes and Rehobeth Canal.

Comments made by USDA, Army COE, EPA, HUD, Delaware River Basin Commission and State Planning Office. (ELR Order No. 1700, 17 pages) (NTIS Order No. PB-202 096-F), January 26.

SR-24: Alachua County, Florida. Upgrading from Sperry Plant in Gainesville to Waldo (9.3 miles). Job 26050-1506, F-008-1(9). Comments made by USDA, EPA, DOI, North Central Fla. Regional Planning Council and 4 state agencies. (ELR Order No. 1617, 35 pages) (NTIS Order No. PB-202 171-F), January 12.

SR-424 (Edgewater Dr.): Orlando, Orange County, Florida. Upgrading from 2 to 4 lanes from Par Ave. to Lee Rd. (1.9 miles). Jobs 75260-1501 and -1502, U.S. 432 (2) and (3). Comments made by EPA, HUD, DOI and Fla. Game and Fresh Water Fish Commission. (ELR Order No. 1659, 33 pages) (NTIS Order No. PB-201 089-F), January 19.

SR-400 (I-4): Seminole County, Florida. Construction of 2 rest areas 0.8 mile north of SR-424. Comments made by USDA, DOC, EPA and DOI. Project I-4-2(53)113, Job 77160-1410. (ELR Order No. 1712, 33 pages) (NTIS Order No. PB-202 140-F), January 26.

US-441; US-319, SR-31: Laurens County, Georgia. Construction from 850' northeast of I-16/SR-31 intersection northeast for 2.3 miles. Project F-042-1(3). Comments made by USDA, EPA, and Bureau of State Planning and Community Affairs. (ELR Order No. 1525, 25 pages) (NTIS Order No. PB-205 353-F), December 30.

Lula Lake Road: Walker County, Georgia. Construction to connect SR-170 and SR-157 (5.3 miles). Project S-1350(1). Comments made by USDA, Army COE, HUD, DOI and State Clearinghouse. (ELR Order No. 1543, 20 pages) (NTIS Order No. PB-205 357-F), December 30.

FAS-2700: Appling County, Georgia. Construction of a 2-lane rural highway from the end of "Poor Robin Road" southeast to SR-121 near Memorial Church (9 miles). Project PR-505-A (S-2700). Comments made by USDA, EPA, DOI, Bureau of State Planning and Community Affairs and Altamaha Area Planning and Development Commission. (ELR Order No. 1702, 15 pages) (NTIS Order No. PB-206 114-F), January 26.

Pearl Harbor Interchange to Middle St: Oahu, Hawaii. Construction of 2.65 miles of freeway to supplant existing Kamehameha and Nimitz Highways. Attached 4(f) statement regards use of 0.11 acre from the Pacific War Memorial. Project I-HI-1(10). Comments made by USDA, AEC, DOC, DOD, EPA, FPC, HEW, HUD, DOI, DOT, 5 state agencies, University of Hawaii, Chamber of Commerce of Hawaii, City and County of Hawaii and the Outdoor Circle. (ELR Order No. 1544, 150 pages) (NTIS Order No. PB-205 356-F), December 27.

I-H-I, Nimitiz Spur: Oahu, Hawaii. Completion of the remaining portion between the Pearl Harbor Interchange and connections to the Military reservations. Comments made by USDA, Army COE, DOC, DOD, DOI, DOT, 6 state agencies and 4 offices of City and County of Honolulu. (ELR Order No. 1590, 62 pages) (NTIS Order No. PB-201 571-F), January 6.

US-31: Miami, Fulton and Marshall Counties, Indiana. Widening and upgrading highway, partially on new location, from north of Peru to south of Plymouth (32.5 miles) with the exception of 10.4 miles (from 1 mile south of SR-25 to south of SR-110). Projects F-85 (27), (29), (23), and (31). Comments made by USDA, EPA, HUD and DOI. (ELR Order No. 1656, 30 pages) (NTIS Order No. PB-201 230-F), January 19.

Freeway 518, Southwest Bypass: Johnson County, Iowa. Construction to bypass Iowa City from US-218 interchange to near an I-80/I-38 interchange (7.3 miles). Project 518-4. Comments made by USDA, EPA, HUD, DOI, Iowa Water Pollution Control Commission, Iowa Office for Planning and Programming and Johnson County Regional Planning Commission (ELR Order No. 1703, 18 pages) (NTIS Order No. PB-206 099-F), January 26.

US-460, Salyersville-Paintsville Rd., Section II: Johnson County, Kentucky. Widening and realigning highway to connect the Mountain Parkway with the new US-23 at Paintsville (7.5 miles). Project SP 58-97-4L F 75(4). Comments made by DOC, HUD, DOI, DOT and Ky. Dept. of Natural Resources. (ELR Order No. 1652, 32 pages) (NTIS Order No. PB-201 998-F), January 19.

LA-21 (Bush-Sun Hwy.): St. Tammany Parish, Louisiana. Widening from 1 mile south of the Bogue Chitto River Bridge north to its junction with LA-16 at Sun (2 miles). Involves replacement of bridge with twin structures. Project 30-02-12, 30-02-17, BR-F-F-244(10), F-244(11). Comments made by Advisory Council on Historic Preservation, USDA, Army COE, EPA, GSA, HEW, DOI, La. Bureau of Outdoor Recreation, La. State Univ., and Regional Planning Commission. (ELR Order No. 1591, 24 pages) (NTIS Order No. PB-202 324-F), January 5.

M-81: Saginaw, Michigan. Replacement of bridge over Saginaw River. Project U-17-1( ). Comments made by USDA, Army COE, HUD, DOI, DOT, Saginaw County Planning Office and City of Saginaw. (ELR Order No. 1518, 29 pages) (NTIS Order No. PB-205 354-F), December 30.

Red Lake River Bridge and approaches: Polk County, Minnesota. Construction between TH-220 and TH-2 1.5 miles south of East Grand Forks. Project SP 60-663-01 (C.S.A.H. 63) ER 69(11). Comments made by USDA, Army COE, EPA, DOC, FPC, HUD, DOI, OCD, DOT, Minn. Soil Conservation Service, Minn. Planning Agency, Polk County Planning Commission and City of East Grand Forks. (ELR Order No. 1582, 40 pages) (NTIS Order No. PB-203 217-F), January 5.

Route 63: Phelps County, Missouri. Relocation and widening from Maries County line north of Rolla south 5.6 miles. Job 8-P-63-1. Comments made by USDA, EPA, DOI, DOT, State Clearinghouse and Meramec Regional Planning Commission. (ELR Order No. 1519, 17 pages) (NTIS Order No. PB-200 936-F), December 30.

Route 71: Andrew County, Missouri. Construction from Rte. 59 at Savannah south to I-29 and I-229 (5.6 miles). Job 1-P-71-29, Project F-FG-71-7(1). Comments made by USDA, EPA, HUD, DOI, DOT, State Clearinghouse and Northwest Mo. Regional Planning Commission. (ELR Order No. 1523, 18 pages) (NTIS Order No. PB-199 866-F), December 30.

Route 13 (Crane Bypass): Stone County, Missouri. Construction from its junction with Rte. 248 in Galena, in part on a new location, to about 1.2 miles south of Bailey Creek. Job 8-P-13-4, F-FG-13-1(2). Comments made by USDA, Army COE, EPA, HUD, DOI, DOT, State Clearinghouse and Lakes Country Regional Planning Commission. (ELR Order No. 1599, 21 pages) (NTIS Order No. PB-199 858-F), January 6.

I-44: Pulaski County, Missouri. Replacement of substandard road with dual lane highway (4.7 miles). Project I-44-2(32). Comments made by USDA, EPA, HUD, DOT, State Clearinghouse and Lake Ozarks Regional Planning Commission. (ELR Order No. 1658, 21 pages) (NTIS Order No. PB-205 932-F), January 19.

I-80 and Dix Spur: Kimball and Cheyenne Counties, Nebraska. Involves 3 projects, the first 2 on I-80 from southeast of Kimball to Potter (14.5 miles); the third between old US-30 in Dix and I-80 (1 mile). Requires 400 acres of right of way. Project I-80-1(8), I-80-1(9) and S-590-B. Comments made by USDA, Army COE, EPA and DOI. (ELR Order No. 1541, 33 pages) (NTIS Order No. PB-201 856-F), December 30.

US-3: Northumberland, Coos County, New Hampshire. Rerouting of US-3 from a section on Maine and State Sts. to Church Street (0.2 mile). Project F-035-2(6); P-1636. Comments made by USDA, EPA, HUD, DOT and State Office of Planning. (ELR Order No. 1584, 37 pages) (NTIS Order No. PB-202 179-F), January 5.

Routes 347 (Hauppauge-Port Jefferson, SH-9376) and 25 (Smithtown Branch-Coram, SH-8268), Smithtown and Brookhaven, Suffolk County, New York. Upgrading to expressway standards of Rte. 347 between Browns Rd. and Rte. 25A (8 miles) and reconstruction of Rte. 25 from Sunny Rd. to Hawkins Rd. (2 miles). Projects PIN 0041.00 and PIN 0054.01. Comments made by HUD, N.Y. Dept. of Environmental Conservation, Nassau-Suffolk Regional Planning Board and Suffolk County Council on Environmental Quality (ELR Order No. 1581, 27 pages) (NTIS Order No. PB-200 530-F), January 5.

North Carolina 24: Onslow County, North Carolina. Widening from 2 to 4 lanes from Camp Lejeune at Hubert to Swansboro (7 miles). Project 6.801743, Part II. Comments made by USDA, EPA, FPC, GSA, HUD, DOI, OEO, State Clearinghouse and Neuse River Regional Planning and Development Council. (ELR Order No. 1594, 33 pages) (NTIS Order No. PB-200 782-F), January 8.

US-50: Vinton County, Ohio. Relocation of 4.16 miles, construction of 5 new bridges and relocation of 2000' of Middle Fork Creek. Project VIN-50-4.65. Comments made by Army COE, DOI and Ohio Planning and Development. (ELR Order No. 1542, 21 pages) (NTIS Order No. PB-205 358-F), December 30.

Pine and Cincinnati Sts. intersection: Tulsa, Oklahoma. Reconstruction of intersection. Project T 8390(202). Comments made by HEW, DOI, Tulsa Metropolitan Area Planning Commission, Model City and State Clearinghouse. (ELR Order No. 1596, 43 pages) (NTIS Order No. PB-202 656-F), January 6.

Ore.-38, Umpqua Hwy.: Douglas County, Oregon. Construction of 11 passing bays between Wells Creek and Jack Creek. Comments made by Army COE, EPA, DOI, DOT, Ore. Game Commission and Umpqua Regional Council of Governments. (ELR Order No. 1654, 22 pages) (NTIS Order No. PB-201 377-F), January 19.

I-80N, West Pendleton interchange: Umatilla County, Oregon. Reconstruction to accommodate the proposed county road that will connect Rieth Rd. (FAS 470) with the interchange. Project S-578(-). Comments made by Army COE, EPA, DOI, DOT, Ore. State Univ. Research and Extension Center, Ore. Executive Dept. and Ore. A-95 review. (ELR Order No. 1651, 19 pages) (NTIS Order No. PB-201 847-F), January 19.

Shaniko-Fossil Highway, Clarno-Porcupine Butte Section: Wasco and Wheeler Counties, Oregon. Reconstruction of unpaved mountain road and construction of a bridge over the John Day River on new location at Clarno. Project S-295( ). Comments made by Army COE, EPA, HUD, DOI, 4 state offices, Mid-Columbia Economic Development District, East Central Ore. Assn. of Counties and Ore. Environmental Council. (ELR Order No. 1699, 16 pages) (NTIS Order No. PB-201 096-F), January 26.

US-20, Santiam Highway, Vail Creek-Sweet Home Section: Linn County, Oregon. Reconstruction from 2 to 4 lanes between Vail Creek and Sweet Home (9.6 miles). Involves relocation of 20 homes, 5 mobile homes and 5 businesses. Comments made by Army COE, DOC, HUD, EPA, DOI, DOT, Ore. District 4 Council of Governments and Local Government Relations Division. (ELR Order No. 1701, 34 pages) (NTIS Order No. PB-203, 510-F), January 26.

LR-50 Spurs S, Section A10, Pa. Route 950: Jefferson County, Pennsylvania. Relocation of 0.6 mile to accommodate expansion of the Crescent Brick Plant. Comments made by USDA and 12 state agencies. (ELR Order No. 1592, 35 pages) (NTIS Order No. PB-202 299-F), January 5.

Portion of L.R. 1045 (I-78): Lehigh and Northampton Counties, Pennsylvania. Construction of 6-lane limited access facility (15.7 miles). Will displace 223 individuals and families and 26 businesses. 4 (f) determination required for use of Saucon Park Land. Comments made by USDA, Army COE, EPA, DOI, DOT, 13 state offices, Lehigh and Northampton Conservation Districts and Lehigh-Northampton County Joint Planning Commission. (ELR Order No. 1662, 58 pages) (NTIS Order No. PB-201 994-F), January 19.

LR-18, Section 23T, Harris Place Connection: Williamsport, Lycoming County, Pennsylvania. Construction of free access highway between Washington Blvd. and High St. and modification of the Market St.-Hepburn St.-Rural Ave. Intersection. Project T-9010(1). Comments made by 3 state offices. (ELR Order No. 1660, 52 pages) (NTIS Order No. PB-202 139-F), January 19.

US-52: Moncks Corner, Berkeley County, South Carolina. Widening to 4 lanes from US-52 relocation north to US-17A and S.C.-402 (3.1 miles). Comments made by HUD and DOT. (ELR Order No. 1583, 15 pages) (NTIS Order No. PB-198 848-F), January 6.

SH-50: Yankton and Clay Counties, South Dakota. Widening and upgrading between Yankton and Vermillion (24 miles), including 3 bridges across the Vermillion and James Rivers. Project F 012-3 and F 012-4. Comments made by USDA, Army COE, EPA, DOI, and Vermillion Chamber of Commerce. (ELR Order No. 1653, 17 pages) (NTIS Order No. PB-203 314-F), January 19.

SR-62: Knoxville, Tennessee. Construction of expressway from Hinton Rd. west of the proposed I-640 interchange to the Oldham Ave./I-75 interchange (3.05 miles). Will displace businesses and residences. Project U-083-2( ). Comments made by USDA, FAA, HUD, DOI, TVA, Tenn. Office of Urban and Federal Affairs and 8 state agencies, East Tenn. Economic Development District, Knox County Judge, Knoxville-Knox County Metropolitan Planning Commission and Knoxville Housing Authority. (ELR Order No. 1595, 66 pages) (NTIS Order No. PB-205 594-F), January 6.

US-277 and US-240 spur: Eagle Pass, Maverick County, Texas. Relocation of US-277 from Second St. to west of Municipal Airport and of US-240 from International Bridge to a connection with proposed US-277. Comments made by EPA, HEW, and OEO. (ELR Order No. 1524, 51 pages) (NTIS Order No. PB-205 352-F), December 30.

Vermont Route 195: Lamoille County, Vermont. Upgrading from intersection with Town Highway 8 in Belvidere Center to its intersection with Vt. Rte. 118 and Town Hwy. 8 (3.7 miles). Project S 0282(2). Comments made by EPA and State Clearinghouse. (ELR Order No. 1597, 22 pages) (NTIS Order No. PB-202 590-F), January 6.

US-18 and US-151: Iowa and Dane Counties, Wisconsin. Relocation between Dodgeville and Mount Horeb (21 miles). Project I.D. 1203-0-00, .ID. 1666-1-00, F 017 ( ), F 017-2( ), F 012-1( ). Comments made by USDA, EPA, HUD, DOI, DOT, Wis. Dept. of Natural Resources and Dane County Regional Planning Commission. (ELR Order No. 1517, 15 pages) (NTIS Order No. PB-200 938-F), December 30.

STH-27: (Westby-Melvina Rd.) Monroe Co., Wisconsin. Relocation from STH-33 intersection west of Cashton to 1.5 miles north of Cashton. Project ID-5143-2-00. Comments made by USDA, DOI, DOT, and Wis. Dept. of Natural Resources. (ELR Order No. 1516, 15 pages) (NTIS Order No. PB-199 255-F), December 30.

STH-78 (Gratiot-Argyle Rd.): Lafayette County, Wisconsin. Grading and surfacing of roadway and relocation of two sections (4.4 miles). Project S 0252(6), I.D. 5591-1-00. Comments made by USDA, EPA, HUD, DOI, DOT and Wis. Dept. of Natural Resources. (ELR Order No. 1593, 13 pages) (NTIS Order No. PB-201 250-F), January 6.

FHWA 4(f) Statements:

The following are not 102 statements. They are explanations of the Secretary of Transportation's approval of projects to be implemented under Section 4(f) of the Department of Transportation Act. 49, U.S.C. Section 1653(f). (Statements cannot be ordered through NTIS.)

Project APD-032-3(11), Hamblen County, Tennessee, requiring use of fringe areas of Cherokee Park. (Order through ELR by title, date and Department—5 pages), December 27.

VETERANS' ADMINISTRATION

Contact: William H. Bowen 001-A, Staff Assistant to the Deputy Administrator, Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202) 389-2830.

Draft

Title, description, and date

Veterans Administration Hospital, Loma Linda, San Bernardino County, California. Construction of a 630-bed hospital to replace the beds destroyed by the February 1971 earthquake at the San Fernando VA Hospital. (ELR Order No. 1682, 6 pages) (NTIS Order No. PB-206 063-D), one/25.

*Regional Federal Highway Administrators*

Region 1*

(Conn., Me., Mass., N.H., R.I., Vt., N.J., N.Y., Puerto Rico)

Administrator: G. D. Love, 4 Normanskill Blvd., Delmar, N.Y. 12054.

Region 3

(Del., D.C., Md., Pa., Va., W. Va.).

Administrator: August Schofer, 31 Hopkins Plaza, Baltimore, Md. 21201.

Region 4

(Ala., Fla., Ga., Ky., Miss., N.C., S.C., Tenn.).

Administrator: H. E. Stark, 1720 Peachtree Rd., N.W., Atlanta, Ga. 30309.

Region 5

(Ill., Ind., Mich., Minn., Ohio, Wis.).

Administrator: F. B. Farrell, 18209 Dixie Hwy., Homewood, Ill. 60430.

Region 6

(Ark., La., N.M., Okla., Texas).

Administrator: J. W. White, 819 Taylor St., Fort Worth, Texas 76102.

Region 7

(Iowa, Kansas, Mo., Nebr.).

Administrator: J. B. Kemp, P. O. Box 7186, Country Club Station, Kansas City, Mo. 64113.

Region 8

(Colo., Montana, N.D., S.D., Utah, Wyoming).

Administrator: W. H. Baugh (Acting), Rm. 242, Bldg. 40, Denver Federal Center, Denver, Colo. 80225.

Region 9

(Arizona, Calif., Hawaii, Nev.).

Administrator: S. E. Farin, 450 Golden Gate Ave., San Francisco, Calif. 94102.

Region 10

(Alaska, Idaho, Oregon, Wash.).

Administrator: R. M. Phillips, 222 Southwest Morrison St., Portland, Oreg. 97204.

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*Conforms to Standard Federal Regions 1 & 2.

SUMMARY OF 102 STATEMENTS FILED WITH THE CEQ THROUGH JAN. 31, 1972 (BY AGENCY)

| Agency | Draft 102's for actions on which no final 102's have yet been received | Final 102's on legislation and actions | Total actions on which final or draft 102 statements for Federal actions have been received |
|---|---|---|---|
| Agriculture, Department of | 51 | 97 | 148 |
| Appalachian Regional Commission | 1 | 0 | 1 |
| Atomic Energy Commission | 36 | 28 | 64 |
| Commerce, Department of | 1 | 7 | 8 |
| Defense, Department of | 3 | 2 | 5 |
| Air Force | 2 | 3 | 5 |
| Army | 6 | 7 | 13 |
| Army Corps of Engineers | 182 | 273 | 455 |
| Navy | 7 | 4 | 11 |
| Delaware River Basin Commission | 3 | 0 | 3 |
| Environmental Protection Agency | 10 | 9 | 19 |
| Federal Power Commission | 18 | 5 | 23 |
| General Services Administration | 15 | 24 | 39 |
| HEW, Department of | 0 | 1 | 1 |
| HUD, Department of | 13 | 15 | 28 |
| Interior, Department of | 59 | 36 | 95 |
| International Boundary and Water Commission—United States and Mexico | 1 | 4 | 5 |
| National Aeronautics and Space Administration | 14 | 8 | 22 |
| National Science Foundation | 1 | 1 | 2 |
| Office of Science and Technology | 0 | 1 | 1 |
| Tennessee Valley Authority | 10 | 4 | 14 |
| Transportation, Department of | 846 | 570 | 1,416 |
| Treasury, Department of | 1 | 3 | 4 |
| U.S. Water Resources Council | 5 | 0 | 5 |
| Veterans Administration | 1 | 0 | 1 |
| Total | 1,286 | 1,102 | 2,388 |

SUMMARY OF 102 STATEMENTS FILED WITH THE CEQ THROUGH JAN. 31, 1972 (BY PROJECT TYPE)

| | Draft statements for actions on which no final statements have yet been filed | Final statements on legislation and actions | Total actions on which final or draft statements for federal actions have been taken |
|---|---|---|---|
| AEC nuclear development | 9 | 11 | 20 |
| Aircraft, ships and vehicles | 0 | 5 | 5 |
| Airports | 34 | 133 | 167 |
| Buildings | 1 | 5 | 6 |
| Bridge permits | 10 | 8 | 18 |
| Defense systems | 2 | 2 | 4 |
| Forestry | 2 | 4 | 6 |
| Housing, urban problems, new communities | 8 | 10 | 18 |
| International boundary | 4 | 2 | 6 |
| Land acquisition, disposal | 13 | 29 | 42 |
| Mass transit | 2 | 2 | 4 |
| Mining | 4 | 2 | 6 |
| Military installations | 14 | 4 | 18 |
| Natural gas and oil: | | | |
| Drilling and exploration | 3 | 5 | 8 |
| Transportation, pipeline | 5 | 3 | 8 |
| Parks, wildlife refuges, recreation facilities | 20 | 16 | 36 |
| Pesticides, herbicides | 10 | 11 | 21 |
| Power: | | | |
| Hydroelectric | 19 | 5 | 24 |
| Nuclear | 26 | 16 | 42 |
| Other | 16 | 1 | 17 |
| Transmission | 7 | 7 | 14 |
| Railroads | 0 | 1 | 1 |
| Roads | 665 | 397 | 1,062 |
| Plus roads through parks | 126 | 27 | 153 |
| Space programs | 4 | 4 | 8 |
| Waste disposal: | | | |
| Detoxification of toxic substances | 6 | 2 | 8 |
| Munition disposal | 2 | 3 | 5 |
| Radioactive waste disposal | 5 | 1 | 6 |
| Sewage facilities | 9 | 5 | 14 |
| Solid wastes | 1 | 0 | 1 |
| Water: | | | |
| Beach erosion, hurricane protection | 5 | 20 | 25 |
| Irrigation | 17 | 9 | 26 |
| Navigation | 53 | 97 | 150 |
| Municipal and industrial supply | 7 | 1 | 8 |
| Permit (Refuse Act, dredge and fill) | 9 | 1 | 10 |
| Watershed protection and flood control | 128 | 229 | 357 |
| Weather modification | 7 | 4 | 11 |
| Research and development | 14 | 6 | 20 |
| Miscellaneous | 19 | 14 | 33 |
| Total | 1,286 | 1,102 | 2,388 |

## SOCIAL SECURITY: A CHANGE FOR THE BETTER

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. BYRON. Mr. Speaker, in a recent questionnaire sent to my district I asked constituents the following question:

The present social security law establishes an income limitation of $1,680 a year. If a retiree earns more than $1,680 a year his retirement benefits are reduced. Do you favor raising the income limitation to $2,400 a year?

A random sampling of the first 3,000 questionnaires shows that 85 percent of the respondents are in favor of increasing the income limitation.

The Blade-Times of Brunswick, Md. has crusaded in prior editorials for the rights of senior citizens—"Our Wasted Asset", CONGRESSIONAL RECORD, July 19, 1971—and the elimination of this social security rule is no exception. I reprint Mr. Richard Cox piece because I am sure it reflects the thinking of the majority of Americans everywhere and I hope that it may help to serve as an enlightening incentive for future legislation in this area.

THE SILLIEST RULE OF ALL

Our society is engulfed with unnecessary rules and regulations which need to be changed. Some of them are downright silly and one wonders just what kind of thinking brought about the rule in the first place.

The one we really have reference to is the rule dreamed up by Social Security which puts a limit on the amount of money which can be earned by a senior citizen while drawing Social Security.

This rule puts a dampener on the things that the United States stands for . . . the free spirit of enterprise. In other words, if a senior citizen feels like going out and working to bring extra income in to the household, the government says, "Fine, but you can only make so much money or we take away your Social Security."

Just why the government has the right to say anything about a person's right to work is beyond my wildest ideas. It is the right of any American citizen to be allowed to work if he or she is capable and has the desire. A citizen is supposed to be allowed to earn money at anything legal so as to sustain his or her body and soul and to help to bring the staple of life to the table. Yet here is a part of Uncle Sam which says, you will be punished if you work too much.

And this taking away of a person's Social Security as a punishment for working too much is downright ridiculous! The senior citizen who is on the starvation-prone allotment of Social Security is there because he or she paid his or her money into the fund. This is their money that the government has collected and on which it has received interest throughout their pre-retirement years. They have a right to this money without any silly rules which state that they cannot work too much, or they will not receive it.

Yes, this is one rule we should get rid of promptly. We should get rid of it and hide it quickly like dirt under the rug so that future generations will not be able to see how stupid we sometimes are in our legislative actions.

## INFORMATION MONSTER THREATENS PRIVACY

### HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. McDONALD of Michigan. Mr. Speaker, we are in the midst of a technological explosion regarding the use of the computer. These fantastic machines are capable of doing great good for humanity, particularly where their use frees man so that he can utilize his imagination and leisure time to greater advantage.

But behind this blessing, there lies hidden a grim spectre; one which strikes fear into my heart. That spectre is the threat to our privacy.

I have already suggested legislation which would make it illegal for the Federal Government to make available to private business any of the various lists which, through Federal licensing requirements, are compiled annually. But the threat to our privacy goes much deeper than furnishing mailing lists to private business.

Man, by his very nature, is forgiving. Redemption is part and parcel of our moral life, and our judicial system. But alas, computers do not forget, or forgive, as men do.

Mr. Roger Wilkins has approached this subject in an outstanding newspaper article which appeared recently in the Washington Post. There is presently a vicious bureaucratic battle being waged between the various State, Federal, and local law enforcement agencies as to who will, or will not, monitor the people of this country. Mr. Wilkins has articulated the dangers of this battle to not only our redemptive nature, but to the freedom guaranteed us under the Constitution. I commend Mr. Wilkins for his erudite article, and recommend its reading by my colleagues.

The article follows:

THE REVOLUTION IN LAW ENFORCEMENT TECHOLOGY HAS PRODUCED . . . AN INFORMATION MONSTER THAT THREATENS OUR PRIVACY

(By Roger Wilkins)

A silent creeping—one might even say creepy—revolution is taking place in the technology of law enforcement data collection and dissemination. The computers have entered the field and their potential for severely denting—if not destroying—the individual's right to privacy is growing by leaps and bounds.

Last year in a privacy case in the U.S. District Court in the District of Columbia, Judge Gerhard Gesell wrote:

"A heavy burden is placed on all branches of government to maintain a proper equilibrium between the acquisition of information and the necessity to safeguard privacy. Systematic recordation and dissemination of information about individual citizens is a form of surveillance and control which may easily inhibit freedom to speak, to work, and to move about in this land. If information available to government is misused to publicize past incidents in the lives of its citizens

the pressures for conformity will be irresistible. Initiative and individuality can be suffocated and a resulting dullness of mind and conduct will become the norm."

Judge Gesell went on to decide that while the arrest record of a person who had been convicted of no crime could be maintained for federal employment and "strictly law enforcement purposes," the FBI is "without authority to disseminate arrest records outside the federal government for employment, licensing or related purposes."

Unfortunately, this lucid principle is being eroded by a voracious computer industry, two powerful and competing federal bureaucracies, hardware-loving police departments around the country and by a Congress which seems not to have the sensitivity, the will or the capacity to do anything to arrest or reverse the trend.

Late in the 60s, the first tendrils of what is fast becoming a patchwork—but nonetheless enveloping—information giant were beginning to emerge in the form of the FBI's National Crime Information Center system (NCIC). That system was designed to provide simple computerized information to law enforcement people on wanted persons, and identifiable stolen property such as license plates, securities, boats and guns. At the same time, from 1966 through 1968, the Justice Department's Office of Law Enforcement Assistance was providing various police jurisdictions about one million dollars a year to develop electronic data retrieval systems.

Then came the deluge. Since 1968, the Law Enforcement Assistance Administration, the much better funded successor to OLEA, has dispensed more than $46 million for a variety of such projects all over the nation. Some went to states for development of a greater organized crime intelligence collection capacity. Other states began using LEAA funds to develop systems related to civil disorders. Whereas earlier efforts had been fairly clearly directed toward information useful in crime detection and prevention, the guidelines began to become murky in the civil disorders field. One state, for example, indicated in its grant application that it would collect the names and information about people who "actively pursue their constitutional rights."

The most significant of the LEAA funded projects, however, was Project Search, which began as a cooperative effort among six states to standardize and computerize personal criminal history records and tie them into a central index and switching center in order to provide each participating state with quick and easy access to the relevant records of each of the others. By the summer of 1971, the number of states in the project had grown to 20 and the problems had grown proportionately.

The first strains emerged when Project Search's Committee on Security and Privacy issued a study which attempted to formulate procedural guidelines safeguarding the public. Among the committee's recommendations were limitations on the type of data to be collected, periodic re-evaluation of the data in order to ensure accuracy, the development of procedures for an individual to have access to his file and stringent security precautions to prevent unauthorized individuals from obtaining access to the stored information. The head of the FBI's NCIC system argued that if such guidelines were needed at all, Project Search was the wrong organization to develop them and that in any event, it was too early to conduct such studies.

Shortly thereafter, it became clear that the FBI hoped that Search would be controlled, not by the states, but by the FBI and that its electronic systems would be tied to the Bureau's National Crime Information Center System. LEAA and the states balked. They argued that the original concept of Search was a bulky central index of criminal activity—like a telephone book—with the basic records being retained in the states rather than the creation of a federally controlled national criminal information and intelligence data bank.

As the dispute raged, Search oozed beyond its original confines into areas never envisaged by the original concept. Under the rules developed by LEAA, such charges as juvenile and public order offenses, drunkenness and vagrancy would be excluded, but serious crimes would be recorded. Those might include bigamy, cruelty to animals, failure to provide support to one's family and adultery as well as the traditionally serious crimes of murder, assault, burglary and robbery.

Meanwhile, the FBI won its fierce bureaucratic battle within the Department of Justice with LEAA. On Dec. 10, 1970, the Attorney General transferred Search to the FBI. A year later, the Senate included in the FBI's appropriations bill language which appeared to restore to the FBI authority to share its information with certain classes of banks and also, in appropriate circumstances, with state agencies for employment and licensing purposes. In all the flurry and growth, the model codes for protection of citizens' privacy and the code of ethics drawn up by Project Search's Committee on Security and Privacy got buried.

At this point the situation remains cloudy, but ominous. LEAA still makes the grants for the acquisition of computers and is pressing for expansion of the system. The FBI is tightening its control while also pressing for ever greater membership. The states, having warned the Attorney General prior to the transfer of Project Search to the FBI that "no matter what the Feds do, the states will continue to develop their own system or systems," are presumably doing just that. And any state or locality may, on its own initiative, store additional information in a system that later may be "interfaced," to use a term of the trade, with the federal data bank. For example, the Kansas City, Mo., police department has stored, among other things, information on outstanding parking tickets, college students known to have participated in disturbances and "area dignitaries."

While this information-gathering monster grows and spreads, there is really no effective federal or state regulation of the whole system. Senator Ervin's Constitutional Rights Subcommittee heard some testimony on the subject both from administration proponents and from concerned and frightened citizens. Senator Mathias slipped an amendment into Title I of the Omnibus Crime and Safe Streets Act requiring LEAA to develop legislation regulating the activity. In response in September, 1971, Senator Hruska introduced the Criminal Justice Information Systems Security and Privacy Act of 1971. To date, no hearings have been held on the Hruska bill.

Without debating the details of the Hruska bill, it is fair to say that it assumes that computerized dossiers collected by state and federal police organizations are part of our national life, that they are useful and that they are here to stay. And that is just the point. We apparently are off on another technological toot that leads God knows where without giving it a second thought. Nobody knew when Henry Ford rolled out his first Model A that the internal combustion engine would someday foul our cities. But now we ought to be sophisticated enough to know that a ride on the tiger's back is sure to cost at least a healthy nip on the nose, if not a great deal more.

The issues raised require urgent analysis and broad national debate before the information monster entirely devours our privacy. Because of the complex interstate nature of the system and the federal government's deep involvement in its development, there is only one place where the debate can appropriately take place—in the Congress of the United States. And the first question that needs to be taken up is whether the public wants or needs this system. If Congress' answer is yes, then there is a pressing need for it to define a citizen's right of privacy and the limits which must be placed on the machines' almost unlimited capacity to pry, to store and to regurgitate indiscriminately, mindlessly and on command.

Right now only the Lawyer's Committee for Civil Rights under Law, aided by the National Urban Coalition, is monitoring the growth of the beast and, laudable as that effort may be, it is not enough.

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## YELLOWSTONE CENTENNIAL

### HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. RONCALIO. Mr. Speaker, today is the 100th anniversary of Yellowstone Park. For the millions of people who visit this gorgeous spectacle of nature every year, it is my pleasure today to commemorate its centennial with a little history and a splendid original poem by a well known Rocky Mountain poet.

The area known as Yellowstone Park has been inhabited by man for some 8,500 years. Its original inhabitants were nomadic tribes who never acquired the aggressive hunting culture of the Indians of the lower plains, the Crow and Blackfeet. Instead, they quietly tracked the elusive mountain sheep and subsisted on roots and berries during the all but intolerable winters.

Lewis and Clark did not enter the area on their famous expedition, but one of their party, John Colter, did so by himself on the way back. In the winter of 1807–1808, Colter ventured upon Yellowstone Lake and was stunned to witness spouting geysers, boiling springs, and erupting mud pots. He spoke far and wide of what he had seen when he returned to civilization, but people did not believe these fanciful tales and, instead, referred to the region as "Colter's Hell."

The next mountain man to visit the area was Jim Bridger, the famous trapper and explorer for whom Bridger, Mont., is named; a picturesque little village that nestles halfway between Powell, Wyo., and Billings, Mont. His stories were not believed, either; so that it was not until a 19-man expedition toured the region in 1870 that Yellowstone became a reality in the national mind.

One March 1, 1872, 3 years before the Battle of the Little Big Horn, Congress established Yellowstone Park for "the benefit and enjoyment of the people." Mr. Speaker, millions testify, by their presence in Yellowstone every year, that it is one of the wisest moves Congress ever made. To the harried, city-bound people of our contemporary age, Yellowstone Park offers a reprieve in the wilderness. Mainly situated in my native State of Wyoming, with borders overlapping into Idaho and Montana, it is one of the most gorgeous spots to be found in all the nations of the world.

Prose will not satisfy the breath-taking

impressions with which Yellowstone greets its year-round pilgrims. Only poetry will suffice, and for that reason I am happy to insert into the RECORD an original poem by Milford E. Shields, Poet Laureate of the State of Colorado, to commemorate the centennial of this splendid, nationally significant wilderness as it should be.

The poem follows:

YELLOWSTONE NATIONAL PARK CENTENNIAL, MARCH 1, 1972

(By Milford E. Shields)

The eons and the ages took their time,
Gave to the Yellowstone its pristine prime;
The mountains and the canyons formed they there,
The geysers and the rivers flowing fair;
The forests and the wildlife were a joy
They fashioned in the fondness of employ;
This was the finest Eden of them all,
Primeval spirits felt their own clear call.

True spirits and strong men in virgin West
Discovered then this Eden, this first best,
Translated from its pristine purity
Its value free unto its nation free;
In solemn covenant and purpose high
They sealed it as it was beneath the sky . . .
First nature's glory all the world is shown,
This Foremost Park, this Living Yellowstone.

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## INSTITUTIONAL RACISM IN THE MILITARY

## HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DELLUMS. Mr. Speaker, last November, along with my colleague from New York (Mrs. CHISHOLM), I chaired a series of hearings sponsored by the Congressional Black Caucus dealing with racism in the Armed Forces.

During those hearings, Mr. Joe Hall appeared and promised to send us material concerning inequities in educational and postenlistment opportunities for minority servicemen.

A former Army lieutenant, Mr. Hall had extensive contact with problems of racism in the military, and I insert it in the RECORD at this point:

INSTITUTIONAL RACISM

My name is Joe H. Hall, I was formerly a lieutenant in the U.S. Army from September, 1969 to July, 1971, stationed with the U.S. Army Electronics Command at Ft. Monmouth, New Jersey. During the time at Ft. Monmouth, I was assigned as a Training Officer, but my primary responsibilities, about 90% of the time, was to administer Ft. Monmouth's Project Transition Program. This is a Department of Defense-wide program which provides predischarge training and counseling to enlisted personnel about to separate from the Army. The aim of the program is to provide training which eases the movement from military to civilian employment. It was in this program that I saw what is so often talked about as "institutional racism". In my own words, as a white, this no doubt has a more academic meaning than to a black person, but my anger developed when it prevented me from doing what I considered a fair job in Project Transition.

The background can be explained by the military training system which all too frequently assigns Blacks, Chicanos, and Puerto Ricans to truck driving, supply work, cooking, in short the jobs nobody else wants. The problems then develop that to qualify for Project Transition, one must receive permission of his commanding officer. In the case of cooks, truck drivers, and others, at Ft. Monmouth, and at other posts, I suspect there is constant shortage of these personnel, since nobody wants these "dead end jobs". The commander, then, in many cases denies these personnel the opportunities to take time to participate in Project Transition because he is unable to find replacements. Thus, the irony develops that the very people who have "top priority" for Project Transition are denied the opportunities to participate.

This is not a small problem because as it becomes obvious, the system is rigged against participation by blacks and others holding "dead end jobs" and many soon don't even bother to seek Transition training. The institutional blocks are then aided by apathy to discourage black participation.

This perhaps, explains in part why there are so many Blacks, Chicanos, and Puerto Ricans unemployed veterans when compared to white veterans. Despite what the armed forces calls it's "numerous opportunities for self improvement and training," it unfortunately, still to a large measure, applies primarily to whites, even new programs such as Project Transition.

Another problem I found in Project Transition was that of communicating and reaching blacks. After a number of months on my job, it became apparent I, as a white, wouldn't be able to reach a large number of the younger G.I.'s. Luckly, for a short while, I was able to get part-time help from a black personnel clerk, Sp5 Cyrus Jones. While Sp5 Jones was working with me the visits by Blacks, Puerto Ricans, and Chicanos increased tremendously. Perhaps for the first time the program was fulfilling the much needed "Human Goals" of the Department of Defense. Unfortunately, I was unable to retain the help of Sp5 Jones and the programs' affectiveness suffered accordingly.

There also exists a special problem for the Spanish-speaking service personnel. All too often Puerto Ricans or Chicanos were sent to my office in the Education Center because nobody knew where someone speaking Spanish could be found. All too often people assumed that the Spanish-speaking personnel would take care of themselves. What resulted, is frequently, a Spanish-speaking soldier wouldn't have this "brother" help available and I have seen many unfortunate results occur: No pay for 3 or 4 months, AWOL charges because of Puerto Rican out of Advanced Individual Training couldn't figure out how to find Ft. Monmouth, and more. Yes, many people do try to help in these cases, but the institution is so organized at Ft. Monmouth, for instance, that in places such as the Post Chapel or I.G. office nobody speaks Spanish, so where can a Spanish-speaking soldier turn for "official assistance?".

For no other reason sometime than sheer stubborness, I mentioned these problems to many different people. In Senator Alan Cranston's office, they referred the matter to the Department of Army, at a Project Transition meeting held in Washington, D.C. during the Fall of 1970. Unfortunately, everybody listens but nothing is done!

So to you the Black caucus, I suggest you take the following action on the above problems:

1. *Demand* Project Transition, Education Offices, and other service oriented offices in the Armed Forces have more than a tokenstaffing by Black, Puerto Ricans and Chicanos. And these be *active interested* people and not last minute transfers from other offices to meet the need for minority participation.

2. *Demand* that for all enlisted personnel in the military, the last two months in the service be guaranteed for retraining, special training, or other assistance to help the return to civilian life. This is especially needed in a time of high unemployment as today.

3. *Demand* at least one office on every military post have available Spanish-speaking personnel to assist the Chicano or Puerto Rican soldiers in solving pay problems or complex administrative problems.

4. *Demand* the Army, Air Force and Navy revamp their Educational Services offered to military personnel. Too often remedial work is geared solely to pass the GED High School Equivalency Test and with little more available to assist prior to taking college work. The General Education Development and the New College Prep Programs, are on record as being "active", but ask any black soldier what he has heard or thinks about the programs' effectiveness or reach.

5. *Establish* English as a second language courses at *all* military posts.

6. *Demand* an explanation from the Veterans Administration as to why the G.I. bill assistance takes 2-4 months to reach a veteran after he enrolls in college or job training. As you can imagine a Black veteran who has only small savings from his time in the service, needs this help immediately.

7. *Examine* the efforts of President Nixon's Jobs for Veterans Programs and the Veterans Administration's Job Fairs, perhaps you will find as one Black G.I. told me, they all seem like jobs for White Programs.

Before ending my testimony, I would like to mention the second involvement I had in the race problems of the Army. This occurred in the Summer of 1970. It was at this time I was assigned to organize an "Equal Opportunity Seminar-Military Personnel" at Ft. Monmouth. I was given one month to organize the seminar and write a report of the results. This, you see, was ordered by higher headquarters, see Appendix A, and was occurring throughout the Army. To show the general conduct of seminar and its suggestions, I have enclosed the two reports of the seminar. One of general race problems and one problems specifically pertaining to Ft. Monmouth. The response was unfortunately familiar—none. Another report was forwarded back to our command from higher headquarters summarizing the results for the whole Army Material Command and then *silence* until I got out in July, 1971.

The report we wrote was criticized by many Black participants as being too mild, and yet to work, the Lt. Col. and I who wrote it thought a milder summary would serve as an easy first step. Instead, no steps were taken, at least that I ever heard of. The Lt. Col. who actually ran the seminar was totally frustrated, but yet as a career officer his hands were tied. In short, in this instance, communication was turned off and on, by the "numbers." It produced one unhappy Black Lt. Col., who I thought of highly as an intelligent and hardworking person and one interested lieutenant.

As a result, I have followed the matter until I reached you at this hearing. From time to time I wrote letters on the matter, even once to Mr. Ralph Brown, one of President Nixon's special assistants. I only wish I was diligent enough to keep the letters, because again I got pleasant nothings.

What now worries me more than anything is how long the gap between Blacks and Whites can continue in the Army? People have told me from time to time that it has been for 100 years and will be for the next 100 years, but what worries me is that the generals and colonels believe this and what exists is more a *crisis*. Today the 19 year old draft may be the single most dangerous personnel policy started by the Armed Forces.

As service personnel my age can tell you, frequently, the 24 and 25 year old soldier draftee, acted as a buffer between the 19 year old and career sergeant and officer. The 24 and 25 year old draftee knew the system and kept things moving. Now due to a desire by the Army to decrease the "24 year old rocking the boat" and Congress to stop the pressure from the college age draftees and other middle class draftees, the emphasis has changed to the 19 year old, who they hoped, would be easier to train and would adjust faster. Instead the current 19 year olds have less patience and interest in waiting and this is true of both blacks and whites. Maybe it is the "permissive society" or whatever, but when I left the Army last summer, I saw the beginnings of the 19 year old reaction in drugs and I fear that before long the race problem in the Army will become even more serious because of this very same 19 year old draft. How will you explain the race problem in the Army to a 19 year old black and say wait? His very youth will cause him to rebel if nothing else does. And this, I very deeply fear, will scare further the Army and more important America.

From my conversations on race relations in the Army, I have come away with the idea if you can't solve them in the Army where else can you. So to you, the Black Caucus, here is what I suggest:

1. The Black Caucus should initiate the idea that the General Accounting Office explore not only financial dealing in the military, but report on race relations and assist Congressmen and Senators in handling complaints on this matter.

2. The Black Caucus should ask why if race relations is an important issue in the Armed Forces the newly created Defense Race Relations Institute is headed by a Colonel? In the military there is a saying if you want something done, get a General.

3. The Black Caucus should inquire in the case of the Army Maternal Command Regulation, CI, USAMC Supplement to AR-600-21, to see if it is being complied with. The race relations problems of the Army can't even begin to be solved if current regulations are being ignored.

4. The Black Caucus should inquire of the Defense Department on how wide is Black, Puerto Rican, and Chicano participation and assignment to technical trades.

5. A last hope is you maintain contact with the service personnel who spoke with you, because an intelligent and articulate person who tries to protest the race problems in the military may need a strong protection at a later date. I ask don't turn on and off these people, as is so often the case.

The opinions and material I have used in this testimony are solely mine and reflect the assistance of no other person.

I thank you,

JOE H. HALL.

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APPENDIX A

EQUAL OPPORTUNITY SEMINARS—MILITARY PERSONNEL

Following clarification of instructions contained in reference letter is provided in response to numerous questions received in this headquarters:

A. Regarding the requirement to conduct a quote series unquote of equal opportunity seminars, it is expected that commanders will conduct as many seminars as they deem necessary to accomplish the objective at their installation/activity/command. In some instances one seminar may be adequate; in others a number of seminars may be necessary to achieve the desirable amount of coverage. It is a local command decision.

B. Seminars are research and discussion groups, studying the problem and developing proposed solutions, both locally and Army-wide. It is not intended that the seminars be an assembly of all the personnel of an installation passively listening to a training program.

C. Paragraph 5 of reference letter is not to be interpreted as requiring all personnel in each category to participate in seminars, rather, the seminars are to be composed of representatives of all such groups. In the case of civilians, it is expected that they will be supervisors of military personnel, have responsibilities concerned with the military personnel program, or have some pertinent relationship to the military personnel program.

D. This particular seminar program is concerned with equal opportunity of military personnel. There are other programs related to civilians. It was therefore not intended that the equal opportunity officer automatically be delegated responsibility for the program. It is possible that some local situations may make the EEO the appropriate action officer, but in most cases it is considered desirable that a senior army officer or civilian military personnel manager, thoroughly familiar with military personnel problems, be designated responsibility for the program. The expertise of the EEO, however, should be fully taken advantage of in an assisting role.

E. It is recognized that capabilities are quite limited in the case of installations with only a handful of military personnel, however, such seminar as can be held can make a contribution through discussion based upon the overall experience of the participants.

2. Two items are forthcoming which should prove of assistance in the conduct of these seminars. A briefing on the overall problem, adapted by CONARC from one presented to the Army Chief of Staff by DCSPER, is currently being reproduced and distributed. Copies of the report to DCSPER on the seminars conducted by CONARC will be disseminated shortly.

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GENERAL PROBLEMS

SEMINAR REPORT—FORT MONMOUTH, N.J. JUNE 30–JULY 2, 1970

1. *Conduct of the Seminar:* The seminar covered a period of two and one-half days. The general structure of the seminar and observations are outlined here for the informational purposes of installations planning future seminars. Difficulty was experienced in attempting to plan for conduct of the seminar. How structured should it be? How will the seminar participants be divided for discussions? Should groups be comprised of a mix of ages and ranks? Will the wearing of military uniforms inhibit discussion? Should each group discuss only one topic, or should each group discuss any and all topics? The approach used at Fort Monmouth is discussed in the succeeding paragraphs.

(a) Seminar Steering Committee—A steering committee was formed to coordinate the activities of the seminar and to prepare the report for the Commanding General. This committee consisted of officers, EM and civilians.

(b) Participants—Military participants consisted of approximately eighty personnel of all races, ranks and ages. The various organizations on the post were tasked to provide a quota of personnel to the seminar. Personnel attending appeared to be extremely well qualified to participate. Many had college education. To this extent the seminar was not composed of the typical personnel with whom most problems are generated. At a high level seminar of this nature, organizations may tend to select individuals who present the best unit image. Two civilian managers from within the post environment also participated. A group of civilians from the surrounding communities were invited to present a panel discussion on community affairs as apply to civil rights. Participants were representing a state civil rights organization, county civil rights groups, a county real estate agency, a local minister, and a federal agency dealing with the underprivileged. The panel presentation took place on the first day. It is noted here that considerable discussion evolved over whether the group should address the seminar at the beginning or end of the session. Opponents of having them participate at the beginning felt that these community experts might tend to structure the thinking of participants. This would tend to inhibit free thinking and expression during the seminar. It was finally decided that the panelist would be first, and this turned out to be a correct decision, as it tended to stimulate personnel for the sessions to follow.

(c) Topics and Group Discussions—Several topics were selected as a basis for discussion. Some of these were housing, off post entertainment, race relations in barracks, minority group identity and heritage and standards of appearance and military discipline. Participants were divided into groups of 10–13 personnel of all races, ranks and ages. It was decided that each group would discuss any of the above subjects or other subjects as desired. These groups eventually reported back to the entire body. The key to the seminar was informality. To the maximum extent, every phase of the seminar was unstructured. For example, it was decided to let the individual group leaders evolve rather than make appointments.

(d) Publicity—The seminar was publicized through the post newspaper, daily bulletin and notices on bulletin boards in such places as the library, service club, etc. Some participants attended as a result of this publicity; however, it was generally stated that the publicity was not of sufficient coverage. Additionally, it appears to be rather widely felt that the term "Equal Opportunity" does not appropriately cover the seminar contents. Comments on the seminar appear to indicate that the following type subject would be more appropriate—"Racial Tension", or "Minority Group Problems". Whatever term is used must relate to the young soldier. The term equal opportunity is a bit sophisticated and tends towards the DOD or federal programs already in existence in the area of equal employment opportunities.

(e) Conclusions—

(1) The seminar held at the installation level or higher headquarters level has a more selected group of participants. Consequently, it is believed that the overall conduct and possible problem areas discussed may be different than programs at unit level, where the selective process does not occur.

(2) The unstructured program produces the better result, as participants tend to interact more freely. Group discussions, however, must be under the control of a leader who is able to keep the discussion flowing in a meaningful direction. A number of participants stated that was the first time they had an honest discussion with a black man and felt somewhat a better person as a result.

(3) To the extent possible, publicity of all such conferences must be complete and descriptive of exact nature of conference. Although attendance may be restricted, publicity must indicate specifically how the conference will affect the total environment. The basis premise for this statement is that the information program on all aspects of this program must be complete and continuous.

f. Summary—The statements contained in this portion as stated at the outset, are designed to pass on observations about the conduct of the Fort Monmouth Seminar. Discussion and recommendations on specific areas are contained in the succeeding paragraphs.

2. *Topic Discussions and Recommendations:*

(a) Off-Post Housing—Minority groups of

all ranks have experienced difficulty in obtaining off-post housing. The problem is aggravated by the critical shortage of housing on-post. The fact that discrimination exists in the community was substantiated by the civilian panelists. Several cases were cited where charges have been brought against landlords. Seldom, however, do military personnel complain because of the urgency involved in obtaining housing. Attitudes of landlords to minorities seeking housing varied from subtle tactics, to general indifferences or outright hostility. Participants cited cases where minorities are grouped together in particular segments of apartment complexes. Puerto Ricans reported several cases which they felt were directly related to their race. One such case was that of an EM being required to pay $6.50 per day for guests, even though the guests were his parents visiting for a weekend. The civil rights group panelists expressed a desire and willingness to cooperate with the military in identifying and correcting practices of discrimination.

(b) Recommendation—Military installations and community civil rights organizations establish a program of coordination and cooperation to insure that military personnel are not subjected to practices of discrimination in off-post housing. Military personnel should be made aware of those agencies at their disposal to handle housing discrimination problems.

(c) Off-Post Facilities—

(1) The problem of the nonavailability of off-post facilities for the military was of considerable concern to the conferees. This subject was of interest beyond the area of racial tensions. The general attitude was that the community profits greatly as a result of financial expenditures of the military. Consequently, the community should establish facilities for the benefit of the soldier. It was pointed out that no where in the Monmouth County area is there a USO facility or other outlets in which the military man can seek relaxation. It was pointed out that the local community provides passes to military personnel, whereby they can participate in beach activities at reduced prices. Even this program was not publicized to the extent that all military personnel were aware of it. Military personnel of minority groups expressed concern that if, and when such programs are established in the community that they will apply equally to all personnel. Minority personnel tended to express the feeling, as will be highlighted later, that entertainment programs at such facilities must be diverse in nature, acknowledging the likes and dislikes of all ethnic groups.

(2) Recommendation—Military installations and local community organizations should establish liaison to insure that off-post facilities are keyed to acceptance and integration of the serviceman into the community.

(d) Off-Post Job Opportunities—

(1) Because of the general area of job discrimination in the country, the citing of one such case which involved the dependent of a member of the military personnel reinforced the idea that discrimination does exist in the Fort Monmouth civilian community. The civilian rights panelists also cited cases within the community against non-military personnel. The wife of one of the participants had applied for a job, passed the necessary tests, and was told to wait at home until contacted. When the contact was not established within a reasonable amount of time, the individual visited the office, only to be told that the office had been unable to contact her. Consequently, someone had been placed in the job. It was evident to the conferees that this type tactic has been used often in the past to deny the hiring of members of minority groups. A discussion was also held on Project Referral, the new DOD Program designed to match military retirees with job openings in civilian industry. The form used in this program calls for the applicants' race and provides this information to civilian employers, thus giving employers the option of not even considering minority group members, if they so desire.

(2) Recommendation—As in the programs cited above, military installations must become actively engaged with the communities to insure equal job opportunities. Further, forms used in Project Referral should be evaluated as pertains to their intended purpose and potential usage. Military personnel should be made aware of those agencies at their disposal to handle job opportunities discriminatory practices.

(e) Military Police Relationship with Minorities—

(1) The seminar members discussed the overall relationship of the technique employed by the military police when dealing with soldiers. However, the MP—black/minority relationship dominated the discussion. The concensus of the group was that when a group of white soldiers assemble, the purpose is to have a discussion. However, when a group of blacks assemble, it is for the purpose of plotting. Cases were cited to substantiate this. Nevertheless, whether these situations are real or imagined, effective programs must be established to eliminate them.

(2) Recommendation—MP programs must be continued, and, where not in effect, established to deal with the sensitive subject of law and order as pertains to blacks/minorities.

(f) On Post Entertainment Facilities—

(1) The consensus of the group was that there is no "common extracurricular atmosphere of understanding." Polarization of the races evidences itself in officer clubs, EM clubs and service clubs. The basic problem stems from a lack of diverse programs, and a basic lack of understanding of and appreciation for heritage, and cultural satisfaction. It is commonly felt that these facilities, particularly the EM club, the service clubs, and officers club do not relate to the black soldier. The mix of live music and records, for example, must be more balanced, i.e., soul versus country-western and hard rock. Additionally, it was felt that the service club could play a very important role by creating an educational atmosphere through the presentation of informal discussions of current problems, and showing of films on black/minority history. The group agreed that the blacks are sufficiently educated on the history of whites in the making of the country. Most whites were enthusiastic about such informal discussion and the chance to learn more about black history. As was the case in other areas, it was felt that some of the potential black apprehensions about such facilities would disappear with better overall management which relates to the "individual soldier as a human being", as opposed to being managed as a "thing".

(2) Recommendation—Military entertainment facilities must reevaluate their programs to insure that they relate to the individuals and issues of today. More efforts should be made to insure that EM and NCO clubs are publicized to inform post personnel of what is occurring.

(g) Post Exchanges and Book Stores—

(1) In the weeks just prior to the seminar, a group of black soldiers from the USASCS, School Brigade had met with post personnel concerning the lack of products in the PX for blacks. An investigation revealed that the complaints were valid. The items requested have since been placed in stock. This particular subject was addressed in the seminar. The blacks were satisfied with the action taken but addressed the overall subject of black/minority awareness to all concerned. The essence of the basic question was "Do we have to continuously attack each individual situation in order to achieve results?" Book stores similarly do not appear to stock items to satisfy all ethnic groups. In addition, there was a general attitude the book stores did not cater to all intellectual levels. Unit dayrooms possibly offer an additional source for books on topical subjects of current interest.

(2) Recommendations — Post exchanges, book stores and other similar facilities must develop a sense of awareness of the customers they serve and conduct business accordingly. The unit commander should seek suggestions from members of his command as to literature which will be purchased through the unit fund.

(h) Regulations on Appearance—

(1) The members of the seminar vigorously addressed the problem of standardization in the implementation of Army regulations. There was hardly any discussion about whether the regulations allowed soldiers to wear Afro-style haircuts. The discussion centered around the fact that the policy should be easily understood and that subordinate commanders should not have the authority to deviate from the Army regulations. Most felt that for example, if the regulation says "no more than three inches long and neatly trimmed around the ears", the unit commander should not have the authority to direct ". . . no more than two inches long on top and closely cut on the sides . . .". Another situation at Fort Monmouth appears to develop from the heterogeneous nature of the two primary activities on post. Whereas ECOM has relatively few military EM in comparison with civilians, the composition is just opposite, particularly when considering the School Brigade. Personnel within the School Brigade feel that they are required to accept certain standards of appearance at the risk of punitive actions, whereas ECOM EM are allowed wide latitudes in standards of appearance. This incident is cited because it would probably apply in most cases where there are military organizations with different makeups of personnel and responsibilities. The blacks related this very easily to standards for the Afro-style haircut.

(2) Recommendation—Subordinate commanders should not be allowed to modify military regulations as apply to standards of military appearance. Standards should be more widely publicized.

(i) Lack of Communication with Unit Leaders—

(1) The black/minority soldier feels that he has no communication link with his platoon sergeants, ISG and unit commander. He considers that the white NCO's and officers do not understand his black problems and the black NCO's and officers will not interact with him for fear of censorship with the organization. For example, he cites the case to bring black items into the PX as being one fought by PVT's and SP4's. Another case was highlighted where a group of PVT's and SP4's established a group to educate their "soul brothers" from the South about his interactions in the integrated society. The purpose of the group was to attempt to remove some of the fears and frustrations held by the black soldier born and raised in the tradition of southern segregation. All attempts to get black NCO's and officers interested failed for the reason cited above. It was generally felt that all involved can and must be educated, and that such education must be on the unit level, with participation by all unit personnel. The attendees expressed complete dissatisfaction with present command information programs. They reject the unimaginative lectures on Russian missiles, the American Fighting Man, etc. They unanimously felt the need for dynamic, imaginative programs addressing racial tension and other relevant issues of our times. They want to participate and they want their leaders to participate with them. One battalion of the School Brigade was cited as having already established a council which consists

of Officers, to include the Bn CO, NCO's and lower ranking EM. EM with problems are permitted to discuss their problems without having made prior appointments. The council operates very informally. EM stated that this arrangement had done much to alleviate EM frustrations.

(2) Recommendation — Battalion and lower level units should establish seminars and other discussions on relevant issues, particularly on the racial issue. All personnel, officers, NCO's etc should be required to participate. They should be established on a continuous basis. Additionally, all unit supervisors should be required to attend command information training programs.

(j) Black/Minority Educational Preparedness for Military Schooling—

(1) Personnel attending the seminar associated with the School environment felt that more attention need be given to the black/minority student. These students have not had the strong educational background as have their white peers. Consequently, more counseling is needed to achieve the same level of competence while attending military schools. The program appears to be extremely valuable in order to offset cases of improper selection/placement by the recruiting program and induction centers. This problem was highlighted by the fact that although the percentage of black/minorities vs white attending school is considerably small, the percentage of both seeking assistance in education centers is about equal. Conferees tended to think that one area of frustration is the dual responsibility of the students to their academic studies and to their parent organizations for administrative requirements. An individual from the mental hygiene clinic pointed out that frustrations are evident by the total number of students visiting the mental hygiene clinic. He went on to highlight, however, that the number of blacks/minorities is disproportionately small in comparison to the total population visiting the clinic. When they do, their problems have reached such a complex stage that it is difficult to assist them. The problems of whites are identified and treated while they are manageable.

(2) Recommendation — Military educational institutions should investigate the requirement for more complete counseling of blacks/minorities. Clinical programs should be more widely publicized.

(k) Information/Communication Gap—

(1) All participants stated a lack of confidence in the Inspector General system. They did admit, however, that they were not quite sure as to his assigned responsibilities. Participants expressed varying degrees of levels of command which one had to go before being able to see the IG. By the time they saw him the emergent problem in many cases no longer existed. One participant put it this way—"How long is the chain?" There was a concensus that information about such policies as pertains to the IG must be widely disseminated. One participant suggested that if the soldier were given complete and good information in a palatable manner, the number of congressional inquiries would be drastically reduced. The information which is believed to exist may relate to the wide spread feeling that the individual solider is being mismanaged and his NCO's are not competent. He basically sees his immediate superiors as just wanting to get in his time for twenty years. One of the most vocal members of the seminar, who also participated in the PX situation cited above, stated that ". . . the Army can do so much to make the military a better thing for the soldier . . .. All that we are asking for is discipline with understanding . . . ."

(2) Recommendation—Officers and NCO's must be made aware of how to relate to their EM, and must keep the channels of communication and information open at all times. Officers and NCO's should receive training in group dynamics and human relations. (Obeservation: It is evident that the soldier of today will not, as the soldier of yesterday, respond simply because—"Now do it because I told you.")

(l) Army Education Program—

(1) A number of participants stressed the role of education in minority group betterment. They had a general idea of the Army Education Program, but knew few specifics. One person directly associated with this area stated a desire to develop new programs, however, in further discussion, it became evident the participants felt there was a lack of direct command interest in education. "Everybody talks about it, but nobody is doing anything." Programs of interest to the participants were Project Transition, on-post college courses and the GED and college counseling programs. Many participants stated that the higher command was unaware of the GI's view of how these programs were implemented, i.e., Command is more reports oriented than people oriented. Black EM stressed the need for some type of on-post college courses in black history and minority group identity. This, they felt, would be of benefit to both whites and blacks.

(2) Recomemndations—Proper funding, more creativity, and wider publicity be given to the Army Education Program. Programs and courses be established in the area of black history and minority group identity. Direct contact on a quarterly basis, as a minimum, between education counselors and Command-Staff personnel. This would end the relative isolation of the "actual counselor" from the Command-Staff personnel who dictate his programs.

(m) The Black/Minority Myth—

(1) The black/minority soldier is convinced that the white man considers him as being inferior. This attitude is probably generated by the traditional role of blacks/minorities in such areas as past unequal educational training with the lack of black/minority physical appearance in positions of status. Two examples were cited in the seminar which tend to substantiate such attitudes. The black officer told of a normal conversation with a white—the two met during a bus trip. The black was asked about his educational background. Whereupon, he stated that he had been awarded a Bachelors and a Masters Degree. The white's comment to this was, in essence, that he had only a high school education, but that the two of them were on an equal level and could converse on the same plane. The white further stated that he had difficulties with black/minorities with less education. Another participant told of having been called to a military hospital to give blood to a white pregnant woman. His blood type obviously matched and the pathologist performed all other tests. Upon discovering that he was black, the pathologist directed him to the woman's husband who queried the soldier as to disease, family mental background, etc. The consensus of the group was that such stigmas must be removed from our society.

(2) Recommendation—As was the case so often, it was felt that communications programs between the races at all levels must be made paramount in order to eliminate degrading and mythical attitudes towards blacks/minorities.

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SPECIFIC PROBLEMS

REPORT ON REDUCTION IN RACIAL TENSION—FORT MONMOUTH

1. By DF at Inclosure 2, the Military Equal Opportunity Committee reported results of the 30 June–2 July 1970 Seminar on Racial Tension. The seminar report was used to satisfy USAECOM and USASCS requirements to AMC and First US Army, respectively.

2. Inclosure 2 further stated that a report dealing with Fort Monmouth, specifically, would be furnished NLT 1 Aug 1970. This report is attached as Inclosure 1.

3. Although the basic task involved an investigation into racial tension at Fort Monmouth, some of the areas addressed may not appear to relate directly to the basic subject. The Committee considered it imperative to report these areas for the following reasons:

(a) The investigation revealed that many areas of "imagined discrimination" by blacks/minorities would disappear if there were an overall improvement in various post operations.

(b) Approximately one-half of the seminar participants were white. Consequently, it was not considered a prudent action to disregard post activities which appear to contribute to their inhibitions and frustrations.

4. The Committee considered solution of type problems falling under para. 3b, above, to be essential to establishment or betterment of an atmosphere on Fort Monmouth which would contribute significantly to effective programs of communications/talk/discussion between the races. If this assumption proves to be fact, then each area addressed in Inclosure 1 does relate directly to racial tension. If it proves not to be related, the seminar and subsequent investigation will have produced many positive suggestions which certainly should not be overlooked by command.

5. As stated in your letters to AMC and First US Army, the keynotes to the success of the program to reduce racial tension are:

(a) Complete and continued coordination and cooperation between commands.

(b) Swift implementation of approved programs.

(c) Wide dissemination of information on implemented actions.

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MILITARY EQUAL OPPORTUNITY REPORT—FORT MONMOUTH, N.J., AUGUST 1, 1970

1. *Conduct of Investigation:* The 30 June–2 July 1970 Seminar Report was used as the basis for investigating probable causes and possible recommendation for establishing corrective and preventive programs to reduce racial tension at Fort Monmouth. The approach used is as follows:

(a) Steering Committee—Select members of the Equal Opportunity Steering Committee contacted responsible Fort Monmouth activities concerning areas discussed in the Seminar Report. Discussion centered around:

(1) Validation and expansion of information highlighted at the seminar.

(2) Development of programs and policies necessary to correct valid complaints and prevent future occurrences.

(3) Information programs designed to inform EM of command actions, post activities and other current events in order to minimize imaginative problems.

(b) Participation by seminar attendees—Information gathered during above cited visits was brought for discussion before those personnel of the seminar who desired to participate in the follow-on report. A group of approximately twenty personnel (all ranks, races and ages) consistently returned to the Education Center for these discussions. Emphasis was continually placed on the role of the individual soldier to cooperate with command in establishing and executing required programs. The Chairman was impressed with the apparent sense of responsibility and concern exhibited by the young soldier participants.

(c) Conclusions—

(1) The recently held seminar and this follow-on report constitute a methodical approach and firm basis upon which Fort Monmouth can establish appropriate corrective and preventive programs aimed at minimizing racial tension.

(2) Actions to date have been imple-

mented outside of normal command structure and/or at an organizational level too low for proper exercise of command emphasis.

(d) Recommendation — Responsibilities must be fixed at a level in the organization which has ease of direct access to the commander for implementation and monitorship of the programs recommended in this report. This may be accomplished within present organizational arrangements by the appointment of a field grade officer in both USAECOM and USASCS as command advisors on matters relating to treatment of blacks/minorities, racial tension and general race relations. This officer would work closely with the Inspector Generals and the Equal Opportunity Officer/Community Relations Specialist in handling the problems of military personnel. Black/minority soldiers should have the option of discussing alleged cases of discrimination with this officer. Inasmuch as blacks/minorities tend presently to discuss racial problems more freely with one of their similar social background, it is recommended that this officer be a member of the black/minority group.

2. *Discussions and Recommendations on Topics Investigated:*

(a) Off-Post Housing—

(1) The investigation into alleged discrimination in off-post housing centered around determining the role Fort Monmouth plays in assisting military personnel locate housing and identifying possible cases of discrimination. All responsibilities in this area are vested in the Fort Monmouth Family Housing Office (FMHO). This office maintains a housing referral list of rentals available in the Monmouth area. This list is obtained by personal contact with local real estate agencies, and, occasionally, by individual home owners calling FMHO. In accordance with regulations, FMHO deals only with agencies that do not practice discrimination. The office has never received a discrimination complaint from military personnel assisted in finding off-post housing. This is explained, however, by the fact that agencies are informed that their houses will not be listed at Fort Monmouth, if discrimination is practiced. FMHO takes no action when such an agency is identified. The result is that when the housing referral list is exhausted, the soldier finds himself dealing with the agency which practices discrimination. Specific cases in the Fort Monmouth area were discovered where minorities are grouped together in segments of apartment complexes. Officers were located who experienced difficulty in obtaining housing in predominately white neighborhoods. Attitudes of landlords varied from subtle tactics to general indifference to outright hostility. In order to provide maximum protection for and assistance to the soldier, FMHO must become more active in identifying and reporting to proper authorities, agencies which practice discrimination. It is understood that the Inspector General and ESC have recently initiated some changes in FMHO operations. The New Jersey Division of Civil Rights and Shore Citizens for Better Human Relations have expressed a desire and willingness to cooperate with Fort Monmouth in the area of housing discrimination.

(2) Recommendations—

(a) Fort Monmouth should establish an active program of coordination and cooperation with appropriate civil rights groups to assist in reducing housing discriminatory practices.

(b) Fort Monmouth should play an active role in identifying and reporting agencies practicing discrimination to the proper authorities.

(c) FMHO should serve as the focal point for reports of all alleged practices of discrimination against Fort Monmouth soldiers. All soldiers should be made aware of the function, and should be encouraged to report acts of discrimination.

(d) Although impractical to place off limits, an annual survey should be established to determine the number of military personnel living in housing units identified as practicing discrimination. This data could be used to evaluate the effectiveness of actions to reduce discriminatory practices.

(b) Off-Post Facilities—

(1) Discussions in this area evolved around the provision of off-post facilities to the soldier at Fort Monmouth. As stated in the seminar, a considerable amount of expenditures by military personnel at Fort Monmouth contribute to the economic base of the local economy. Therefore, it is felt that the local community can satisfy some of the entertainment requirements of the military personnel. The basic problem involved here is the relatively low pay scale of the military man who desires to participate in the off-post activities. Communications channels between Fort Monmouth and the local community shoud be opened in an attempt to provide maximum benefits to the Fort Monmouth soldier. Attempts should be made to effect the same type arrangements with local merchants for the soldier, as apply to students. This could relate specifically to student rates at theaters, reductions in prices at beach facilities in Asbury Park and other local beach facilities and the possibility of providing free or reduced price tickets to such activities as the Garden State Art Center. These are but a few examples of the types of things which would cause the soldier to feel that the local community relates to him. One factor in favor of such negotiations with appropriate representatives of the local community is that the soldier at Fort Monmouth is here year-round, as opposed to simply catering to services provided during the summer season. Another subject which is closely related to those just discussed is that of public transportation for post personnel. Bus service presently serves the post by making stops at the east and west gates. It is felt that the interest of the military personnel could be better served with little disadvantage to the public transportation service, by having the buses which presently stop at the east and west gates, utilize a central location on the post. This becomes particularly critical when considering weekend bus service, whereby the individual has to walk from either the east or west gate to his quarters on post. The types of services indicated in this discussion would, in fact, alleviate what appears to be some of the major complaints of the Fort Monmouth soldier as pertains to his relationship with the local community.

(2) Recommendations—

(a) Fort Monmouth should establish active channels of communication with appropriate local authorities in an attempt to enhance the community-military relationship as cited above.

(b) A survey should be conducted to determine weekend requirements for bus services to places of interest. This survey could be used as the basis for negotiating a central post location for public buses.

(c) On Post Entertainment Facilities—

(1) The primary area of interest here pertained to the Service Club and its relationship to the EM, in general, and specifically to the black/minority soldier. A basic conclusion is that the Service Club is the potential one area on the post which might provide a "common extracurricular atmosphere of understanding". It is believed that the soldiers participating in this investigation expressed a widely shared attitude that the EM on Fort Monmouth would voluntarily participate in improving the Service Club environment and making its activities reflect current interests. At one time in the past, there was a voluntary EM advisory council which assisted in establishing programs, decorating, etc. Such a council, if reestablished, could be of immeasurable value to enhancing the operations of the Service Club. It should, under no circumstances, be established on a mandatory basis. Programs within the service should also be more widely publicized in order to keep soldiers informed of what is being offered. Although one of the most popular activities of the Service Club is the scheduled dance which brings girls in from the local communities, there is a lack of participation by black girls. An investigation into this problem revealed that the post must pursue more actively its program to interest the black community in participating in these affairs. Finally, it is recognized that the Service Club is oriented primarily towards recreation and entertainment. Nonetheless, it is believed that the environment does provide the best atmosphere for the so-called "common atmosphere of understanding". It is, therefore, considered appropriate that scheduled informal seminar type discussions on racial tension be held in the Service Club, to include films on black history. The Education Center was considered, but was ruled out because of its possible connotation of intellectual pursuit, as opposed to an informal chatting session among interested persons. A common feeling was expressed that the "new soldier" was as interested in discussions of current problems as participating in recreation.

(2) Recommendations—

(a) A voluntary EM advisory council should be established to work with the Service Club for advice on program development and publicity.

(b) Fort Monmouth should initiate contact with the local community to interest black/minority girls in participating in Service Club activities.

(c) The Service Club should initiate informal discussions on racial tensions and provide for educational films on black/minority history. The Post Education Officer might be of assistance in establishing this program.

(d) Post Exchange—

(1) A discussion of the Post Exchange is included in this report primarily to reflect an area where positive actions are being taken to relate to blacks/minorities. The PX officer is completely aware of the problem and has initiated programs for testing products not heretofore carried in the PX. This matter is a point of discussion at nationwide conferences of PX managers.

(2) Recommendation. The PX programs should be monitored to determine their value in other areas such as book stores and possibly the commissary.

(e) Standards of Appearance—

(1) There appears to be a lack of publicity throughout the post on standards of appearance, particularly, as applies to Afro-haircuts. Wide publicity is needed in order to insure that the regulations are interpreted in a standard manner by all concerned. Levels of appearance should be as equally applied to post personnel as is humanly possible. This includes the wear of civilian attire.

(2) Recommendation—Standards of appearance should conform to a set policy, equally enforced by all post activities and publicized widely.

(f) Communications Gap—

(1) Fort Monmouth, as the rest of the Army, basically has sufficient regulations to insure fair treatment of all personnel. The area which must be exploited is that of communications between races. This communications problem must be attacked vigorously on a broad front by commanders at all levels, with particular emphasis at the unit level where interaction can take place between all races and ranks. At least one battalion within the School Brigade has begun such a program on a limited scale.

This program, however, is aimed more at individual problems as opposed to group dynamics specifically keyed to interactions on racial tension. Investigation paths led to the one single conclusion that people must talk/discuss/communicate, with the primary goal of understanding each other. For example, the general feeling that the military police were hostile to black groups could not be found to be attributable to the MP in the performance of duties as an enforcer of the law. The basic issue related to the MP as a white individual and how he perceives members of other races. The same is true in the present tension ridden environment of a black MP and his possible reaction to a white group. The investigation, therefore, reached the conclusion that racial tension is not associated with MP's, EM, NCO's, or officers as groups, but rather each as an individual. It is believed that each of these individuals can contribute to reducing racial tension by participation in frank and open discussions at the unit level. Additionally, here at Fort Monmouth, there is an opportunity to reach many junior officers who will be required to cope with this problem in their future assignments. These are those officers attending the Signal Officers Advance Course. CONARC is planning to include future courses on racial issue in the curriculum. However, within the authority of the Commanding General, action should be initiated locally to include members of the Advance Course in discussions on racial tension. Due to the small percentage of black/minority officers in the Advance Course, it would be beneficial to have black/minority officers from other post activities participate. For the purpose of future benefits, it would also be extremely valuable to have collaboration between the Advance Course and the School Brigade. Such a program would allow interactions between officers and enlisted personnel. These programs, however, should be conducted so as not to interfere with the free time of personnel.

(2) Recommendations—

(a) One battalion of the School Brigade should be selected to establish a racial tension seminar on a test basis. The seminar should be conducted during the command information hour, and should run for a period of approximately two months. Future programs should be initiated, based on the test results.

(b) Racial tension seminars should be initiated in the Signal Officers Advance Course. This program should be executed in conjunction with the School Brigade for EM participation. Black/minority officers from other post activities should be required to cooperate in order to bring balance to participating officers.

g. Black/Minority Military Schooling—

(1) Six black EM participants in the seminar expressed the belief that many instructors were treating blacks/minorities in a prejudicial manner. Educational counselling was minimal, thus causing blacks/minorities to phase back and be released from school. The general consensus was that blacks/minorities tend to do well on practical exercises but poorly on written tests One probable cause for the poor performance is that blacks/minorities, particularly those from segregated school systems, are not believed to have the same educational background as their white peers. Under this assumption, performance in school would correlate more with educational foundation, as opposed to tests scores for entrance into school. Blacks/minorities would, therefore, require more counselling in order to achieve the same level of academic achievement. Phase backs and personnel withdrawals could not be studied according to race, for no such statistics have been maintained. USASCS has agreed to initiate compilation of this data.

(2) No attempts were made to further find students who alleged discrimination. One case, however, is cited to give an indication of type complaints. Black Sp4 "X" stated that he reenlisted for six years for a technical course. He had decided to make the Army a career and wanted to move out of his basic infantry MOS to a course which would give him satisfaction in the military and prepare him for later civilian life. He alleged discrimination and little assistance on the part of the course instructor. This might have been attributed to the instructor's statement that Sp "X" was only the third black student to attend that particular course. He was phased out of the course due to poor performance and was subsequently counselled to enter another. He agreed only to find out later that the new area terminates promotion-wise at the grade of E–4. His feeling, whether right or wrong, is that this was a deliberately planned act to hold him back because he is black. It is this type case where the black field grade advisor, recommended above, could be of vital assistance to the individual and to the command.

(3) There was also a feeling that a disproportionately small number of black/minority soldiers visited the mental hygiene clinic for early treatment of frustrations incurred in the academic environment. Here again, the hospital has not maintained such records, but will initiate records maintenance.

(4) Recommendation—

(a) Very close monitorship of data on student failures and attendance at mental hygiene clinic should be initiated to insure follow-up action, as required, in accordance with data results.

(b) Information maintained on students' performance should also be expanded to include instructor trainees.

3. *Summary*—This report is not intended to represent a "cure all" for the problem at hand. It represents a start which has to be monitored closely. Lessons learned must be applied to expanded future programs. Not everyone agrees that this is a subject for discussion. These individuals believe that discussion will only reinforce existing prejudices and hard feelings. The investigation revealed that such opinions were in an extreme minority. There are also those who feel that discussion is necessary, but that it must be controlled closely, less tempers and emotions may become overactive. The involvement of the committee to date does not substantiate this belief. The subject itself is an emotional one, dealing with deep-seated attitudes and feelings. The vent must be opened completely in order to enhance free and honest communications. To this end, it is felt that the Equal Opportunity Committee has provided the basis for a program on racial tension, which can be brought to a successful conclusion through the processes of direct command emphasis.

In conclusion, it should be highlighted that the basic problem will be solved only through the long range program of communications. The blacks/minorities understand this, but are interested in positive action to reduce racial discrimination in the "now" timeframe. For this reason, the Committee feels strongly that the immediate establishment of the black/minority military advisors is a mandatory requirement. It will provide an effective channel for top level Commanders to be kept appraised of this sensitive and potentially explosive problem.

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EQUAL OPPORTUNITY SEMINAR—MILITARY PERSONNEL

DEPARTMENT OF THE ARMY,
*Washington, D.C., September 21, 1970.*

1. Reference is made to letter, this headquarters, 10 March 1970, subject as above, which directed that a series of Equal Opportunity Seminars for military personnel be conducted throughout this command (Incl 1). These seminars were most successful in instilling an interest at all levels for developing measures whereby racial problems could be reduced or eliminated. The fine spirit of cooperation on the part of commanders, officers, civilian supervisors, non-commissioned officers, and other enlisted personnel was commendable.

2. Attached for your information and appropriate action is the report made to DA of the results of these seminars (Incl 2). US AMC commanders are requested to give this matter their personal attention and in the future continue to hold seminars periodically.

For the commander:

ROBERT C. FORBES,
*Major General, U.S. Army, Director of Personnel, Training and Force Development.*

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EQUAL OPPORTUNITY SEMINARS—MILITARY PERSONNEL

DEPARTMENT OF THE ARMY,
*Washington, D.C., March 10, 1970.*

1. References:

(a) AR 600–21.

(b) Message, this headquarters, dated 3 October 1969, subject: Equal Opportunity and Treatment of Military Personnel.

(c) Message, this headquarters, dated 17 October 1969, subject: Equal Opportunity and Treatment of Military Personnel.

(d) Letter, this headquarters, dated 9 January 1970, subject: Equal Opportunity and Treatment of Military Personnel.

2. Equal opportunity within the Army Materiel Command requires close and constant attention by each of us at all times. Problems in this regard continue to occur. For this reason, each commander must take preventive action to avoid occurrence of the problem and rapid action if the problem actually occurs. We must take action to meet the challenge of equal opportunity.

3. The Secretary of the Army, in an address to the Annual Meeting of the Association of the United States Army in October 1969, had this to say about Equal Opportunity: "At no level can commanders afford to assume that all is well with their troops because there is silence on racial matters. It is not enough to wait for complaints."

4. The Department of the Army has instituted a number of measures to assist in improving racial relations. Among these are Equal Opportunity Seminars. These seminars have been conducted by the Continental Army Command and are being planned at other major commands. Accordingly, you are directed to conduct a series of Equal Opportunity Seminars. Their purpose is to develop positive measures to promote equal opportunity, to improve understanding of Department of the Army policies and regulations pertaining to equal opportunity, and to recommend additional techniques for contributing to the Army-wide program.

5. The following guidance is provided:

(a) Seminars will be conducted at your installation or activity.

(b) Military personnel of all grades and minority groups will participate in all seminars.

(c) Civilian supervisory personnel will also participate in all seminars.

(d) The series will be conducted not later than 31 May 1970. Major subordinate commanders will conduct seminars during June 1970.

(e) The results of the above seminars will be furnished this headquarters not later than 15 July 1970, by each commander reporting directly to this headquarters. This report should include an assessment of specific problems of equal opportunity, lessons learned from the seminars, and recommendations for promoting communication among all personnel and for promoting equal opportunity. This headquarters will evaluate

the reports and conduct a command seminar in August 1970. The results of the command seminar will be disseminated to all commanders.

(f) Installations with more than one unit or activity will conduct a combined seminar. Units or activities located on installations other than those controlled by the Army Material Command will request the host command to be included.

6. Assistance and information you may request should be addressed to the Directorate of Personnel and Training, this headquarters.

F. J. CHESAREK,
*General, U.S. Army, Commanding.*

USAMC EQUAL OPPORTUNITY SEMINARS—MILITARY PERSONNEL

SUMMARY REPORT

1. Equal Opportunity Program.

(a) Command emphasis is essential to continuing success of such a program, but the support of an equal opportunity program must become a project of each person in the Army. Military personnel should never pass the opportunity to defend the program the same as one loyally defends other Army actions, philosophies, and traditions. All personnel are leaders in the handling and treating of equal opportunity matters.

(b) The seminar approach to easing racial problems and the suggested solutions derived may be misleading and could give faulty conclusions. Direct involvement by the participants and the awareness of the seriousness of the problem is necessary. Problems such as the communication and generation gaps are much deeper than at first realized. These two problems are compounded by cultural mores and the reluctance of a portion of our society to changing the "status quo".

(c) Commanders must indicate openly where they stand on racial matters. Misunderstood orders and directives, and indecisiveness, help create an unfavorable racial atmosphere. At every opportunity, a commander must express to his men that he fully supports the program. His actions must attest to his words.

(d) While the plight of the minority group soldier is recognized and appreciated, extreme caution is suggested in plans developed to ease racial tension in the Army. Plans must be applicable to all minority groups and not develop into black versus white, which might eventually lead to further polarization. It is important that all soldiers of all ranks be imbued with the idea that they are soldiers first and that equal opportunity will be accorded them without regard to race, religion or national origin.

(e) A film should be made and distributed which shows the Army's progress in race relations.

(f) Periodic briefings of military personnel and supervisors should be held. Such briefings could be held before a seminar, for example, and a survey taken of those present who might be willing to participate in a later discussion.

(g) Interaction with leaders and businessmen of the local civilian community should be encouraged on a continuing basis as a means of positively affecting attitudes and improving the Army's image.

(h) The goal of equal opportunity in the Armed Forces can be advanced by building a positive attitude through frequent and public declarations of policy by commanders that equal opportunity based solely on ability does exist for all military personnel. If majority and minority groups can be convinced that opportunity is not based on race, creed, or national origin, then much will have been done to eliminate unrest and accusations of discrimination.

(i) Programs must include a discussion of community problems since prejudices learned in a community do not automatically disappear inside an installation's gate. Minority groups in many cases do not wish to be set aside for special favors or attention, but are seeking equal opportunity only.

2. Seminars.

(a) Seminars should be held periodically and at the lowest level possible. Adequate pre-seminar publicity can be made to the entire command so that many ideas, comments, and problem areas may be presented for open, frank discussion. The seminar is a positive preventative measure which can deal with racial problems and situations.

(b) Groups of 10–20 personnel are considered workable. A well balanced representation of rank, race, supervisors and nonsupervisors should be obtained.

(c) An unstructured program produces freer interaction and more discussion. Group discussions, however, must be under the control of a leader who is able to keep the discussion flowing.

(d) The consensus of many units is that the Army has the regulations to forbid and discourage discrimination at all levels. However, regulations and directives cannot alone change social patterns and behaviors. The Army is not a separate, isolated, abstract entity from the mainstream of American society. On the contrary, it is very much a part of that society which directly or indirectly influences nearly every segment of American life. The Army continues to make tremendous advances in the areas of education, integration, technology and human development. But the problems discussed in the seminars are personal and need a personal commitment on the part of every soldier affected. If nothing else is learned from the seminars, it is that there are no easy ready made solutions to solving the problems of racial and ethnic discrimination, and that a change in attitudes is necessary to deal with all members of the Army as equals.

(e) Skillful stimulation by moderators, speakers, conference leaders and seminar sponsors is essential to obtain meaningful group participation and a free and open exchange of ideas. Once this is done, the seminar comes to life and the misunderstandings, attitudes, emotions and stereotyped thinking that may lead to discriminatory practices are subjected to open discussion. Equal Opportunity Seminars can be useful and effective tools for easing racial tension and promoting understanding, only if the key participants or organizers of such conferences fully understand and fulfill their individual roles of moderators, discussion leaders, and group spokesmen. There should be as broad a racial or ethnic "mix" as possible of seminar participants, speakers, and discussion leaders. If women are present, seminar sponsors should be prepared to add an extra dimension to the discussion. Greater participation is obtained when seminars are conducted in a relaxed, informal atmosphere.

(f) Individual written critiques by seminar members provide a good way of determining the effectiveness of seminars.

(g) One unit used, with good results, comoderators of equal rank, one white and one black. This provided an atmosphere of equality during the discussions. The moderators outlined the reason for the seminar, DA and AMC policy, and how command and IG channels may be used for handling complaints.

3. Communication.

(a) The identification of the problems and presentation of the facts is essential to good communication. Too often an incident is allowed to be reported in a distorted manner simply because the facts are not made known to those concerned. An informed person is a more satisfied person. The elimination of misconceptions and mythical attitudes will result from an informed group.

(b) Direct, oral announcements to personnel of important items can do much toward improving the communication gap than simply publishing an item in written form. A combination of oral and written announcements is preferred and will assure that personnel are properly informed.

(c) Social events held after duty hours should be encouraged as a means for bringing together personnel of all races who work together. In many garrison situations, personnel leave their job areas at the end of a day and go their separate ways. As a result, these personnel know little or nothing of their fellow worker's living conditions, social life, and problems.

(d) More publicity must be made as to ways and means for the soldier to get assistance from the IG, SJA, and other agencies. Orientation talks by the IG to commanders and troops should be considered.

(e) Military personnel appreciate being talked "with" as opposed to being talked "down to". Communication is facilitated when personnel are told directly about a matter with the opportunity for dialogue.

(f) When a group of white soldiers assemble, the concensus of most onlookers is that they are going to have a discussion. When black soldiers assemble, the concensus is that they are doing it for no good reason. These notions must be dispelled by an effective education program and training.

(g) Service clubs can play a very important role by fostering informal discussions on current problems and minority group history. Officer and NCO clubs should provide balanced programs of entertainment relating to all groups.

(h) Command information programs should be reviewed to insure that they are relevant to the issues of the day. Participation by soldiers should be allowed through this program or through a council. Unit supervisors should take a command information training program.

(i) Education counselers must have direct contact with commanders. More publicity can be given to the program so that all personnel are aware of the opportunities for continued education.

(j) Military personnel who speak a common language tend to socialize together because of difficulties with the English language. The banding together by these soldiers, for example, is often misunderstood and has resulted in group confrontations.

(k) The so-called generation gap contributes to mistrust and lack of understanding. Youth is more aggressive, vocal and demanding. Young people want to discuss their beliefs and attitudes, and are eager to "talk with the establishment". Young enlisted men have welcomed the meaningful dialogue or forum of discussion between command and racial groups. In addition, the young belonging to a minority group want to be informed by their commander where that commander stands on racial matters. By word and deed a commander must demonstrate where he stands on racial matters in order to eliminate mistrust in a particular minority group.

(l) Personnel identify and interpret symbols and their meanings in different ways. For example, the use of the Confederate flag is accepted in general by the white society and yet, knowingly, its use in many cases is utilized to express racist opinions and is usually seen by minority groups, particularly blacks, as a symbol of racism. The "Black Power" symbol of the clinched fist may be either a means of expressing greetings in a search for identity as a people, brotherhood, solidarity, or a means of expressing defiance toward policies, persons, or agencies, i.e. Army. Its use at official events or formations may be classed as defiance, but when used as a greeting between friends it should not be interpreted as an indication of militancy.

(m) More emphasis can be placed on the examples of the reality of racial harmony and compatibility. Good acts need publicity as well as bad.

(n) Communication between a junior officer (or NCO) and his subordinates is often hindered by the lack of experience

and maturity. Many individual problems have simple solutions; the troubled soldier often needs assistance from his superior.

(o) Channels of communication are not always open or responsive due to an alleged or real credibility gap and lack of trust by minority group members. Situations of this nature are often aggravated by the aversion of the majority to directly address racial problems which may be distasteful or unpopular in their minds.

(p) Due to the nature of many duty assignments, there is a continual problem of keeping all people informed. Action must be taken to insure that enlisted as well as officer personnel meet together periodically to keep abreast of current situations. A junior may be hesitant to relay topics to his senior for numerous reasons. Also, information coming from the top of an organization often becomes distorted as it passes through each level of command. Periodic meetings can help solve this problem. Communications and counseling training should be given during all phases of military training. With constant emphasis on communicating, many problems with minority groups can be eliminated.

(q) Supervisors and others should be cautioned against using such phrases as "boy", "you people", etc. Pronunciation of words such as Negro should be correctly made as its mis-pronunciation, deliberate or otherwise, can be offensive. Minority group personnel want to be classed with all other contemporaries regardless of race, creed, or color.

(r) Promotion regulations, assignment practices, and other aspects of the Army's personnel system should be explained and clarified by periodic classes to enlisted personnel.

(s) Senior officers must maintain contact with personnel under their jurisdiction by making personal visits to their work and living areas. An awareness and sensitivity to racial problems will then follow. Unconcern and indifferences breeds hostility and contempt.

(t) Minority groups emphasize increased representation of their members in managerial positions to "improve communications" and generally enhance their progress. Promotion of either civilian or military minority members must be made on qualifications, however.

* * * * *

(b) Concessions to normal military appearance, bearing, and respect must be eliminated. Some of these concessions are terms as reverse discrimination. The normal practices of soldiering and the reasons therefore should be explained during early training of the new soldier.

6. Assignment policies.

(a) Minority group personnel are concerned that more of their own groups are not in leadership positions. Minority group officers and NCO's should not be used as a crutch for solving a commander's racial problems, however. Each commander must face his responsibility by the use of training, education, and counsel from available sources.

(b) In many USAMC units, the small number of military personnel assigned does not present the "critical mass" requirements often observed to initiate inflammable disorders. The minority representation, when at a lower percentage than that of the Army as a whole or even that of the nation, is no cause for pride and may even reflect some form of discrimination. It does reduce the opportunities for racial tension to develop, however.

7. Training.

(a) A discussion of racial relations should be made a part of supervisory development and communication courses offered to both military and civilian employees. In addition, new arrivals to a command should read AR 600-21 and other pertinent regulations to make them familiar with DA objectives.

(b) Commanders at the unit level should be provided instructions and reading materials designed to promote understanding of minority group heritage, social, and economic backgrounds. Emphasis must continue to be placed on training soldiers of limited educational background and others in programs such as TRANSITION.

8. The individual soldier.

(a) It was the opinion of some that the minority group soldier suffers a much greater insult from patronization than from discrimination. This form of hypocrisy can be more harmful than overt bigotry. The commander, who bends over backward in an attempt not to hurt the minority soldier's feelings, promotes two negative responses. He insults the minority individual who feels no need for special help to get along, and his action encourages a strong backlash reaction from the other soldiers who are quick to recognize a condescending attitude.

(b) Another major problem arises from the search for a "color-blind" attitude. The minority group individual is different, and often possesses different sets of values, experiences, and educational opportunities. It is the function of command to recognize these differences, but not to automatically consider these factors coincidental with inferiority. The commander is responsible for seeking a common channel of communication with minority individuals so that untapped potential can be realized.

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PERSONNEL—GENERAL: EQUAL OPPORTUNITY AND TREATMENT OF MILITARY PERSONNEL

USAMC Supplement 1, 27 March 1970, to AR 600-21, is changed as follows:

*Page 5, paragraph 15 (Added) Equal Opportunity Seminars (as amended by Suppl 1)* is superseded as follows:

"*Page 5, paragraph 15 (Added) Equal Opportunity Seminars.* Seminars will *be held no less than once annually.* The following guidance is provided:

"(a) Seminars will be conducted at installation or activity level.

"(b) A representative group of military personnel of all grades and groups will participate in all seminars.

"(c) A representative group of civilian supervisors will also participate in all seminars. Such personnel will be supervisors of military personnel, have responsibilities concerned with the military personnel program, or have some pertinent relationship to the military personnel program.

"(d) Seminars are research and discussion groups, studying the problems and developing proposed solutions, both locally and Army-wide. It is not intended that the seminars be an assembly of all personnel of an installation or activity passively listening to a training program.

"(e) Results of the seminars will be documented and furnished through channels to the Commanding General, AMC, ATTN: AMCPT-MS, as soon as possible after conclusion. These results should include an assessment of specific problems of equal opportunity, lessons learned from the seminars, and recommendations for promoting communication among all personnel and for promoting equal opportunity.

"(f) Installations with more than one unit or activity will conduct combined seminars. Units or activities located on installations, other than those controlled by AMC, will request the host command to be included in their seminars.

"(g) Activity Equal Employment Opportunity Officers may be asked to attend since problems in the military program frequently have their basis in the civilian and private sector."

CHARLES T. HORNER, Jr.,
*Major General, U.S. Army,*
*Chief of Staff.*

PERSONNEL—GENERAL: EQUAL OPPORTUNITY AND TREATMENT OF MILITARY PERSONNEL

AR 600-21, 18 May 1965, is supplemented as follows:

*Page 1, paragraph 2, Applicability.* This supplement applies to Headquarters, U.S. Army Materiel Command (AMC); AMC major subordinate commands (including subordinate installations and activities): project/product managers; and separate installations and activities reporting directly to Headquarters, AMC.

*Page 1, paragraph 3, Policy.* It is the policy of this command that equal opportunity and treatment of military personnel will receive the personal attention of each commander, officer, civilian supervisor, and noncommissioned officer.

*Page 1, paragraph 4, Responsibility. Each AMC commander and each AMC project/product manager* is responsible for:

(a) Making an earnest effort to recognize situations, which could develop into matters with far-reaching implications.

(b) Taking aggressive action to insure that everyone under his control is aware of the command's concern regarding equal opportunity and treatment.

(c) Insuring that lines of communication are open, and that all personnel have the opportunity to be heard.

(d) Knowing what the personnel under his control are thinking, and being concerned for their welfare.

(e) Instilling in each officer, civilian supervisor, and noncommissioned officer the objective of equal opportunity, treatment, and justice for all men with a respectful recognition of their differences.

(f) Establishing Equal Opportunity Seminars to improve communication between racial groups, to develop positive measures to promote equal opportunity, to improve understanding of Department of the Army policies and regulations pertaining to equal opportunity, and to recommend additional techniques for contributing to the Army-wide program.

*Page 5, paragraph 15 (Added) Equal Opportunity Seminars.* Seminars will be held periodically as directed by Headquarters, AMC, by separate directive, or as often as desired by each commander. The following guidance is provided:

(a) Seminars will be conducted at installations or activity level.

(b) Military personnel of all grades and minority groups will participate in all seminars.

(c) Civilian supervisory personnel will also participate in all seminars.

(d) Results of the seminars will be documented and furnished through channels to the Commanding General, AMC, ATTN: AMCPT-MS, as soon as possible after conclusion. These results should include an assessment of specific problems of equal opportunity, lessons learned from the seminars, and recommendations for promoting communication among all personnel and for promoting equal opportunity.

(e) Installations with more than one unit or activity will conduct combined seminars. Units or activities located on installations, other than those controlled by AMC, will request the host command to be included in their seminars.

Local limited supplementation of this supplement is permitted but is not required. If supplements are issued, commands, installations, and activities, and project/product managers will each furnish one copy to the Commanding General, AMC, ATTN: AMCPT-MS.

For the Commander:

LEO B. JONES,
*Major General, U.S. Army,*
*Chief of Staff.*

## RECORDKEEPING, SURVEILLANCE, AND THE FBI

### HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. HARRINGTON. Mr. Speaker, over the last week I have talked twice of a freedom of association which stands in jeopardy because of government surveillance and dossier activity. In a complex society such as our own, the ability to gather, store, and retrieve massive amounts of information about citizens provides a strong basis for overt government intimidation and coercion—intimidation and coercion which are showing their hands today. The issue is more than the right to privacy—a right which has been cast aside by an administration concerned only with national security and preventive law enforcement to the exclusion of other important interests. It is an issue that goes beyond the dubious credibility of much of the dossier information. Certainly the most basic of democratic freedoms—the right to participate actively in political affairs of the nation—is threatened.

A Supreme Court decision this spring in the case of Tatum against Laird should provide a bulwark against those investigatory violations of basic civil liberties that have been going on since the Army started its civilian surveillance. I congratulate our colleague Senator SAM ERVIN for filing an amicus curiae brief with the Court. And though congressional pressure should continue on the Army and the President, it must be expanded in its scope. For all indications are that the Army did not act alone in its intelligence activities, nor did they refuse to share their information with other government agencies engaged in much the same activity. Congressional hearings have demonstrated how many such agencies exist, the most disturbing of which, Mr. Speaker, is the Federal Bureau of Investigation.

There is clearly a mandate for congressional action on the protection of civil liberties from incorrect, misused, confidential, or illegally obtained information, especially as it relates to the Bureau and its computerization of this data. Action is mandated, first, by the total absence within the Bureau of a point of view which places protection of civil liberties on an equal level with crime prevention. The National Criminal Information Center, for example, is staffed by agents trained in computer operation, and the FBI Director absolutely refuses to allow nonagents more expert in either the law or the computer to engage in its daily operation. It is not insignificant that the civil rights of these agents have themselves been washed away under a flood of Bureau regulations. Are these the men we want in control of this massive surveillance information system?

Action, too, is mandated by the Courts. Judge Gerhard Gesell, in the case of Menard against Mitchell, concluded that questions of who keeps what information and who can see it, are neither judicial nor executive ones. The matter, he wrote, is one for Congress to resolve, for only the Congress can legitimate the burden of exception to civil liberties which the executive branch has thus far mandated on its own. "The overwhelming power of the Federal Government to expose," concluded the judge, "must be kept in proper check." Surveillance and recordkeeping are the essential elements of that power.

Finally, Mr. Speaker, I think action by this body is mandated by the vast amount of time and effort put into the problem by members of the Senate and their staffs. Senators ERVIN and BURDICK are to be loudly applauded for their efforts on behalf of political activists, ex-convicts, and those arrested without conviction. The best applause we could offer would be a show of similar interest in the House. Civil liberties are not the exclusive purview of the other Chamber.

Later this month, our colleague from California (Mr. EDWARDS) will hold subcommittee hearings on H.R. 13315, a bill to limit in a small way the recordkeeping activities of the Bureau and others. Hopefully that hearing will provide a platform for a discussion on what criminal record information we need to keep, for how long, and who should have access to it. Those hearings will not deal with criminal surveillance information, however, which has been the subject of surprisingly little proposed legislation. In the absence of such, I hope that this body will this session give careful scrutiny to the budgets of all Federal agencies engaged in surveillance and dossier activity, including the FBI. We have all paid too much for our civil liberties to have them lightly dismissed by a heavy handed administration.

Mr. Speaker, I would ask that the following informative article by Roger Wilkins on FBI recordkeeping and surveillance, which appeared last Sunday in the Washington Post, be placed in the RECORD.

The article follows:

THE REVOLUTION IN LAW ENFORCEMENT TECHNOLOGY HAS PRODUCED AN INFORMATION MONSTER THAT THREATENS OUR PRIVACY

(By Roger Wilkins)

A silent creeping—one might even say creepy—revolution is taking place in the technology of law enforcement data collection and dissemination. The computers have entered the field and their potential for severely denting—if not destroying—the individual's right to privacy is growing by leaps and bounds.

Last year in a privacy case in the U.S. District Court in the District of Columbia, Judge Gerhard Gesell wrote:

"A heavy burden is placed on all branches of government to maintain a proper equilibrium between the acquisition of information and the necessity to safeguard privacy. Systematic recordation and dissemination of information about individual citizens is a form of surveillance and control which may easily inhibit freedom to speak, to work, and to move about in this land. If information available to government is misued to publicize past incidents in the lives of its citizens the pressures for conformity will be irresistible. Initiative and individuality can be suffocated and a resulting dullness of mind and conduct will become the norm."

Judge Gesell went on to decide that while the arrest record of a person who had been convicted of no crime could be maintained for federal employment and "strictly law enforcement purposes," the FBI is "without authority to disseminate arrest records outside the federal government for employment, licensing or related purposes."

Unfortunately, this lucid principle is being eroded by a voracious computer industry, two powerful and competing federal bureaucracies, hardware-loving police departments around the country and by a Congress which seems not to have the sensitivity, the will or the capacity to do anything to arrest or reverse the trend.

Late in the 60s, the first tendrils of what is fast becoming a patchwork—but nonetheless enveloping—information giant were beginning to emerge in the form of the FBI's National Crime Information Center system (NCIC). That system was designed to provide simple computerized information to law enforcement people on wanted persons, and identifiable stolen property such as license plates, securities, boats and guns. At the same time, from 1966 through 1968, the Justice Department's Office of Law Enforcement Assistance was providing various police jurisdictions about one million dollars a year to develop electronic data retrieval systems.

Then came the deluge. Since 1968, the Law Enforcement Assistance Administration, the much better funded successor to OLEA, has dispensed more than $46 million for a variety of such projects all over the nation. Some went to states for development of a greater organized crime intelligence collection capacity. Other states began using LEAA funds to develop systems related to civil disorders. Whereas earlier efforts had been fairly clearly directed toward information useful in crime detection and prevention, the guidelines began to become murky in the civil disorders field. One state, for example, indicated in its grant application that it would collect the names and information about people who "actively pursue their constitutional rights."

The most significant of the LEAA funded projects, however, was Project Search, which began as a cooperative effort among six states to standardize and computerize personal criminal history records and tie them into a central index and switching center in order to provide each participating state with quick and easy access to the relevant records of each of the others. By the summer of 1971, the number of states in the project had grown to 20 and the problems had grown proportionately.

The first strains emerged when Project Search's Committee on Security and Privacy issued a study which attempted to formulate procedural guidelines safeguarding the public. Among the committee's recommendations were limitations on the type of data to be collected, periodic re-evaluation of the data in order to ensure accuracy, the development of procedures for an individual to have access to his file and stringent security precautions to prevent unauthorized individuals from obtaining access to the stored information. The head of the FBI's NCIC system argued that if such guidelines were needed at all, Project Search was the wrong organization to develop them and that in any event, it was too early to conduct such studies.

Shortly thereafter, it became clear that the FBI hoped that Search would be controlled, not by the states, but by the FBI and that its electronic systems would be tied to the Bureau's National Crime Information Center System. LEAA and the states balked. They argued that the original concept of Search was a bulky central index of criminal activity—like a telephone book—with the basic records being retained in the states rather than the creation of a federally controlled national criminal information and intelligence data bank.

As the dispute raged, Search oozed beyond its original confines into areas never envisaged by the original concept. Under the

rules developed by LEAA, such charges as juvenile and public order offenses, drunkenness and vagrancy would be excluded, but serious crimes would be recorded. Those might include bigamy, cruelty to animals, failure to provide support to one's family and adultery as well as the traditionally serious crimes of murder, assault, burglary and robbery.

Meanwhile, the FBI won its fierce bureaucratic battle within the Department of Justice with LEAA. On Dec. 10, 1970, the Attorney General transferred Search to the FBI. A year later, the Senate included in the FBI's appropriations bill language which appeared to restore to the FBI authority to share its information with certain classes of banks and also, in appropriate circumstances, with state agencies for employment and licensing purposes. In all the flurry and growth, the model codes for protection of citizens' privacy and the code of ethics drawn up by Project Search's Committee on Security and Privacy got buried.

At this point the situation remains cloudy, but ominous. LEAA still makes the grants for the acquisition of computers and is pressing for expansion of the system. The FBI is tightening its control while also pressing for ever greater membership. The states, having warned the Attorney General prior to the transfer of Project Search to the FBI that "no matter what the Feds do, the states will continue to develop their own system or systems," are presumably doing just that. And any state or locality may, on its own initiative, store additional information in a system that later may be "interfaced," to use a term of the trade, with the federal data bank. For example, the Kansas City, Mo., police department has stored, among other things, information on outstanding parking tickets, college students known to have participated in disturbances and "area dignitaries."

While this information-gathering monster grows and spreads, there is really no effective federal or state regulation of the whole system. Senator Ervin's Constitutional Rights Subcommittee heard some testimony on the subject both from administration proponents and from concerned and frightened citizens. Senator Mathias slipped an amendment into Title 1 of the Omnibus Crime and Safe Streets Act requiring LEAA to develop legislation regulating the activity. In response in September, 1971, Senator Hruska introduced the Criminal Justice Information Systems Security and Privacy Act of 1971. To date, no hearings have been held on the Hruska bill.

Without debating the details of the Hruska bill, it is fair to say that it assumes that computerized dossiers collected by state and federal police organizations are part of our national life, that they are useful and that they are here to stay. And that is just the point. We apparently are off on another technological toot that leads God knows where without giving it a second thought. Nobody knew when Henry Ford rolled out his first Model A that the internal combustion engine would someday foul our cities. But now we ought to be sophisticated enough to know that a ride on the tiger's back is sure to cost at least a healthy nip on the nose, if not a great deal more.

The issues raised require urgent analysis and broad national debate before the information monster entirely devours our privacy. Because of the complex interstate nature of the system and the federal government's deep involvement in its development, there is only one place where the debate can appropriately take place—in the Congress of the United States. And the first question that needs to be taken up is whether the public wants or needs this system. If Congress' answer is yes, then there is a pressing need for it to define a citizen's right of privacy and the limits which must be placed on the machines' almost unlimited capacity to pry, to store and to *regurgitate indiscriminately*, mindlessly and on command.

Right now only the Lawyer's Committee for Civil Rights under Law, aided by the National Urban Coalition, is monitoring the growth of the beast and, laudable as that effort may be, it is not enough.

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## BUREN H. McCORMACK OF THE WALL STREET JOURNAL

### HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. SPRINGER. Mr. Speaker, it was with great regret that I learned of the death of Buren H. McCormack, formerly managing editor of the Wall Street Journal. My association with "Mac" goes back to our college days at DePauw University where he was 1 year ahead of me and at that time displaying some of the outstanding ability which so forcefully surfaced later in his career in the newspaper field.

At that time, Bernard Kilgore was a senior at the university and running the DePauw newspaper. His protege was Buren McCormack, a promising young sophomore reporter, a campus leader and much interested in Sigma Delta Chi, the professional journalistic society.

When Barney Kilgore moved on to the Wall Street Journal it was in bad shape. Barney put new life into it and when Mac graduated, he took his former protege with him in the Wall Street Journal and they have been there ever since. He was not only widely respected in the newspaper field but was a thoroughly outstanding citizen of America. I knew both him and his wife since both were campus companions in college. Mac will be missed not just by those on the Wall Street Journal but also by his many other friends which he made at every level of society.

It seems like only yesterday that I sat in the audience when DePauw honored him with a honorary doctor of literature degree, and on May 21 when I am back on the campus I certainly will remember Buren McCormack—not only of the great interest he took in the university but the wide influence he had upon that institution, its faculty, its student body and its alumni for such a long time.

An editorial with reference to Buren H. McCormack is herewith appended and I am sure his many friends will be interested in reading it:

[From the Wall Street Journal, Feb. 29, 1972]

BUREN H. McCORMACK

Those of us long associated with The Wall Street Journal well remember the homely, daily scene: "Mac"—Buren H. McCormack—shirt-sleeved, at his desk on the news floor, carefully going over copy with a young reporter.

That was when he was managing editor, and a most meticulous one he was; fair, reasonable, cool and collected and withal demanding. He was himself an advocate and practitioner of clear, clean news writing, and it is not surprising he asked of his staff the highest standards of accuracy and balanced reporting. Many a newsman, ourselves included, owes a great deal to the knowledge and insights Mr. McCormack was able to impart.

But that was only one facet of this remarkable man's 40-year career with The Wall Street Journal and its parent Dow Jones. Mac could, it seemed, do anything and everything involved in putting out a newspaper.

Starting as a reporter, he rose to positions of successively greater responsibility in the field of editing. Then he moved into management—not an easy kind of gear-shifting—and brought his talents especially to bear on the devising of a production organization capable of making this a truly national newspaper. At his death he was second in command of Dow Jones.

Perhaps Mr. McCormack's most outstanding achievement was in the days of the transformation of the Journal from an essentially financial publication into a broad-based business newspaper. Along with the present president of Dow Jones, William F. Kerby, and the late board chairman Bernard Kilgore, Mr. McCormack effected that transformation, proving in the process that business news need not be dully written and edited. In large part, the modern Journal is Mac's testament.

A big, friendly man, with a ready smile and handshake, Mac had wide-ranging interests. He was devoted to good journalism not only for Dow Jones but for all publications, and he served a term as president of Sigma Delta Chi, the professional journalistic society. Hardly less intense was his concern with improving education. Besides all that, he was prominent in church circles and belonged to a number of clubs.

Mac's strong convictions, particularly with regard to newspaper standards, will be with us for a long time to come. His many friends and business associates mourn his passing—but remember him with fondness.

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## SOVIET JEWISH REFUGEE ASSISTANCE ACT OF 1972

### HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. PUCINSKI. Mr. Speaker, I have introduced today the Soviet Jewish Refugee Assistance Act of 1972. It directs the Secretary of State to spend $85 million for fiscal year 1973 to house, clothe, feed and train Jewish refugees from the Soviet Union who take up residence in Israel.

Anyone who has observed the plight of the Soviet Jews must be filled with compassion, concern and even sorrow. Russia's Jewish people are struggling against enormous odds to preserve their ancient religious and cultural ties. We must continue our efforts to form world opinion so that the Soviet Union will permit its Jews to practice their religion.

However, in recent months more and more Soviet Jews have been permitted to leave. The last month of 1971 saw three times the number which emigrated in all of 1970. It is generally anticipated that about 50,000 Soviet Jews will leave the country this year. Most of these emigrees will go to Israel with its current population of 3 million.

We, in the United States, have never turned our back on the plight of any refugee movement. Since World War II, we have contributed almost $3 billion to refugee assistance, including $600 million to Cuban refugees, $237 million to the International Refugee Organization, $85 million to help Korean refugees, and

more than $500 million for Arab refugees.

In addition to our concern in assisting refugees, we have fought for religious freedom and against religious persecution.

This is why we played a major role in the creation of Israel and why we have been a firm defender of her existence.

Mr. Speaker, the interest of the United States will be best served by passage of this legislation. I have long expressed the belief that the continued existence of Israel as a free state is absolutely necessary to maintain the present world balance of power.

Israel could well be done in by economic disaster if she is forced to assume the entire costs of these masses of Soviet Jewish refugees. What her enemies and their armies could not do on the battlefield—destroy Israel—our inaction could.

Mr. Speaker, I am hopeful that this legislation in the interest of religious freedom, in the interest of human dignity and, yes, in the best interests of our own country will be favorably considered by this Congress.

We must not let this wave of Soviet Jews to Israel upset the Israeli economy to the point where Israel's ability to maintain her defense establishment will suffer. Right now, Israel spends 87 cents of every tax dollar collected on national defense. Israel needs our help to resettle the Soviet refugees who are pouring into Israel. That is why I urgently ask this legislation be approved and funded. We must not let Israel falter in this, her finest hour, when she has opened her gates to Russia's Jewish refugees.

Israel is our most trusted ally in the common struggle against Soviet imperialism. We must help her now.

Mr. Speaker, the text of the bill follows:

H.R. 13454

A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of State is authorized to furnish, on terms and conditions he considers appropriate, assistance to Israel, including assistance for housing, clothes, food, medical care, education, and training, for the resettlement in Israel of Jewish refugees from the Union of Soviet Socialist Republics. There are authorized to be appropriated to the Secretary not to exceed $85,000,000 to carry out the provisions of this Act.

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## JOHN W. McCORMACK AWARD PRESENTED TO TURNER ROBERTSON

### HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. EVINS of Tennessee. Mr. Speaker, I am pleased to note that Turner N. Robertson, who recently retired as Chief of Pages, has been presented the John W. McCormack Award for outstanding public service rendered as an employee of the House of Representatives.

Mr. Robertson, a native of North Carolina, served with effectiveness and distinction as Chief of Pages. I recently commended him for his record of service in the House and I want to again commend and congratulate Turner on the occasion of his receiving the esteemed John W. McCormack Award—an impressive tribute in honor of a great Speaker of the House.

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## WHAT'S GOING ON IN OUR FOOD?

### HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. BINGHAM. Mr. Speaker, last week, I introduced a bill which would ban the synthetic hormone diethystilbestrol—DES—an approved food additives which enables certain animals to grow faster and thereby increase their meat yield, but which has induced cancer in test mice. The Food and Drug Administration and the Department of Agriculture have thus far refused to withdraw the product from its list of approved additives. Yet, in recent memorandums within FDA's Office of Pharmaceutical Research and Testing, it was revealed that DES is so powerful a carcinogenic that it is unsafe in the smallest quantity which the FDA can presently test. This information is disclosed in a recent issue of Rodale's Health Bulletin, February 19, 1972, which appears below.

Further, in the same issue of Health Bulletin, consumers are alerted to yet another serious food problem. In this instance, the FDA and USDA have confirmed reports that sodium nitrate, which is added to preserve and color foods, combines with other chemicals in food to create nitrosamines, a carcinogenic compound. The claim that sodium nitrite is an essential ingredient in meat to protect it against botulism is challenged by the fact that other countries have already banned the additive while a number of food processors in our country use other safer additives to check botulism.

There are presently a number of consumer actions pending to curtail or end the use of sodium nitrite. In one case, a petition was filed in February with the USDA by representatives of Ralph Nader's Center for Science in the Public Interest. The petition raises some very serious problems concerning the use of sodium nitrite which the USDA must answer forthrightly and without delay.

Following is Health Bulletin article on DES:

NO WAY TO ASSURE "SAFE" LEVEL OF DES IN MEAT, SAYS GOVERNMENT EXPERT

The idea that meat is safe because the government's most careful tests cannot find any residue of a carcinogenic hormone in it is sheer folly. So says a man who should know about such things. He is Dr. M. Adrian Gross, head of the Office of Pharmaceutical Research and Testing within the Food and Drug Administration. It is Dr. Gross' staff which is charged with refining and improving those tests which are supposed to guarantee the absence from meat of the synthetic hormone diethystilbestrol (DES).

Other officials in the FDA disagree with Gross, and insist that it is possible to safely control or even eliminate DES in meat. But Gross, in a series of interoffice memos, was quite precise in his arguments. In a certain strain of mice, he said, the ability of DES to trigger cancerous tumors is so powerful that the safe level of the hormone in their feed is "a miniscule fraction of 1 part per billion." Inasmuch as the best current tests are only able to detect the presence of DES when it constitutes at least 2 parts per billion of the sample, it is clear that no food can be declared "safe." What's more, the reseacher said, it is "extremely unlikely, if not well-nigh impossible" that the tests for detecting DES will be able to be refined to the point where they can guarantee purity.

Gross even predicted that the government will not be able to mount a very convincing argument when it goes to court to answer charges by the Natural Resources Defense Council that DES should be banned.

Meanwhile, the Federation of Homemakers has started a letter-writing campaign with the object of forcing stores to identify which cuts of meat they're selling are from animals which have been treated with DES.

Following is Health Bulletin article on sodium nitrite:

GOVERNMENT 'FESSES UP ON SODIUM NITRITE: IT BUILDS CARCINOGENIC NITROSAMINE

In the wake of a lawsuit demanding that the government open its files on the food additive sodium nitrite, the FDA and USDA have admitted that a cancer-causing compound has been found in meats processed with the additive.

That compound is nitrosamine, and some nitrosamines are well-known as carcinogens in test animals. In 48 samples of food, the scientists said, they discovered two dried beef products and one cured pork product that contained "small amounts" of nitrosamine.

The government says it does not understand the significance of these findings, and at a meeting in Washington, told reporters that sodium nitrite "has been used for hundreds of years" to protect meat from botulism.

They did not tell the press that in some countries, this suspected carcinogen has been banned completely, and that its real purpose is not to protect consumers but to extend the shelf life of products like hot dogs and to develop and fix a desirable pinkish color in sausage products to which great amounts of water and fat have been added.

Suing the FDA and USDA is the Environmental Defense Fund, Inc., which filed in federal district court in San Francisco. The group demands that all the information about sodium nitrite should be made public, so that the public can decide for itself what risk it is taking in eating treated products. If the suit is not withdrawn as a result of the disclosure, a hearing will be held in San Francisco on February 28.

The following is the text of the petition filed with the USDA:

[Before the U.S. Department of Agriculture]

HARRISON WELLFORD, MARCY SCHUCK, ON BEHALF OF HERSELF AND HER INFANT CHILD, CHRISTOPHER, AND CENTER FOR SCIENCE IN THE PUBLIC INTEREST, PETITIONERS, TO HONORABLE EARL BUTZ, SECRETARY OF AGRICULTURE

PETITION REQUESTING THE AMENDMENT OF SECTION 318.7(C) OF THE DEPARTMENT'S MEAT INSPECTION REGULATIONS TO RESTRICT THE ADDITION OF SODIUM NITRATE OR SODIUM NITRITE TO MEAT OR MEAT FOOD PRODUCTS, AND OTHER RELIEF

Petitioners request the Secretary of Agriculture to exercise his authority under Section 5, Section 21, and other sections of the Wholesome Meat Act, 81 Stat. 584 et seq., as amended, 21 U.S.C. Sections 601 et seq. (hereinafter "the Act"), to take the following actions:

1. Immediately prohibit (a) the use of sodium nitrite (hereinafter "nitrite") in meat or meat food products (hereinafter "meat products") for the uses now approved under Section 318.7(c) of the Meat Inspection Regulations, as amended June 15, 1971 (hereinafter "the Regulations"), i.e., "to fix color," and (b) the use of sodium nitrite (hereinafter "nitrate") as a source of nitrite to the extent that such nitrite is used "to fix color."

2. Immediately prohibit the use of nitrate and nitrite in bacon products, and in meat products intended for babies. Because baby foods have a slow turnover and may remain on supermarket shelves for months, USDA should initiate seizure or recall actions for baby food products to which nitrite or nitrate has been added.

3. With respect to meat products not mentioned in (2), immediately convene a scientific panel of distinguished scientists to determine (a) the efficacy of nitrites in the prevention of botulism under ordinary meat processing conditions; (b) if efficacious, whether the use of nitrite as an anti-botulism agent in meat products is necessary, taking into account the availability of equally efficacious, less hazardous substitute additives or processes; and (c) if no such substitute exists, the smallest quantity of nitrate and nitrite that must be added to meat products in order to achieve the necessary anti-botulism effect in each such product.

4. With respect to meat products not mentioned in (2), require that all uses of nitrate and nitrite in meat products terminate as of September 1, 1972, unless such scientific panel determines that nitrite is efficacious in the prevention of botulism under ordinary meat processing conditions, and that no equally efficacious, less hazardous substitute additive or process is, or within a reasonable length of time can be made, available. In the event of such a determination, the Secretary shall immediately require that meat products not mentioned in (2) thereafter contain no more than the smallest quantity of nitrate and nitrite found by such panel to be necessary to prevent botulism in each such product.

5. To the extent that nitrate and nitrite are permitted for use in meat products, require (under Section 7 and other sections of the Act, and under Part 317 of the Regulations) that all meat products containing nitrate or nitrite bear an appropriate label designating the presence in the meat product of nitrate or nitrite.

A steadily accumulating body of scientific and other evidence establishes a number of propositions, which together constitute reasonable grounds for granting this petition. These propositions include the following:

(1) Nitrite, and nitrate, after reduction to nitrite, may combine with hemoglobin in the blood of children and certain susceptible adults to form methemoglobin, destroying the oxygen-carrying capacity of the blood.

(2) Nitrite, and nitrate, after reduction to nitrite, may cause the formation of nitrosamines through interaction with secondary and tertiary amines.

(3) Nitrosamines cause cancer in a wide variety of test animals, and there is a strong presumption that they are carcinogenic for man.

(4) Nitrosamines have been detected in hotdogs (up to 80 ppb), bacon (up to 106 ppb), dried beef, smoked fish, cured pork, and other meat products.

(5) Nitrosamine formation has been observed *in vivo* in some mammalian species, and there is a strong presumption that such formation can occur in man.

(6) The addition of nitrite and nitrate to meat products is responsible for the presence of nitrosamines in such products.

(7) No safe level of carcinogenic nitrosamines in meat products has been determined.

(8) Nitrites and nitrates in bacon and baby food meat products are used for cosmetic purposes only, i.e., to fix a red color in the product. There is no botulism danger from ingestion of these products and thus no justification for permitting the use therein of such dangerous substances.

(9) The United States Department of Agriculture (hereinafter "USDA") has failed to determine whether the levels of nitrite and nitrate added to meat products other than bacon and baby food meat products are in excess of amounts necessary to protect against botulism.

(10) Any benefits from the cosmetic uses of nitrite are greatly outweighed by the potential hazards of nitrosamine formation caused by nitrite.

(11) USDA's failure to identify nitrate and nitrite as ingredients of meat products on the product label violates both the Act and USDA's own Regulations thereunder.

Taken altogether, the evidence summarized herein in support of these propositions requires that USDA act promptly to grant the relief requested above.

I. *Petitioners*

Petitioner Harrison Wellford is a resident of Washington, D.C. and is a consumer of meat products. As a consultant to the Center for Study of Responsive Law, a nonprofit, tax-exempt organization engaged in public interest research, petitioner Wellford directed a task force studying USDA and has authored a book and several articles concerned with the activities and policies of USDA. Pursuant to these concerns, petitioner Wellford has also initiated several actions and proceedings within and against USDA.

Petitioner Marcy Schuck is a resident of Washington, D.C. and is a consumer of meat products. She is the mother of an infant son, Christopher Schuck, who is also a resident of Washington, D.C. and is a consumer of baby food meat products.

Petitioner Center for Science in the Public Interest is a non-profit, tax-exempt organization in Washington, D.C. engaged in public interest research on consumer and environmental problems.

II. *Authority for petition*

Petitioners are authorized to submit this petition and obtain a final order with respect thereto by Section 4(d) of the Administrative Procedures Act (5 U.S.C. Section 553 (e)), and 7 C.F.R. Section 1.28, which authorize an interested party to petition the Department for "the issuance, amendment or repeal of a rule."

III. *Other relevant proceedings*

A. The Petition to the Secretary of Health, Education and Welfare Concerning the Use of Nitrate and Nitrite in Foods and Drugs.

Soon after the filing of this petition, petitioners expect to file a petition (hereinafter "the HEW petition") with the Secretary of Health, Education and Welfare pursuant to Section 409(h) of the Food, Drug, and Cosmetic Act (21 U.S.C. Section 348(h)) and 21 C.F.R. Section 121.74, which authorize petitions for the amendment or repeal of food additive regulations issued pursuant to Section 409 of that Act.

The HEW petition will request that the Secretary of HEW restrict the use of nitrate and nitrite in food and drugs. The HEW petition will request that the use of nitrate or nitrite in food products be permitted only if and to the extent that (a) such substances are demonstrated to be actually necessary to prevent botulism contamination of such products, and (b) no equally efficacious, less hazardous substitute additive or process is, or within a reasonable time can be made, available.

B. Request for Information from USDA Relating to the Use of Nitrate and Nitrite in Meat Products.

On January 21, 1972, petitioner Wellford wrote to Dr. William J. Minor, Chief of the Products Standards Branch, Consumer and Marketing Science, USDA, requesting various information pertaining to the issues raised by this petition. No response has yet been received from USDA.

C. Recent Action Against Nitrate and Nitrite in Norway.

In November, 1971, the National Health Department of Norway banned the use of nitrate and nitrite as coloring agents in meat after experiments showed that small doses, when combined with other ingredients, can cause cancer in animal organs. The ban will not take effect until January 1, 1973, unless the meat industry by that time can establish that nitrite is necessary to prevent botulism. Norway, therefore, places the burden of proof as to the safety of nitrites on the meat industry.

IV. *Applicable laws*

Section 1(m)(1) of the Act defines an "adulterated" meat product as one which, *inter alia*, "bears or contains any poisonous or deleterious substance which may render it injurious to health; . . ." Under the Act, a product that is "adulterated" is, by reason of that fact, "misbranded" as well. (Section 1(n)(1)). Various other provisions of the Act (e.g., Sections 3, 5, 21), prohibit the introduction into interstate commerce of adulterated meat products, and require the Secretary of Agriculture to issue rules and regulations to prevent such introduction.

Section 318.7 of the Regulations authorizes the addition to cured meat products of 500 parts per million (ppm) of nitrate as a source of nitrite, and 200 ppm of nitrite in the finished product, to fix color. These are the only direct food additives uses of nitrate and nitrite authorized under the Act.

The Food, Drug and Cosmetic Act, 21 U.S.C. Section 301 et seq., is administered by HEW and regulates exclusively use of all food additives, including nitrate and nitrite, the only relevant exception being "any substance used in accordance with a sanction or approval granted prior to September 6, 1958 pursuant to . . . the Meat Inspection Act of March 4, 1907, as amended and extended." (Section 201(s)(4) of the Food, Drug & Cosmetic Act). Thus, any direct food additive use in meat products (a) of nitrate other than as a source of nitrite, and (b) of nitrite other than to fix color, cannot be authorized by USDA; such uses were not and are not sanctioned under the Meat Inspection Act, as amended and extended.

Section 1(n)(11) of the Act provides that a meat food product is "misbranded . . . if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: *Provided*, That, to the extent that compliance with the requirements of this subparagraph (11) is impracticable, exemptions shall be established by regulations promulgated by the Secretary." Various other provisions of the Act prohibit the introduction into interstate commerce of misbranded meat products, and require the Secretary to issue rules and regulations to prevent such introduction.

Section 301.2(ii)(11) of the Regulations similarly requires the labeling of artificial flavoring, artificial coloring, or chemical preservatives. And Section 317.2(j)(12) provides that "containers of other products packed in, bearing, or containing any chemical preservative shall bear a label stating that fact."

V. *The dangers to man of nitrate and nitrite*

The scientific evidence concerning the human health hazards associated with the use of nitrate and nitrite in the food supply is abundant and, for the most part, not controversial. This evidence clearly demonstrates that nitrate and nitrite have no place in the human food supply unless and only to the extent that they can be shown to be indispensable for the prevention of botulism.

A. Acute Effects.

Nitrates are relatively non-toxic to living systems (*Regulation of Food Additives and Medicated Animal Feeds:* Hearings Before Intergovernmental Relations Subcommittee of the House Committee on Government Operations, 92nd Congress, 1st Session, March 1971 (hereinafter "Fountain Subcommittee Hearings"), p. 12). They are of concern chiefly because they are a source of nitrites through conversion by means of bacteriological action in foods and in the human body. The following discussion, then, will be confined almost wholly to nitrites.

In the human body, nitrites react with hemoglobin to produce methemoglobin, a pigment suppressing the ability of red blood cells to carry oxygen. Theoretically, one gram of nitrite can convert up to approximately 1855 grams of hemoglobin to methemoglobin (*Fountain Subcommittee Hearings*, p. 212). Infants seem to be especially prone to this type of poisoning, and several deaths have been reported over the years from this source (*Fountain Subcommittee Hearings*, p. 12). In addition, there are many cases on record of death and serious acute effects from the misuse of nitrite in food. Dr. A. J. Lehman, former Director of FDA's Division of Pharmacology and Toxicology, has warned that "only a small margin of safety exists between the amount of nitrite that is safe and that which may be dangerous. The margin of safety is even more reduced when the smaller blood volume and the corresponding small quantity of hemoglobin in children is taken into account." (Dr. A. J. Lehman, "Nitrates and Nitrites in Meat Products," Association of Food and Drug Officials of the United States, Vol. XXII, No. 3, July, 1958) Dr. Lehman's statement was prompted by over a dozen cases of nitrite poisoning of children in 1955 and 1956.

The danger of methemoglobin formation from nitrite, while principally a health hazard to children, may also constitute a hazard to persons suffering from anemia and to fetuses during the latter stages of pregnancy when the fetal blood system has been established. (*Fountain Subcommittee Hearings*, pp. 145–146)

Baby food manufacturers insist that these chemicals are added to infant foods *only* to impart a red color to infant meat products. In a letter of January 11, 1971 to petitioner Jacobson, for example, Dr. Robert A. Stewart, Director of Research of Gerber's Baby Foods, stated:

"To reiterate, nitrite and nitrate are not food preservatives. They are not used for the purpose of destroying or controlling bacteria. They do cure meat by producing chemical changes resulting in the characteristic color and flavor of cured ham, bacon, etc."

In a letter of January 13, 1971 to petitioner Jacobson, Dr. I. J. Hutchings, General Manager of Research and Development for the Heinz Company, stated that Heinz does not add *any* nitrate or nitrite to baby foods:

"The Heinz Company does not add either sodium nitrate or nitrite to infant foods; and to the best of my knowledge, it is added to only limited items by other baby food manufacturers.

"When sodium nitrate and nitrite are added to infant foods, they are not used in the true sense of preservatives (i.e. to prevent bacteriological growth), but are present to preserve the color of certain meat varieties."

And in a letter of February 3, 1971 to petitioner Jacobson, Beech-Nut, Inc. indicated that it adds to its baby foods amounts of nitrate and nitrite too small to serve any purpose other than as a color fixative.

Under the circumstances, then, it is irresponsible for USDA to permit *any* nitrate or nitrite in baby foods. According to the Joint FAO/WHO Expert Committee on Food Additives, "Nitrate should on no account be added to baby foods" and "Food for babies should not contain added nitrite." (WHO Technical Report, Series No. 228, pp. 72, 75) Given the danger to fetuses, children, and others from methemoglobin formation, and given the danger from nitrosamine formation discussed below, the addition of nitrate or nitrite to such foods is clearly an "adulteration" within the meaning of the Act. Cosmetic considerations cannot be permitted to outweigh the human health hazards associated with the use of these substances in such foods.

B. Chronic Effects.

The danger of methemoglobin formation from nitrite ingestion is a hazard peculiar to infants and others with oxygen-carrying deficiencies in their blood. In addition, however, nitrites present serious chronic health hazards to *all* humans who eat meat products cured with nitrites or nitrates.

The scientific community is in universal agreement that nitrites under certain conditions, interact with secondary amines to form nitrosamines. (FDA, *Review on the Chemistry and Toxicology of Nitrates, and Nitroso Compounds (Nitrosamines) as of August 28, 1970*, reprinted in *Fountain Subcommittee Hearings*, p. 604). And it is equally undisputed that most nitrosamines tested are carcinogenic, and some highly so, to a wide variety of mammalian and non-mammalian species. According to Dr. William Lijinsky, a leading cancer researcher, nitrosamines "are among the most potent carcinogens we know and are certainly the most widely acting group of carcinogens." (*Fountain Subcommittee Hearings*, p. 132)

Nitrosamines cause cancer in a wide variety of species, including the rat, hamster, mouse, guinea pig, dog, and monkey. (P. N. Magee, "Toxicity of Nitrosamines: Their Possible Human Health Hazards," *Ed. Cosmet. Toxicol.*, vol. 9 (1971))

There appears to be no published report of any animal species that is resistant to carcinogenesis by these agents. (Magee, p. 215) Experiments with rats show that nitrosamines attack many different organs of the animals, including the lungs, liver, esophagus, and other sites. (Lijinsky and Epstein, "Nitrosamines as Environmental Carcinogens," *Nature*, vol. 225, No. 5227 (1970)) Recent studies on the toxicity of nitrosamines have concluded that they are a threat to human beings. Dr. P. N. Magee of England's Courtault Institute of Biochemistry warns that the nitroso compounds have "many of the properties that might be predicted for an environmental carcinogen to which man would be susceptible." (Magee, p. 215) A cancer researcher at Oak Ridge National Laboratory, Dr. William Lijinsky, and Dr. Samuel Epstein, Swetland Professor of Environmental Health and Human Ecology at Case Western Reserve Medical School, conclude that "nitrosamines seem to be a major candidate class of carcinogens that are likely to be casually related to human cancer in industrialized society." (Lijinsky & Epstein, p. 223) An FDA Status Report on the toxicology of nitrites and nitrosamines states that since nitrosamines "can induce tumors in a wide spectrum of experimental animals, including the non-human primate, these compounds may have a high potential for induction of neoplasia in man" (Reprinted at *Fountain Subcommittee Hearings*, p. 608)

Danger from human exposure to nitrosamines derives from two sources—their presence in human food and their formation in the body.

Nitrosamines have recently been found in many food products, including frankfurters in amounts up to 80 ppb, in bacon (*after* frying) up to 106 ppb, in dried beef and cured pork products up to 48 ppb, in ham up to 5 ppb, and in fish up to 26 ppb. (Memo to file of September 13, 1971 by Dr. Harry Mussman, Director of Laboratory Services, USDA; Joint USDA–HEW press release of February 5, 1972; *Fountain Subcommittee Hearings*, p. 619). Since a limited sampling program for nitrosamines has only recently been inaugurated by USDA, these findings are suggestive of significant contamination of the food supply with highly carcinogenic nitrosamines.

In addition to exposure from the formation of nitrosamines in food, there is also the distinct possibility of human exposure from the formation of nitrosamines in the human stomach. Nitrosamine formation from the interaction of nitrites and secondary amines is favored by the acid conditions of the mammalian stomach. (Magee, p. 214) This reaction has been established *in vitro* in cats, rabbits, dogs, and man, and it has been established *in vivo* in cats and rabbits, species whose gastric juices are similar in pH to man. (Magee, p. 214) The presence of nitrosodiphenylamine was found in the stomachs of 31 human subjects given a combination of nitrate and a secondary amine. (Magee, p. 215)

The pervasiveness of secondary amines in foods, alcohol, tobacco smoke and other common substances, and the possibility of their interaction with nitrite added to food under pH conditions prevailing in the human stomach, have caused Drs. Lijinsky and Epstein to conclude: "*In vivo* formation of nitrosamines from ingested nitrite and certain secondary amines is potentially a serious problem, especially because nitrosamines are possibly more significant in human cancer in industrialized society than are polynuclear compounds, azo dyes or aflatoxins." (Lijinsky & Epstein, p. 23)

The great weight of scientific opinion holds that chronic exposure to carcinogens such as nitrosamines, even in the amounts to which humans are likely to be exposed, constitutes a grave risk to human health. (Report to the Surgeon General, USPHS, April 22, 1970 by Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens, National Cancer Institute; Lijinsky and Epstein)

According to Dr. Lijinsky, "Nitrosamines . . . seem to be most effective in eliciting tumors when they are applied as small doses over a long period, rather than as large single doses. These are precisely the conditions under which we would be exposed to nitrosamines if they are, indeed, formed by interaction of amines with nitrites in our diet." (*Fountain Subcommittee Hearings*, p. 132)

Nitrosamines produce cancer of the liver in rats at dietary levels as low as 2 parts per million, the lowest levels tested. The FDA Status Report noted that "because of these multiple observations on carcinogenicity in experimental animals and since low levels (2 ppm) of dimethylnitrosamine produced malignant aumors in the rat, a 'no effect' level for this formed compound has not been established." (*Fountain Subcommittee Hearings*, p. 608)

The Food, Drug and Cosmetic Act, including the Food Additive Amendment of 1958, 21 U.S.C. Section 348, not only places the burden of proof of food additive safety on the food manufacturers, but provides in the Delaney Clause that no additive shall be deemed to be safe if it is found to induce cancer in man or animal. (Section 348(c)(c)(3)(A))

It is only because of a quirk in the law—namely, that USDA approved nitrate and nitrite as curing agents under the Meat Inspection Act prior to the passage of the 1958 Amendments—that their use in meat is not subject to the Food, Drug and Cosmetic Act, including the Delaney Clause. The same standard of safety, however, should apply.

Under the standard imposed by the Delaney Clause, the use of nitrate and nitrite in meat or meat food products would clearly be pro-

hibited. Dr. Virgil Wodicka, Director of FDA's Bureau of Foods, recognized this fact in testimony before the Fountain Subcommittee at a time when nitrosamines had not yet been found in foods:

"If it were demonstrated that the nitrites added to meat or fish produced nitrosamines in the meat or fish and those nitrosamines were then consumed, this could not be permitted under the Delaney amendment. (p. 540)

"We could not permit the use of nitrites if it led to the formation of nitrosamines in food. (p. 541)"

And another FDA official, Dr. Ramsey, stated in 1971 that in view of the suspected hazards from nitrosamine formation, it would be "impossible" for FDA to approve the present level of nitrite if the compound had just been discovered (cited in *Chemicals and the Future of Man:* Hearings Before the Subcommittee on Executive Reorganization and Government Research of the Senate Committee on Government Operations, 92nd Congress, 1st Session, April 1971 (hereinafter "Ribicoff Subcommittee Hearings"), p. 54)

While no cases of human cancer have definitely been traced to exposure to nitrosamines, cancer researchers stress that this is *not* a basis for assuming that there is no such danger, particularly in view of the crudity and lack of specificity of epidemiological data. Indeed, there is wide agreement among such scientists that *any* unnecessary exposure to a carcinogen constitutes a health risk for man. A National Cancer Institute Committee recently reported to the Surgeon General that "any substance which is shown conclusively to cause tumors in animals should be considered carcinogenic and therefore a potential cancer hazard for man. . . . It is essential to recognize that no level of exposure to a carcinogenic substance, however low it may be, can be considered to be a 'safe' level for man." For these reasons, some scientists predict that "reduction of human exposure to nitrites and certain secondary amines, particularly in foods, may result in a decrease in the incidence of human cancer." (Lijinsky & Epstein, p. 23)

It is clear, then, that the human health dangers from nitrate and nitrite use in meat products, while not quantifiable, are significant and perhaps irreversible. Apart from the cosmetic efficacy of nitrate and nitrite, however, only one benefit from such use has even been suggested—the prevention of botulism—and the anti-botulism effects of these chemicals with respect to most cured meat products are either non-existent or highly questionable.

### The Botulism Hazard

There is evidence that in meat products the botulism danger is limited to hermetically sealed, shelf-stable, cured meat products which do not require further cooking before eating. The spores of *Clostridium botulinum* are extremely rare in meat. (R. Greenberg *et al., Appl. Microbiol.,* 14:789, 1966; *Fountain Subcommittee Hearings,* p. 236) In the rare event that they are present, the following conditions help determine whether they produce the toxins which cause human illness:

(1) there must be an anerobic (oxygen-free) environment in or around the meat product for the spores to exist and multiply.

(2) cooking meat at temperatures above 250 degrees F. for 2.7 minutes kills the spores, and cooking at temperatures above 176 degrees F. for 15 minutes or less kills the toxins produced by the spores. (G. M. Dack, *Food Poisoning,* 3rd ed., Univ. of Chicago Press, 1956, pp. 102–103) At boiling temperature (212 degrees F.), the toxins would be killed even sooner.

(3) Types A and B botulism, the types commonly found in meat, will not multiply and produce toxins when meat is refrigerated at temperatures below 40 degrees F.

The following meat products carry no botulism hazard and therefore can be immediately cleansed of nitrate without increasing the risks of food poisoning:

(1) *bacon:* USDA officials have stated publicly that bacon poses no botulism hazard whatsoever. According to Mr. R. Paul Elliott, Chief of USDA's Chemistry and Microbiology Branch, "Bacon . . . which is always heated thoroughly, could not, under any circumstances become a hazard from botulism." (*Fountain Subcommittee Hearings,* p. 262) Nevertheless, nitrite is added to bacon to fix its red color and enhance flavor without any identification on the product label. Highly carcinogenic nitrosamines have recently been found in bacon in amounts up to 106 ppb *after* it had been fried. Since botulism poses no hazard in bacon, the use of nitrate and nitrite in bacon should be suspended immediately.

(2) *baby foods containing cured meat products:* Baby foods are sterilized by heat processing above 250 degrees in hermetically sealed containers. This process kills any *botulinum* spores and toxins which may be present. According to statements from Gerber, Swift, Beech-Nut and Heinz officials, nitrites are used in baby foods to fix their color and enhance their taste, not to destroy or control bacteria. Because there is no botulism danger, the Heinz Company felt no need to add *any* nitrite or nitrate to its infant foods. Gerber, Beech-Nut, and Swift, on the other hand, added nitrites to some of their baby food meat products, but for cosmetic purposes only. Since botulism does not exist as a hazard in these products and since any added nitrite or nitrate increase the risks of carcinogenic nitrosamine formation, the use of nitrite and nitrate in these products should be suspended immediately.

The extent, if any, of the botulism hazard in frankfurters has not been definitely determined, but the available evidence strongly suggests that no such hazard exists. There is some doubt whether the permeable skinned frankfurter possesses the anerobic environment necesary for the survival of *Clostridium botulinum.* Second, since frankfurters are refrigerated, any spores of botulism present would be unlikely to multiply and produce toxins. Third, since frankfurters are cooked before eating, any toxins present would almost certainly be killed before consumption. USDA officials have publicly stated that "any food that must be cooked [before eating] will not be a hazard from botulism from any toxin formed before cooking, because the toxin is easily destroyed by heat." (*Fountain Subcommittee Hearings,* p. 262).

Fourth, at least one company already markets a frankfurter devoid of nitrate, nitrite, or any other chemical preservative. The Maple Crest Sausage Company of Rochester, New York has sold a frozen nitrite-free, preservative-free frankfurter for several years. Consumers Cooperative is planning to market a similar product soon in the Washington, D.C. area. And Giant Foods, a large retail chain, plans to market a non-frozen frankfurter free of chemical preservatives.

It is noteworthy that USDA imposes no *minimum* nitrate or nitrite level requirement on frankfurters or other meat products. If nitrate or nitrite were necessary to prevent botulism, USDA would have to insure that sufficient levels of these substances were present. In testimony before the Fountain Subcommittee in 1971, the following exchange occurred between Dr. Goldhammer of the Subcommittee staff and Mr. Elliott of USDA (*Fountain Subcommittee Hearings,* p. 237):

Mr. GOLDHAMMER. The question I asked was, do you not have a minimum nitrite content declared in your regulation, because below that minimum you may not have preservation? Just as the FDA had to do in connection with the chubs.

Mr. ELLIOTT. You are quite right. It is a very good point.

The absence of such minima, the absence of even a single reported outbreak of botulism since at least 1950 attributable to meat or poultry to which nitrites were not added (*Fountain Subcommittee Hearings,* pp. 383–88), together with the nitrite-related human health hazards documented above, require that a heavy burden of proving the existence of an anti-botulism effect from nitrite rest on those seeking to justify its use.

It therefore appears that the botulism risk in frankfurters, if it exists at all, is exceedingly remote, and that alternative processing methods to prevent botulism are available. The frankfurter is the nation's most popular processed meat product; billions are consumed each year. It is a special favorite of children. Any addition of nitrate or nitrite which is not necessary to protect against botulism creates particularly high risks in these products. Therefore, the use of nitrites in frankfurters should be suspended, unless scientific data is produced within six months (a reasonable period for the development of such data) demonstrating that there is a botulism hazard in frankfurters and that nitrite, in strictly specified amounts, is necessary to protect against it.

### *VI. Prayer for Relief*

For the reasons set forth above, petitioners request that the Secretary grant the relief set forth on pages 1 and 2 of this Petition.

Respectfully submitted,

PETER H. SCHUCK,
*Attorney for Petitioners.*

February 9, 1972.

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## THE BUSING OF SCHOOLCHILDREN

## HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. CORMAN. Mr. Speaker, the busing of children to school as a means to carry out the Supreme Court's decision that segregated schools are unconstitutional has become the subject of great debate. Various legislative proposals are being offered in Congress. Some would take the country back to the appalling days of the "separate but equal" principle. Some would have the Congress offer to the States for ratification a constitutional amendment that would destroy the past 17 years' efforts—admittedly a slow pace—to fully make the "equal protection" clause of the 14th amendment a right for all our citizens, our black schoolchildren included.

The debate has become highly controversial, both in Congress and throughout the country. It has, in one instance, become the overriding issue in the Florida presidential primary where an anti-busing referendum is included on the March 14 ballot. It has, in another instance, caused a black citizen—and others like him, I am sure—the pain of looking back on his own school experience, and of looking ahead as to what may be in store for his children.

Mr. Speaker, two articles, which touched me deeply, appeared in the Washington Post of yesterday and today, and I ask that they be reprinted at this point in the RECORD In one, Governor Askew of Florida reflects on the need for sober thought in the matter of the

referendum. In the other, Roger Wilkins, a Washington attorney and nephew of Roy Wilkins, reflects about the choices offered to his children. His very telling conclusion, that "People do not learn to function very well in multiracial societies when they do all their learning in uniracial schools," is serious food for thought.

I comment these two articles to my colleagues with the hope that the messages they contain will not be lost in the heat of the ongoing debate.

The articles follow:

[From the Washington Post, March 1, 1972]

UNHAPPY MEMORY AND A HOPEFUL PRESENT: A BLACK PARENT LOOKS IN TWO DIRECTIONS AT BUSING

(By Roger Wilkins)

Blacks who can remember being bused for the maintenance of segregation find the current heated debate over busing both bemusing and infuriating. We feel the same way about politicians and pundits who seem sure they know that black parents don't want busing any more than white parents do. It puts one in mind of the old white Southerners who used to assure Northerners that, "our darkies are happy down here," and would then trot one out to prove it.

Well, this one's not very happy about the whole busing debate. My first educational experience was in a one room segregated school in Kansas City, Mo., where I was allowed to come and sit in the back of the room at the age of four because all my older friends were there. The next year, that school was closed and my friends and I were bused many miles to a black school in a blacker part of town. Apart from a keen daily sense that the whites were terribly selfish for hogging the newer and prettier school near our homes, I remember the bus rides as generally convivial and sometimes pretty hilarious. My next stop was Harlem where you learned a lot if you were in an upper track and paid for it with lumps dealt out in the school yard or in the street by resentful lower trackers.

And then on to high school in a midwestern city. If I wasn't the first black in the school, I was the only "one" there then and my family and I were the only "ones" in the neighborhood. In the classroom it was fine with the algebra and the English, but on the street it was tougher than Harlem. Somebody always seemed to have had to clear a clogged throat right on the furry cover of my bicycle seat. Rather than face the humiliation of cleaning it off in view of the passing crowds thronging out of the school, I would often ride home standing up and sometimes through a gantlet of stones, apple cores and teen-age racial epithets.

But it turned out all right. I learned enough in that school to get into college. And I learned some other things too. Things I couldn't have learned in my Kansas City schools nor in my Harlem schools. They were things about white people and things about myself. I learned that whites are not the superior people they were made out to be. Some of them were smarter than I and some not as smart. Some could pump in baskets from the corner better than I and some couldn't make the team at all. And eventually, over time, I came to learn that they and I could deal in human terms across racial lines. And they learned things from me, too, about blacks that they could never have learned in an all white school. Yesterday's coon turned out to be a contemporary kid and tomorrow's man. Though it hurt me a lot in the beginning, it was worth it—for all of us. People don't learn to function very well in multiracial societies when they do all their learning in uniracial schools.

My mother's judgments about my education were based partially on the circumstances of her life and partially on her desire that her child receive the best education her resources could provide. She did not seek an all white high school for me, but she was certainly not displeased that the one I attended was the best school in town. She knew to a moral certainty that she didn't want her son to be an illiterate or an emotional cripple hobbling through the last five or six decades of his life. She figured that knowing how to read was essential, but that learning something about white people was useful too. Inadvertently, I suspect, her decision helped a lot of white kids too.

The choice, then, is not to bus or not to bus, but to teach children to read and to live among the wide variety of people with whom they will spend their lives. We can either integrate—sometimes using buses as a tool—or we can choose to create a future generation of cripples, savages and bigots.

Years after my mother had made her choices for me, I had to begin thinking about the same kind of choices for my own children. When it became clear by my daughter's fourth year in a largely black school that she was reading at least two years below grade level, my wife and I took her out of her neighborhood school, and put her on a bus headed for a much better school ten miles from home, which also happened to be integrated. When my son became five, he joined his sister on that same bus headed for the same integrated school where they could learn in a gentler way than I had two decades earlier how to live in an integrated world. They both began to read. And that was the essential point.

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[From the Washington Post, Feb. 29, 1972]

FOR THE RECORD—FLORIDA'S GOVERNOR TAKES A STAND ON BUSING

On March 14, Florida voters will be asked on their primary ballot whether they favor an amendment to the U.S. Constitution outlawing "forced busing" of school children. Last week, in a speech at the opening of the Central Florida State Fair in Orlando, Governor Reubin Askew, a Democrat, urged voters to reject the proposal and to support a companion question on the ballot affirming equal educational opportunity and rejecting a "return to the old dual school system." What follows are excerpts from that speech:

I come before you today to say a few things with which you may disagree, a few things which are decidedly unpopular, but a few things which I feel must be said in the interest of Florida and her people—all of them . . .

I strongly oppose a constitutional amendment to outlaw busing—not because I particularly like it or think it's a panacea for our problems . . . Busing is an artificial and inadequate instrument of change. It should be abandoned just as soon as we can afford to do so . . .

Yet by the use of busing and other methods, we've made real progress in dismantling a dual system of public schools in Florida. And I submit that until we find alternative ways of providing an equal opportunity for quality education for all . . . until we can be sure that an end to busing won't lead to a return of segregated public schools . . . until we have those assurances, we must not unduly limit ourselves, and certainly not constitutionally.

We must not take the risk of seriously undermining the spirit of the Constitution, one of the noblest documents ever produced by man. And we must not take the risk of returning to the kind of segregation, fear and misunderstanding which produced the very problem that led to busing in the first place.

I certainly hope that the overwhelming majority of Floridians are committed to the goal which busing was designed to pursue. That goal is to put this divisive and self-defeating issue of race behind us once and for all . . .

I think we're well within reach of understanding one another, caring for one another and affirming our principles of justice and compassion which made this country what it is today. How sad it will be if we turn back now—not only for minority children—but for all of us.

Of course we don't want our children to suffer unnecessary hardships. That goes without saying. But neither do we want our children to grow up into a world of continuing racial discord, racial hatred and, finally, a world of racial violence . . .

It is my hope that we're moving beyond racial appeals here in Florida and in the rest of the South as well. I say it's time we told the rest of the nation that we aren't caught up in the mania to stop busing at any cost, that we're trying to mature politically down here, that we know the real issues when we see them, and that we no longer will be fooled, frightened and divided against ourselves . . .

I hope we can say to those who would keep us angry, confused and divided that we're more concerned about a problem of justice than about a problem of transportation, and that while we're determined to solve both, we're going to take justice.

It is not my intention to impose my will on anyone. But it is my intention to give the people of Florida cause for sober reflection, so that they're sure—very sure—before they encourage an amendment to the United States Constitution, one that for the very first time, I believe, would seek to reverse our efforts to make that great document a living testimony to the pursuit of liberty, freedom and justice—for all.

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## HOW TO GROW A PATRIOT

### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. GAYDOS. Mr. Speaker, I came upon an advertisement in the February 21 issue of Industry Week magazine which I think should be of interest to my colleagues and to all Americans.

It was placed in the magazine by Davi-Callihan, Inc., an advertising-public relations-marketing communications firm in New York. Nothing more need be said about the ad—it is self-explanatory, but I offer my congratulations to Davi-Callihan, Inc. for calling attention to something our country needs most desperately.

American patriotism is one thing which absolutely cannot be manufactured abroad and imported here. We must produce it ourselves.

HOW TO GROW A PATRIOT

A patriot is a person who loves his country, supports his country, and defends his country.

Patriots are great to have around when the going gets rough.

So let's all go out and find some patriots.

Unfortunately, it's not that easy.

You can't take a pill and become a patriot.

You can't stamp patriots out of an assembly line, like tanks, or planes or guns.

You can't legislate patriotism, it turns the kids off.

You also can't expect our schools, or our churches, or the government itself to mold our patriots.

At least it isn't working out that way.

Patriotism, it seems to us, is something that needs to be passed along from one generation to the next.

In the home.

By the folks who are in the best position to do the job.

The Mothers, and the Fathers, and the next of kin.

Unfortunately, this isn't what's been happening.

Those of us who fall into this category have relegated the job of growing our patriots to people who aren't getting the job done.

And time is running out.

So maybe the time has come, to put some patriotism into our parenthood.

First, find a young American, someone about 8 or 10, your son, or grandson, or the boy next door will do.

Next, clear up any misconceptions he might have about demanding his freedom without working for it.

Make sure he learns why it was that Great Grandpa came over here in the first place.

What he had to do to survive once he cleared Ellis Island.

And how he felt about America the day his paper came through.

Let him know how you feel when the flag goes by.

Why you didn't skip town when the chips were down, in 42, 51 or 63.

And why you wouldn't now, even though you might not always agree with your Uncle Sam.

Let him be aware of how we've had to earn our freedom over and over again.

And, while we might not relish the task, why we will likely have to do the job more than once again in the years ahead.

You might suggest to him the things you believe made America great.

Things like pride and ambition, the willingness to work hard and run lean.

Encourage him not to be afraid to compete.

To be resourceful and inventive.

And to turn in an honest day's work for a fair day's pay.

And then remind him why we can't let mobs or men with dishonest intentions run our country, and why his special talents will be needed more than ever before.

If we are to win the peace that follows the war, and keep America number one.

Why do these things?

Well, the Ben Franklins and the Tom Paines, and the Nathan Hales frankly don't always come along exactly when we seem to need them the most.

Sometimes patriots are in short supply.

So maybe we ought to help show our young people the way.

The way to get fired up about the country we live in.

The United States of America.

And if we do the showing, who knows?

Maybe someday, somewhere in this world, when your young man is asked where he comes from, or what he stands for, he won't fumble for an answer, or hang his head in shame.

He'll stand firm, hold his head high, and say, "I'm an American."

"From the land of the free, and the home of the brave."

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## SICKLE CELL AND COOLEY'S ANEMIAS

### HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. GIAIMO. Mr. Speaker, this Congress is about to embark on a program authorizing Federal funds for medical research and screening programs intended to assist the victims of sickle cell anemia, their parents and the millions of as yet unborn children who may have the disease. This important legislation has my support.

The Congress should be aware, however, that sickle cell anemia is only one of two major genetic blood disorders which are common in America. The other one is known as Cooley's anemia, and although Cooley's bears a categorical resemblance to sickle cell—in that they are both disorders of the blood's hemoglobin, transmitted genetically—there are also distinct differences.

It is certain that most Members of the Congress have heard of sickle cell anemia, and equally certain that they have not heard of Cooley's anemia. That is only natural, given the enormous public education that has taken place concerning sickle cell anemia during the past few years. It is only recently, moreover, that a national voluntary self-help organization, the Cooley's Anemia Blood and Research Foundation, has begun to bring together patients with that disease in an effort to help them and their parents cope with its many consequences.

Unfortunately, this lack of information extends even into the Government. During subcommittee consideration of the sickle cell anemia bill—to cite one example of that lack of information—the subcommittee was led to believe that these two diseases are identical, and that funds authorized for screening and research programs in sickle cell anemia would also be used to investigate Cooley's anemia. This, of course, is not true, and subsequently HEW spokesmen notified the subcommittee that Cooley's anemia was, indeed, a distinct disease.

The damage was done through that misunderstanding, and this Congress may soon be considering a bill that goes only half way toward providing research and screening funds for a particular class of diseases—the common genetically transmitted hemoglobin disorders.

So that Members of this body will have appropriate information available during consideration of that bill, I have constructed a series of questions and answers comparing and contrasting sickle cell and Cooley's anemias. Information for this series of questions comes both from material supplied by the Cooley's Anemia Blood and Research Foundation, and from the standard text of physicians, Harrison's "Principles of Internal Medicine," fifth edition.

Question 1. What groups are affected by these diseases?

Answer. In both diseases there are so-called major and minor forms, depending on whether the individual has inherited half or all of the genetic "code" for defective hemoglobin synthesis.

The severe form of sickle cell is found in one of every 600 black Americans, according to Harrison. Widespread screening programs have detected the genetic trait—one half of the genetic compliment, leading to a far less serious illness if any, in nine percent of U.S. blacks.

Cooley's anemia—the severe form, also known as Thalassemia or Mediterranean anemia—is found in one of every 1,000 American children born of parents whose ancestors were natives of countries surrounding the Mediterreanean Sea. Those children are of predominantly Greek and Italian origin, but because of widespread intermarriage the severe disease is also encountered among children of Irish, Scandinavian, Jewish, Oriental, and Turkish descent. Widespread screening programs have not been performed because, in contrast of sickle cell anemia, inexpensive methods for detection of the Cooley's genetic trait are only now being developed. In tests using the older, more expensive screening method, however, some Italian-American communities showed existence of the genetic trait in as many as 20 percent of the children.

Question 2. What is the treatment of this disease?

Answer. In both inherited blood disorders, the only known treatment is what physicians refer to as "supportive therapy," that is, attempting to alleviate the suffering that comes from pathologic side effects of the basic disease. Cooley's children, from the first year of life, receive frequent blood transfusions to correct their anemia, and suffer in addition malformed bone development leading to brittle, easily broken bones and alterations in facial appearance. In both cases, there is no known treatment for the basic disease process—it is palliative, as in the care of terminal cancer patients.

Question 3. What is the outlook for children with this disease?

Answer. In both diseases, the severe form—with both defective genetic components inherited—can be fatal, and is invariably so, in Cooley's anemia. Cooley's anemia patients are now living longer, but not as long as most sickle cell patients.

It is evident from this material that there is much in common suffered by patients with the severe forms of both sickle cell anemia and Cooley's anemia. Most importantly, there is a need in both diseases—since they are the two commonly found inherited hemoglobin disorders in the United States—for public and Federal support for medical research and for screening programs to detect those parents whose children may have the disease.

We should not, as a Congress, isolate one particular kind of genetic blood disorder for that Federal attention when there are only two—not tens or hundreds—such severe diseases commonly found in this country. To do so would be equivalent to instructing the National Cancer Institute to investigate one kind of cancer without investigating the other, with, in the case of sickle cell and Cooley's anemia, the added overtone that one kind of disease occurs in one ethnic group, and the second in another, although both are found across the nation.

I have provided this information in preparation for congressional consideration of the sickle cell bill, with hopes that both sickle cell sufferers and patients with Cooley's anemia—as well as the millions of unborn children who will have one or the other disease, and their parents who suffer protracted heartache and medical bills—may look

to the Federal Government to provide the research and detection funds which are a legitimate public expense.

## THE STAKE IN FARMING

### HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. OBEY. Mr. Speaker, Senator GAYLORD NELSON, my Wisconsin colleague has sponsored the Family Farm Act of 1972. Congressman JAMES ABOUREZK, of South Dakota, has coauthored the same legislation in the House and I have joined him in his efforts.

The act is designed to protect the family farm in America by restoring competition to the agriculture industry. Not many urban-oriented newspapers really pay much attention today to what is happening on our farms and that is why I was especially pleased to see in last Saturday's Washington Post a noteworthy article by Clayton Fritchey.

I commend it to my colleagues, and I commend Senator NELSON and Congressman ABOUREZK for their leadership in this little publicized effort of national importance.

The article follows:

THE STAKE IN FARMING

(By Clayton Fritchey)

Generally speaking, farm news and farm legislation are of little interest to urban dwellers, but there is a new agricultural bill in Congress that everybody has a stake in, for it concerns the protection of small business, the overcrowding of cities, enlarged welfare rolls and the pocketbooks of all consumers.

It is the family farm bill of 1972, a proposal which finally puts it up to the people of this country, through their Congress, to make a conscious decision on whether to save the small family farm or let it be wiped out altogether.

The new legislation, sponsored jointly by Sen. Gaylord Nelson (D-Wis.) and Rep. James Abourezk (D-S.D.), is not just another farm bill involving subsidies, price supports, acreage allotment and so forth. Instead, it is addressed to the entire country. It would make it "national policy to restore competition to the agricultural industry and to provide for the continuance of the family farm." If this policy is adopted, it will be only in the nick of time. Since World War II, the number of farms in America has declined from 5.9 million to 2.9 million. If the trend is not arrested, the total will drop below 2 million in a few more years, for every week over 2,000 farms are being sold to large owners, who now control 24 percent of the market and gross an average $270,000 annually.

The new Secretary of Agriculture, Earl Butz, is himself an apostle of big farming, but over the years politics has not been much of a factor in the trend. During the Eisenhower years the number of farms dwindled by 28 per cent. Under Presidents Kennedy and Johnson there was a further drop of 33 per cent. So far, under President Nixon, there has been another reduction of 10 per cent.

Last year, 226,000 large farms, comprising only 8 percent of the total number, received 55 percent of the cash receipts from farm marketings. In California alone nearly half of the agricultural land—3.7 million acres—is owned by corporate firms.

"Farmer Jones and farmer Smith," says Sen. Adlai Stevenson III (D-Ill.), "are being displaced all over America by newcomers to the farms with names like Tenneco, Gulf and Western, Goodyear, Monsanto, Union Carbide, Kaiser, Boeing and Dow Chemical."

It's the invasion of the corporate conglomerates that has spurred Sen. Nelson and Rep. Abourezk to action. Their bill would force corporations owning more than $3 million in nonfarm enterprises to divest themselves of any lands used for agriculture. It's not a complete panacea but it's a big first step.

Nothing is more frustrating, says Rep. Abourezk, "than watching hard-working farm and ranch people forced off the land to add to the problems of congestion and unemployment in the cities." Moreover, he adds: "Not only do conglomerates threaten the existence of small-unit farmers and ranchers who produce food solely for a living, but if they are allowed to become a significant factor in food production nationally, they will certainly adversely affect consumer prices. It's in the interest of people living in New York City as well as in South Dakota to keep family farms economically healthy."

Secretary Butz seems to think the trend toward ever larger farms, along with more corporate ownership, is inevitable and associated with progress. Nevertheless, it has been pointed out that the rapid mechanization of Southern agriculture, for instance, did not release thousands of marginal farmers and sharecroppers to do more useful work, as claimed, but simply lift them to idle on welfare rolls in urban slums or to half starve in rural slums.

It's the rural poor, like the urban poor, who feel the pinch. Last year the Department of Agriculture reported that 23 big farm operators got federal subsidies of $500,000 or more in 1970. Nine got $1 million or more, and one operator got over $4 million. On the other hand, a million low-income farmers averaged less than $400 a year in subsidies.

Small towns which live by serving farmers are also suffering. It is estimated that one small-town businessman has gone under for every six farmers who abandon farming. Don Paarlberg, the top economist for the Agriculture Department, sums up the dilemma this way:

"We now supply ourselves with food—the best diet ever, anywhere—with something less than 17 percent of our income. If we stay with the family farm and improve its efficiency, the percentage of income spent for food will go still lower. . . . Should we sacrifice a form of agricultural production that has served us well, that has produced good people as well as good crops? I believe this to be the major farm policy issue of the decade ahead.

## MIZELL CALLS FOR QUALITY EDUCATION WITHOUT "THE MADNESS OF BUSING"

### HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. MIZELL. Mr. Speaker, on Monday of this week, I was privileged to appear as one of the first witnesses testifying in the House Judiciary Committee's hearings on antibusing legislation.

As my colleagues know, I have taken an active part in this issue since almost the first day I entered this Chamber 3 years ago.

I first introduced a Nondiscriminatory Education Act designed to preserve the neighborhood-school concept, but a succession of Federal court decisions convinced me some 10 months ago that only a constitutional amendment could restore reason to public education in America by prohibiting the assignment of students to public schools on the basis of race and thus eliminating the need for massive crosstown busing.

That amendment, introduced last April 29, states:

No public school student shall, because of his race, creed or color, be assigned to or required to attend a particular school.

This week, before the House Judiciary Subcommittee conducting these hearings, I explained my reasons for having introduced this amendment and urged the committee to act favorably and quickly on this measure, bringing it to the floor for a vote by the full membership of the House.

I believe my colleagues will be interested in the testimony I gave the Judiciary Subcommittee, Mr. Speaker, and I include the text of my remarks in the RECORD at this time:

TESTIMONY OF HONORABLE WILMER MIZELL

Mr. Chairman, I am very grateful to you and the members of this committee for this opportunity to testify on the first day of the committee's hearings on legislation related to the busing of school children to achieve racial balance.

The issue of busing is one that has raised the passions of the American people to feverish levels in the past several months, and it stands today as perhaps the single most controversial and hotly-debated issue in American political and social life.

I fervently hope that these hearings which begin today will be conducted in a spirit of rationality, objectivity and genuine concern. For my part, since I am among the first witnesses to testify, I will try to help set a general tone of calmness, reason and accuracy which hopefully will characterize the entirety of these hearings.

Let me say at the outset that the vast majority of us who speak in opposition to crossbusing do not speak as the echoes of past voices preaching "segregation forever" or "white supremacy" or other slogans of racial hatred and prejudice. Thank goodness, we as a Nation and as a people have come farther than that.

Certainly, these strident voices can still be heard, but they are not to be heeded by reasonable men and women. We have heard them before, and no doubt we shall hear them again, but I don't believe those voices that would divide us have any influence on the great majority of Americans today.

Discrimination has no place in our society, and its presence in the educational process, and its impact on our pursuit of quality education for all our children, are of great concern to me, and to this committee, and to millions of Americans today.

Let us first try to agree on what would constitute the absence of discrimination in our public school systems.

The foundation for this concept would be a commitment to provide the best possible education for every American child, whether his skin is black, white, brown, yellow or red.

That basic commitment would entail an additional commitment to open door policies in our schools, allowing parents to send their children to the schools of their choice.

Experience and common sense tell us that most parents, and their children, would prefer the neighborhood school, where the opportunity is greatest for a rewarding educational experience.

The closeness to home, the association with friends, the familiar surroundings of one's own neighborhood—any educator would certainly agree that these conditions are conducive to learning, especially where grade school age children are concerned.

But commitment to the neighborhood school concept is not enough, either. A further commitment is required, insuring that every school in every neighborhood, whether in the inner city, or in the suburb, or in the countryside, is adequately equipped, that the facilities are kept in good repair, that the teachers are adequately paid and fully qualified, that an equitable amount of public funds is spent on each child, regardless of his race, and that each child is given every possible opportunity to learn as much and as rapidly as he can.

I think we can agree that the fulfillment of these commitments would constitute the absence of discrimination, and just as important, would greatly contribute to quality education.

What, then, would work to the detriment of quality education?

First, a discriminatory policy which prevents children of one race or several races from enjoying the same educational opportunities as those enjoyed by children of another race. The courts have correctly struck down such policies.

But there is another policy; just as detrimental, that has gained great favor in the eyes of the courts, and that is the policy of establishing arbitrary racial balance for pupil assignment. This policy is based on the assumption that until these balances are reached, educational quality will be impaired or impossible, regardless of any other consideration.

But to say that a black child cannot learn unless he is in the company of a white child, or to say that a white teacher is automatically better qualified than a black teacher is the most profound kind of racism there is, and it is the kind the courts are perpetuating today.

This policy of racial assignment almost always involves a program of massive transportation designed specifically to enable a school system to achieve those arbitrary balances.

In Winston-Salem, North Carolina, this program involves putting a grade school child on a bus for more than an hour, and taking him 15 to 20 miles away from his home to go to a school where he has no friends, in a neighborhood completely foreign to him.

And in Winston-Salem, the problems of disruption are compounded by a system, just imposed this year, providing for a change of school every two years after the fourth grade, eliminating any hope of stability and any concept of school pride so important to a young person.

Mr. Chairman, I cannot conceive of a plan any less conducive to quality education or more discriminating against all children than the one I have just described. But in the past several months, Federal Courts throughout America have demanded that just such plans be implemented in the name of quality education and nondiscrimination.

Citing again the case of Winston-Salem, the largest city in the fifth district of North Carolina, which I am proud to represent, 32,220 of the school system's 44,000 students are riding buses this year. About two-thirds of them are being bused because they live beyond walking distance of a school, but more than one-third—more than 11,000 children—are being bused solely to achieve court-required racial balance.

One hundred fifty-seven new buses were required to implement that order. Each of those buses cost $6,300 to buy, and it costs $1,600 a year to maintain them, without mentioning the additional costs in bus drivers' salaries. The superintendent of schools there has told me that this massive busing program now requires an operating budget, of $1.4 million. That figure represents almost exactly a 100 percent increase in transportation costs over last year.

In Charlotte, North Carolina, the city directly involved in the Supreme Court busing decision of last April, the busing program costs almost $800,000 to run. The superintendent of schools in that system reported recently that the first year of busing resulted in a school budget deficit of almost $650,000.

But North Carolina has not borne the brunt of unreasonable court decisions alone, nor has the South.

The school systems serving San Francisco, California, Boston, Massachusetts, Pontiac, Michigan, and many other non-southern cities are also now under court order to bus their pupils for racial balance, and all of these cities are undergoing the same financial strains we have experienced in Winston-Salem.

The Los Angeles, California, school system is now under court order, subject to appeal, to transport 240,000 children up to 25 miles to attend school. U.S. News and World Report recently reported that the cost of this massive program has been estimated by school officials at $180 million over the next eight years.

And there are numerous other examples and figures one could cite, demonstrating the destructive drain on public finances that these massive transportation programs cause.

But I believe my point has already been made. Financial burdens already threaten to quite literally destroy hundreds of school systems throughout the country. The Dayton, Ohio, school system has already fallen under the weight of budgetary pressures, and others are sure to follow unless something is done to relieve those pressures.

We read of teachers in many cities striking for higher pay, of school buildings crumbling in disrepair, and of acute shortages in so many kinds of educational equipment.

When funds for these pressing needs cannot be supplied even now, how shall the cause of quality education be served by imposing overwhelming additional costs for purchasing and maintaining fleets of new buses?

In our admirable desire to provide a quality education for all, will we make it impossible to provide a quality education for any? This need not—it must not—be the case.

The American people are known throughout the world for their common sense, and I think it's highly significant that, according to a recent Gallup poll, almost 90 percent of the American people oppose busing to achieve racial balance.

A full 93 percent of my constituents responding to my latest questionnaire expressed opposition to busing, and every colleague in the Congress that I have spoken with has told me that a similar level of opposition exists in his district.

Mr. Chairman, I believe that the people's will should count for something in a democracy, and the people's will has been trampled down along with congressional statutes in the Federal Court's zeal to achieve racial balances in our schools.

The Congress has declared on many occasions that the cost of busing solely for racial balance is an unwarranted and illegal expense.

Section 407 of the Civil Rights Act of 1964 provides that "nothing herein shall empower any official or court of the United States to issue an order to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another to achieve balance or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

The United States Supreme Court ignored that provision of the law in its Charlotte decision, and the Federal Court in Richmond, Virginia, made an absolute mockery of it in its decision requiring the merger of three different school systems to achieve a greater racial balance.

Thus, I believe we have no recourse other than to amend the constitution to prohibit the assignment of students to schools on the basis of race, because it seems obvious to me that if the Supreme Court could overrule the anti-busing provision of the 1964 Civil Rights Act, it can overrule any other anti-busing provision the Congress might pass, short of a Constitutional Amendment.

That is the reason I announced last April 20 my intention to introduce a constitutional amendment which states that "no public school student shall, because of his race, creed or color, be assigned to or required to attend a particular school."

The language of that amendment is no doubt familiar to the members of this committee, since it is the language of the amendment which has received the greatest amount of publicity and earned the greatest degree of congressional interest, with more than 140 Members of Congress already calling for action on this amendment.

As I said on introducing the amendment ten months ago, "offering an amendment to so honored and cherished and complete a document as our Constitution is not a step to be taken lightly, or in haste, or without very good cause."

I believe that very deeply, Mr. Chairman, but I also believe that if passing a constitutional amendment is the only way we can insure quality education for all of our children, then we should not hesitate to pass a constitutional amendment.

The amendment I have proposed is as simple and forthright as I could possibly make it. The people can understand it, and so can the distinguished men of the United States Supreme Court.

In conclusion, Mr. Chairman, I would like to quote from a column that appeared in the Washington Post of February 16. The column was entitled "Massive Busing: A Waste." The writer is William Raspberry, a liberal man and a black man.

He wrote: "It is both evil and illegal to say to a child: You cannot attend this school because it is a white school. But how much better it is to say: You must attend this school because it is integrated and we need you for racial balance.

"This is no brief for a return to the lie of separate but equal," Mr. Raspberry continued. "It is an appeal for rational priorities, a plea that we make the test of a school whether it does what schools are supposed to do—educate our children.

"The ideal is a situation in which race is irrelevant to assignment. Preoccupation with mathematical precision . . . is not the way to achieve that ideal."

The amendment I have offered is intended to achieve the ideal of quality education that Mr. Raspberry shares with me and with millions of other Americans.

The strong opposition to cross-busing transcends political, racial, ethnic, liberal or conservative lines—the only issue remaining is how best to eliminate cross-busing from public education in America.

This committee has the opportunity and the responsibility to help set aright the course of public education in America. It can seize that opportunity and meet that responsibility by acting favorably on the amendment I have proposed.

The American people are looking to this committee and this Congress to show that we are responsive to their will, that their strong voice of protest can be heard where it counts, and that popular sovereignty still rules this country.

So let us begin today to chart a clear course that will preserve public education in America and provide new and improved edu-

cational opportunties for all our children, without the madness of cross-busing.

This is the people's will and the Congress's mandate. Let us act accordingly, and let us act now.

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## THE CASE OF FRANK BRUMBAUGH: A QUESTION OF JUDICIAL MALPRACTICE

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### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. DELLUMS. Mr. Speaker, last fall I received a communication from Mr. J. Frank Brumbaugh, an inmate in the Atlanta Federal Penitentiary. His letter presents some interesting views of conditions within the Federal prison system, but I am not as concerned with those aspects of his letter as I am with the reasons for his actually being in prison.

If the facts Mr. Brumbaugh relates are true—and I would hope some efforts are made to either prove or disprove them—then the only reason he is incarcerated in Atlanta is because of gross judicial folly.

I am shocked at the cavalier way in which the Federal Government moved to prosecute his case. Although I admit to no outright surprise that such an event could occur in 20th century America, I am still outraged at the recounting of such a tale.

Therefore, I am now inserting Mr. Brumbaugh's letter to me in the RECORD as a specific case in point of "justice" in America.

The letter follows:

ATLANTA, GA., *September 9, 1971.*

Congressman RONALD V. DELLUMS,
*Office Building,*
*Washington, D.C.*

DEAR SIR: It has come to my attention that you are currently making an investigation into the Federal Prison System, hence this letter. While I have had insufficient contact with this system to discuss it in detail, there are a couple points which seem unfair and unusual.

Inmates are allowed to write to Federal Courts and Government officials and these *outgoing* letters are—presumably—mailed unopened. However, all *incoming* mail from Courts, Government officials and, of course, Congressmen, are *opened* before being delivered to the inmate to whom they are addressed. Since it is unlikely that such incoming letters could contain contraband, no logical reason for such conduct is apparent. However, as a former Counter-intelligence Agent for the Army, I realize that such opening of letters from Courts and Government officials does keep the administration informed of which inmates are voicing grievances to officials, and this information *could* be used to the detriment of the inmates involved. Be assured that *your* reply to my letter will be opened by prison personnel before it reaches me.

Of course, the concept of privileged communication between attorney and client is ignored by prison officials. All such letters, incoming and outgoing, are opened by these officials, obviating any possibility of imparting confidential information between attorney and client. In fact, *all* incoming and outgoing mail is opened, except for that mentioned in the preceding paragraph. This hardly seems necessary, especially with outgoing mail, unless officials feel they have something to hide.

Mailing privileges are restricted abnormally; we cannot write to whomever we wish when we wish, but only to those few correspondents on the approved list. This is an undue restriction of our rights under the First Amendment.

I happen to be a professional writer/editor. It is Bureau of Prisons policy that any inmate must secure permission from the Warden to start work on any *manuscript*. Subject matter of manuscripts is also restricted, though in a minor area. A professional writer *is not allowed* to contact agents and publishers regarding his manuscript, nor is he allowed to market his work. Nonprofessional writers apparently are allowed to do so. This discrimination is most unfair. Too, we are not allowed to use a typewriter in preparation of manuscripts, a prerequisite to selling and the *only* way a manuscript can be completed while in prison. Nor is there any way a writer can buy bond paper or carbon paper for his work. There is much lip service given to "rehabilitation" but little else. What better rehabilitation could there be than, for instance, to allow a professional writer to write and sell his stories, articles and books while otherwise wasting time in prison? And to allow him to prepare his work for marketing in a true professional manner?

While the foregoing is the main substance of my complaints regarding prison policy, there is another area of unnecessary inconvenience foisted upon us in the personal purchase of books. Transactions which in civilian life can be completed in one to two weeks by mailing a check with the order for a book take many months between placing the order and actually receiving the book. As an example, in March I placed an order for "American Practical Navigator" through the library here, to be purchased from U.S. Naval Oceanographic Office in Washington, D.C. The order was mailed to Washington on April 19. The book was shipped April 28. I did not receive the book until July 13. Another book, "Piloting, Seamanship and Small Boat Handling" which I ordered on June 6 has not yet been received. This particular book is an annual, always on the shelf, and outside of prison I have always received it less than two weeks after I placed my order. This amount of unnecessary delay is unconscionable.

Please bear with me through the remainder of this letter. Although it bears not on the prison system per se, it does illustrate the flagrant violation of individual rights to which I have recently been subjected, and indicates the ridiculous ease with which an innocent man can be imprisoned, without any provocation and despite the solid evidence of innocence. Our system of justice is a mockery when one man, intimately involved in the drowning death of a young woman, a man who, with his family, has considerable financial and political clout, is given a suspended traffic ticket, while another man—myself—was kidnapped by an armed, psychopathic bank robber, and subsequently convicted of bank robbery by a jury that had been tampered by the Government. The case was handled by 6th Circuit Court in Cleveland, Ohio, No. CR-70-424. I hope that you have interest enough to read the transcript of this incredible traversty on justice. My trial could have been held in Russia or China without changing a word of the script!

Before discussing this bizarre affair, allow me to give you a brief résumé of my background to better enable you to grasp the magnitude of the injustice involved. I am 50, white, citizen by birth. I have over 12 years active service, Army and Air Force, volunteered June 12, 1940, and have 4 Honorable Discharges. I fought in Europe during WWII as a parachutist. I jumped behind enemy lines in Normandy before the start of the invasion, and later deep behind German lines in Holland. I have numerous campaign ribbons and medals, include the Bronze Star, Croix de Guerre with Palm (two times), Belgian Fourregare, the Military Order of Wilhelm, Knight of the 4th Class, etc. I have held a Security Clearance of SECRET most of the time since 1942. In 1949, as counterintelligence agent, I worked with the FBI, investigating a young American soldier of Russian extraction. In 1960 I was a member of the Board of Directors of the Fraternal Order of Police Associates, Tampa, Fla. Lodge No. 27. In the mid-1950's I patented two electronic circuits used in missile guidance and command equipment and immediately assigned them to the U.S. Government without any remuneration. In 1962 I received a U.S. Civil Service Rating of GS-12 in Writing and Editing Positions, Technical and Nontechnical. From 1952 to 1961 I was initially an electronic technician, later becoming an electronic engineer after my patents were issued. In this period most of my work was on classified electronic and missile systems. In 1962 I became self-employed as a technical writer/editor working on contract for such Government suppliers as IBM, Bendix, General Dynamics, etc. I believe myself to have been instrumental in assuring the schedule of the Apollo launch program. During this period I worked primarily on classified missile and spacecraft, the C-5A aircraft, and on proposals for the Navy's FDLS, LHA and DD-963 Series Ship Systems, maintaining my SECRET clearance throughout.

My *entire* police "record" consists of 3 traffic tickets, 2 in 1960 and 1 in 1961, this in over 30 years of driving. At the time of my arrest I was an honorary member of the Florida Sheriffs Association.

That gives you a brief picture of my background, Mr. Dellums. Now to the point at hand.

About mid May, 1970, I met casually a man (Wm. Hewlett) in Bradenton, Fla. (where I live and owned property). He was a Teamster Union truckdriver, disgruntled, and offered to give me data on Teamster strike violence during the 1969 strike if I would drive him to Ohio. This seemed an excellent chance to do a valuable magazine article (I have been published in national magazines since 1955) that would enhance my professional prestige and net me several thousand dollars. Shortly after arriving, he stuck a loaded gun in my ribs, took over my car and forced me to enter a small bank he apparently decided to rob. I had no choice but to obey him to keep from being shot. I believed he had suddenly snapped mentally, and was not sane at the time. I still believe so.

The bank was the Polk State Bank, Polk, Ohio. He got about $2300 according to later testimony. When I eventually escaped from Hewlett in Las Vegas, I immediately returned home to Bradenton, Fla. by air, my car being in Ohio. I was immediately arrested by the FBI, charged with bank robbery.

Without benefit of counsel I was interrogated several days by the FBI. I cooperated fully, of course, telling them all I knew of Hewlett and all events except inside the bank, since I had not yet spoken with my attorney, though I told them "You have good movies of what went on inside the bank." (I had seen the teller turn on the camera and send the silent alarm. Fortunately, Hewlett was unaware, although the police didn't arrive, and the number of pictures indicates we were in the bank about 15 minutes.) Also without counsel I was forced by the FBI to appear before the U.S. Commissioner for a bond hearing. I asked that my attorney be present, but the FBI said I didn't need an attorney for the hearing. Bond was set at $25,000.00, an exhorbi-

tant amount which I did not have and which was never lowered. (My entire life savings at that time was about $12,000.00 in the bank, plus my car and houseboat, both fully paid for. The houseboat was my home in Bradenton. I had sold the rental property I owned there.) I was refused release on my own recognizance or on a personal bond.

My attorney was refused permission to see me by jail personnel the day after my arrest. I did not see him until the FBI had finished questioning me, 4 days from arrest. We (attorney & I) were not given privacy, but were surrounded by police in uniform and plain clothes. The next day I was moved to jail in Tampa, where I saw my attorney once. Then moved to Stark County Jail, Canton, Ohio. There mail to and from my attorney was delayed and much disappeared, never being delivered. All our mail was censored; there was no possibility for confidential communication, no adherence to the concept of privileged communication between attorney and client.

Here is what I *think* happened. Whoever investigated the robbery apparently was satisfied with circumstantial evidence (pictures inside bank during robbery, my car with papers in the glove compartment, a perfect trail to Cleveland area by my normal use of my Diners Club, BankAmericard and Master Charge credit cards, etc.) and used this to secure a warrant without any apparent attempt to determine why I was in Ohio or why I was in the bank with an armed man. *After* my arrest, I assume a complete investigation *was* made, and that it proved, or at least definitely indicated my innocence, but to save face for what seems to be most inept handling of the initial investigation, it appears a decision was made to use me as a patsy, railroad me to prison and thus protect the job and reputation of those involved in the start of the case. In letters to the President, Senator Chiles, Senator McGovern and J. Edgar Hoover, I stated by deductions. A short time ago two FBI agents from Atlanta asked for a statement regarding my allegations which I provided. They seemed more interested in the mail mishandling (attorney-client mail) than anything else, but mentioned I should include those instances in which I felt my rights had been violated. I did so. They said the statement would go to the Justice Dept. for investigation, but that I might never hear any results. *If* my deductions are correct and can be proven, I not only need the proof to prove my innocence and get out of prison, but as grounds for a civil suit for damages before the statute of limitations expires.

At the trial (Nov. 9–20, 1970) the prosecution introduced 19 "witnesses", including Hewlett, who had pled guilty Nov. 3–5. The 4 bank employees testimony and mine was essentially identical. Most of the other "witnesses" were apparently there only to overwhelm the jury by weight of numbers in lieu of concrete evidence against me. Hewlett, of course, was the "star" witness for the Government. His testimony included statements: that "we" had planned the robbery in Florida (my testimony and that of all 4 bank employees showed that, when the phone rang during the robbery, Hewlett asked "what's the name of this bank?" One would assume that had "we" or even Hewlett *planned* a robbery he would at least know the name of the bank he intended to rob.); that "we" planned to rob the bank on a Wednesday but found it closed (a Government witness, a bar maid, testified that Hewlett tried to pick her up *twice* on this same Wednesday, at 10:30 am and 1:30 pm, hardly a thing he would do if a robbery was planned that day.); that he (Hewlett) had *never* told anyone he had a "deal" (he told a dormitory of 14 men about his deal in loud tones and repeatedly over a period of time, as testified by me and one other man I had brought in to testify after Hewlett told this particular lie.); many other lies, most of which were refuted by testimony of other *Government* witnesses.

Hewlett has a lengthy history of mental abberation, was discharged from the Army as mentally unfit for service; and was confined in (St. Joseph's?) mental hospital a short time earlier where he was treated for "depression", including five *electroshock treatments!* Although this information would have aided the jury in determining the credibility of Hewlett's testimony, Judge Thomas refused to let the jury hear it, and thereby allowed the jury to assume Hewlett was perfectly sane.

While in the bank—and this is proven by photographs entered in evidence—Hewlett's gun was pointing at me, not at the bank employees; I saw the Teller start the camera and send the silent alarm (which I would not have allowed to happen had I been robbing a bank); that I stood for *over four minutes* in one spot while Hewlett and other bank employees were doing something behind me; that only Hewlett touched any money or was armed, etc.

After this farcical, anything-but-fair trial was over, the jury was out *a week*!! approximately. Finally, on Nov. 20, a Government employee, the bailiff of Judge Thomas' Court, tampered with the jury, engaging Juror No. 7 in conversation in the hall, overheard by my attorney. After this jury returned a "Guilty" verdict, my attorney charged jury tampering. The judge questioned Juror No. 7 under oath on the stand, and he repeated the conversation with the bailiff. The bailiff—under oath, of course—lied and denied the conversation. The judge ruled that the conversation *did* take place, that the jury *had* been tampered with by the government, and told the bailiff "I've warned you about this before."

Defense moved to declare a mistrial. The judge denied the motion. On Feb. 1 defense filed a new motion to overturn the verdict, declare a mistrial and set a date for a new trial, supported by a brief detailing tampering with the jury by the government, the withholding of evidence of Hewlett's mental instability from the jury, and three other legal points I do not recall. Naturally, the judge denied this motion and sentenced me to eight years in prison.

I mentioned earlier that mail between my attorney and myself was held up, delayed, and never delivered. Specifically during Sept. 1970, five letters I wrote to him and three he wrote to me *were never delivered!* At the same time, mail to and from casual friends in the same town as my attorney were delivered on time without any problems. I have not heard from my attorney since Feb. 26, 1971, though I have written repeatedly, including one Certified letter I know at least reached his secretary. I had paid this man $5000.00 in cash, too. A mutual friend in Bradenton assures me the attorney has written several times. *I have not received any letters.* One of the main reasons I need to hear from him is to secure personal legal papers I may need for appeal, as well as to find out whether he has stored my manuscripts and personal effects. After so long a time, I consider my boat and car total losses. Too, in an—apparently—misguided attempt to attract the attention of the FBI after the robbery so Hewlett would be caught and I could escape from him, I ran up bills of about $2000.00 on my credit cards. I have been trying to get this attorney—*for the last year*—to let me pay these bills, which draw 18% interest which is compounded every 30 days. They are still piling up interest and growing larger, and I have no way to get hold of my savings and check book and bills so I can pay them. The attorney is: David A. Rhodes, 3119 Manatee Ave. West, Bradenton, Florida 33505, in case you might write him.

This same attorney sent—without my knowledge and without permission, and in violation of the attorney-client confidential relationship, illegally and unethically—part of a personal letter I wrote to him in which I implied that because of my debts and losses and the small remains of my life savings, I could not afford to pay for an appeal, to the 6th Circuit Appeals Court in Cincinnati. The court used this confidential, illegally submitted document, as a basis to *deny my right to appeal!!* I have filed a motion for reinstatement of appeal in forma pauperis.

This has been violently opposed by the Government, probably because they don't want the appeals court to learn of the withheld evidence and jury tampering which secured my conviction. I have filed a traverse answering the Government opposition. I have had no word from the court since.

Admittedly, after the experience I have already had with organized injustice and persecution by the government through its courts, I have little expectation of relief. This is evident since my parole was denied and I must wait until Feb. 1973 to again apply. No reason was given, of course. My case worker, Mr. Bishop, implied—perhaps I had better say I inferred from what he said—that parole was denied probably because I refused to lie and pretend I was guilty and that the government was right. In re paroles, I have it from a usually reliable source that Hewlett, who denied his "deal" on the stand has been out of prison for the past 3–4 months. He was initially in Lewisburg.

Mr. Dellums, for 49 years I have been efficiently brainwashed by government propoganda, and I actually was naive enough to *believe* that an innocent man could not be convicted in an American court!! Well, I know *much* better now. I am ashamed to be an American, to be a part of a system of injustice that can twist circumstances so that the victim of a henious crime can easily be convicted of another, without motive unless to protect the inept. I am a citizen by accident of birth, not through conscious choice, and I shall remedy this situation just as soon as I can secure citizenship papers from any other country. For the first 49 years of my life I was a loyal, patriotic citizen of the United States. The government, by its high-handed actions in ruining me personally, professionally and economically without any logical reason and in defiance of my rights to just treatment as a citizen, declared itself my enemy. I had already decided in 1969 to leave the country permanently, to emigrate to Australia. Now, although by my illegal conviction and the depletion of my savings I can no longer live in Australia, I have the strongest reasons to leave the United States, never to return. My personal and professional ethics are the highest, and I could not retain my self respect were I to remain in the United States after what it has done to me.

I sincerely hope, Mr. Dellums, that you will be interested enough in the gross miscarriage of justice which has befallen me to see that it receives the publicity it deserves, that those in a position to rectify this error are made aware of its existence, and that those responsible for ruining and imprisoning an innocent man are promptly and properly punished—hopefully by more than a suspended traffic ticket.

Respectfully and hopefully,

J. FRANK BRUMBAUGH, 94787–131.

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## CONFIRMATION OF U.S. POLICY TOWARD THE REPUBLIC OF CHINA

### HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. GALLAGHER. Mr. Speaker, some of the language in the joint communique

issued from Shanghai has raised serious questions about the enduring quality of the U.S. commitment to the Republic of China.

I refer specifically to these words:

The U.S. side * * * reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves. With this prospect in mind, it affirms the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes.

Some persons have seized upon this language to suggest that the United States is somehow stating a new policy toward the Republic of China, and one that represents a retreat from our existing commitments and understandings with the Chiang Kai-shek government. I believe that this interpretation is incorrect. Rather, a close examination of the language of the communique placed in context by Dr. Kissinger's press conference shows that there has been no retreat by the United States whatsoever.

First, the language of the Communique. The Communique does not in any way address the 1954 Mutual Security Treaty between the United States and the Republic of China, which of course remains in effect. Instead, it focuses upon the 8,000 or so American troops who are in the Republic of China both to assist the Republic of China forces and as logistical backup for Vietnam. There is no promise to remove these troops. Rather, their removal is stated as an "ultimate objective" which depends upon "a peaceful settlement of the Taiwan question by the Chinese themselves." And any removal of these troops and United States installations is also premised on a reduction of "tension in the area."

These are the words of diplomacy. I repeat that the President has not promised any removal of troops or installations as a unilateral undertaking. Instead, he has couched his words in terms of "ultimate objective" which could occur many months or years down the pike, or indeed never. He has promised such withdrawal on "peaceful settlement" which may or may not take place. Also he has promised such withdrawal on a reduction of "tension in the area" which also may or may not take place.

Dr. Kissinger, in his press conference, has stated for the record that the communique does not presage any retreat from U.S. commitments and understandings with the Republic of China.

Dr. Kissinger put his finger on the basis for the misunderstanding that has arisen in pointing out that this communique was not signed in Washington, D.C., or Kansas City but rather in Shanghai. Said Kissinger:

The question is, of course, an extraordinarily difficult one to discuss on the territory of a country with which we do not maintain formal diplomatic relations and for which this particular issue is a matter of profound principle. . . . We stated our basic position with respect to this issue in the President's World Report in which we say that this treaty will be maintained. Nothing has changed on that position . . . The position of the World Report stands and has been unaltered.

Which brings us to the language of the World Report which Dr. Kissinger happily affirms as stating U.S. policy toward the Republic of China for yesterday, today, and the foreseeable future. In the World Report the President pledges that—and I quote—

With the Republic of China, we shall maintain our friendship, our diplomatic ties, and our defense commitment.

So the President is on record—and this has been affirmed by his Special Assistant for National Security Dr. Henry Kissinger—that we intend to maintain our diplomatic relationship with the Republic of China and that the Mutual Defense Treaty of 1954 is as binding upon this country today as the day it was entered into.

I believe that this misunderstanding was perhaps inevitable given the hard fact that his communique—as Dr. Kissinger points out—was issued from the People's Republic of China, and the President was being diplomatic to his hosts. It is nonetheless exceedingly regrettable that this misunderstanding has arisen.

As I noted on this floor on the eve of the President's departure to Peking:

The whole world will be watching and waiting to see whether the United States lives up to its commitments to the Republic of China. You might say that the Republic of China is today a kind of international weathervane recording American willingness to live by its word.

Clearly, some persons—and countries—felt that we were going back on our word. Fortunately, this was a limited reaction. For instance, the two Washington dailies—the Washington Post and the Evening Star—pointed out in editorials appearing yesterday that the communique did not represent a change in policy toward the Republic of China.

The Star said:

The inference . . . that his language represents a significant shift in American policy or a major concession to the Communist Chinese strikes us as at least highly premature. The simple fact is that both the Nationalists and the Communists have always insisted firmly that Taiwan is indeed Chinese territory and that there is only one China. The thesis that the dispute between the two rival regimes should be peacefully settled between the Chinese themselves has long been the position of the United States Government. The 8,800 American servicemen stationed on Taiwan are in no way essential to the security of the island and no one has ever proposed to keep them there forever. Their gradual withdrawal is tied to an eventual solution of the conflict and is set in no specific time-frame. There is nothing in the communique that implies a weakening of the American commitment to Taiwan under the terms of the existing mutual security treaty and, indeed, presidential advisor Henry Kissinger made it clear to newsmen that the commitment still stands.

The Post reached the same conclusion, saying editorially:

In all, we see no substantial grounds for any charge that Mr. Nixon is abandoning Taiwan. The striking fact is that China was willing to receive him *without* securing a firm American pledge on Withdrawal; this lapse we attribute chiefly to Peking's wish to warm relations with Washington in order to stand off far harsher pressures from Moscow. If anyone is to suffer politically for the Communique's statements on Taiwan, we suspect it will be Chou En-lai.

When both Washington dailies agree so emphatically on something, I am inclined to go along with them.

However, I personally am pleased that the President—understanding that our friends in the Pacific will want to learn at once that no deals have been struck behind their backs—has dispatched Marshall Green, Assistant Secretary of State for East Asian and Pacific Affairs, and a senior member of Dr. Kissinger's National Security staff to counsel with the leaders of 11 Asian countries, including Republic of China and Japan. I am hopeful that the Green mission will have the effect of reassuring our friends in the Far East and also of bringing back to the United States the views of these leaders about the future of the Pacific region.

The Subcommittee on Asian and Pacific Affairs will be holding hearings on the future of the Pacific, and we will be calling upon Assistant Secretary Green and other knowledgeable experts within and outside of Government to give testimony on this vitally important subject.

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## APOLLO SAGA IS LONG ON SUSPENSE, COURAGE

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. TEAGUE of Texas. Mr. Speaker, in the Fort Worth Star-Telegram of Tuesday, February 22, an excellent editorial summarizes the outstanding personal achievements in the Apollo program. This brief but significant editorial recounts how some of America's finest men have dedicated their lives to space exploration. While establishing new horizons our Apollo astronauts have set new standards for all of us in this country and throughout the world. I commend this editorial to your reading:

APOLLO SAGA IS LONG ON SUSPENSE, COURAGE

For millions of Americans, Christmas Eve in 1968 was unlike any other they ever spent, or ever will again. It was the day—and night—that man first reached the moon.

It was a time when the nation, even the world, figuratively held its breath waiting to see if space technology really had made it possible for a manned vehicle to go completely around the moon and then settle into a stable orbit.

For sheer, intense suspense, the few minutes when the voices of Frank Borman, James Lovell and William Anders were blacked out as they passed on the far side of the moon—and the seconds ticked away until they were due to be heard again—perhaps were unequaled in the history of manned flight. Many a Santa Claus had a more sleepless Christmas Eve night than ever before, awaiting the outcome.

Just six months later (in July 1969) the same kind of suspense was to build again as the world awaited man's first descent to

the moon surface by Neil Armstrong and Edwin Aldrin Jr., while Michael Collins orbited overhead.

The Apollo program is scheduled to end next December with the flight of Apollo 17, carrying astronauts Eugene Cernan, Ronald Evans and Harrison Schmitt. But before that mission, conceivably the last time man goes to the moon, for many decades, there will be one more—Apollo 16 which is set to leave earth on April 16 carrying astronauts John Young, Charles Duke and Thomas Mattingly.

It is impossible for us who are living in the age of Apollo to guess what kind of evaluation future historians will put on it, but it most certainly will be a high one.

Marked early by tragedy, when the Apollo 1 crew of Virgil Grissom, Edward White and Roger Chaffee were killed by a launching-pad fire while in their space capsule on Jan. 27, 1967, the Apollo saga in its brief half-dozen years has caught and held the attention of all mankind.

And it couldn't miss doing so: One after another in fairly regular sequence we have witnessed incredible feats of scientific and human enterprise, awesome displays of courage, instant human resourcefulness under instant pressure, and a perfect blend of intelligence, dedication, wit and articulateness in the 23 astronauts who have so far flown on the moon missions.

Of those 23, only two never made it all the way. They were rookie astronauts Fred Haise Jr. and John Swigert Jr., who with veteran James Lovell set out on Apollo 13 but were forced by a capsule explosion to cancel their lunar landing and head for earth prematurely.

World anxiety reached an incalculable level as the crippled spaceship headed back for its hastily arranged splashdown in the Pacific on April 17, 1970. For more than three days nobody knew if the ingenuity of the astronauts and their back-up experts and the prayers of people all over the world could effect a successful end to an ill-starred mission. It was a relieved and grateful world that watched the safe splashdown on television.

The ten manned moon missions will have taken just four years, but already they have provided the opening pages in the history of a great new era of human achievement—and courage as well.

## SEEKS ASSISTANCE FOR IRISH

### HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, March 1, 1972*

Mr. GREEN of Pennsylvania. Mr. Speaker, when John Kennedy departed Ireland at the end of his 1963 trip there, he made the following statement:

> This is not the land of my birth, but it is the land for which I hold the greatest affection.

This statement is true for many Americans. According to the last census, there are over 13,200,000 persons of Irish descent in the United States, and this figure probably does not take into account second, third, and fourth generation Irish. There are many Irishmen in my own congressional district. I am of Irish descent myself.

Many of these Americans have very strong ties to people in their homeland. Because of these ties, they are heartsick at the situation there.

They see that the struggle in Northern Ireland is a struggle for human rights.

They see that it is a fight by an oppressed people to eliminate the effects of a law—The Special Powers Act—which permits arrest without warrant, imprisonment without charge, bail, trial, or recourse to habeas corpus, forcible entry and search of homes, punishment by flogging, and arrest for criticism of the government, and which prohibits peaceful assembly and the printing of newspapers offensive to the Stormont Government.

They see also that it is a struggle for decent housing, educational, and employment opportunities.

They were encouraged when Great Britain first appeared to seek a solution to the situation in August of 1969.

However, their hopes have been thwarted. The violence has not stopped. Since the arrival of British troops, over 250 people have been killed or injured in Northern Ireland, including the 13 deaths that resulted from the onslaught by British troops on January 30—"Bloody Sunday."

There are now 15,000 British troops in Northern Ireland, and yet the violence continues daily. Just this past Monday, two buildings used by Catholics in Belfast as community relations and social centers were destroyed by fire. Bomb explosions destroyed two Catholic-owned pubs.

Thus, the British troops have not been useful in stopping the violence. The reason for this is quite simple. The British Government has steadfastly refused to take control and seek a solution to the situation. The British troops have been taking their orders from the Stormont Government, the same government that, in the past, prolonged the weighted voting system for property owners and recruited the hated B-Specials on a sectarian basis to ruthlessly enforce the Special Powers Act.

Nor has the injustice ceased. The British Army has interned over 740 Irishmen since its arrival, despite Britain's own time-honored principle of habeas corpus.

And so the Irish people have begun to look elsewhere for a solution. One of the places they have looked is the United States. Many Americans are also looking to the United States for a solution to the problems in this troubled land. It is quite natural that they should look to this country for help, since this country has always promoted struggles for freedom all around the world.

It has been almost 2 years now since 104 Members of Congress, including myself, sent a letter to President Nixon urging him to use the moral powers of the United States to persuade Great Britain to guarantee the rights of all Irishmen. It has been a month since the Honorable Patrick Hillery, Irish Foreign Minister, met with Secretary of State Rogers and urged that this Government provide its "good offices" and "good advice" to England.

Unfortunately, this administration has apparently failed to grasp the gravity of the situation in Northern Ireland, the extent of injustice prevalent there, and the extent to which this country can have an influence, and it has, therefore, taken the position that an attempt to do so would be "counterproductive." It is ironic that this administration is, in the name of political freedom, so anxious to continue its destructive involvement in the disaster in South Vietnam, yet so reluctant to get constructively involved in the human rights cause in Northern Ireland.

The American people are concerned. They are concerned because they are concerned for human rights and justice.

Because of the administration's failure, it has been left to the Congress to reflect the concern of the American people, and that can be done by passing this resolution, House Resolution 653, expressing the House's deepest concern and calling upon the Executive to urge the following measures to eliminate the violence, injustice, and terror in Northern Ireland:

First. Elimination of internment;

Second. Full respect for civil rights;

Third. Implementation of the reforms promised by England in 1968;

Fourth. Dissolution of the Stormont Parliament;

Fifth. Withdrawal of British forces; and

Sixth. Convening of all parties for the purpose of reunification.

That the United States can have this influence and bring about this result is evidenced by the fact that England, Ireland, and America have been the closest of allies for many centuries. We have solved many difficult situations together. We can solve this one together, too.

## FIFTY-THIRD ANNIVERSARY OF THE AMERICAN LEGION

### HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 29, 1972*

Mr. DOWNING. Mr. Speaker, today marks the observance of the 53d anniversary of the American Legion. This great and influential fraternity of veterans, dedicated to service to the veteran and to the community, celebrates 53 years of patriotic achievements and comradeship this week in our Nation's Capital.

The Legion today stands before the U.S. Congress to receive recognition for the past 53 years of dedication to the ideals of America—justice, freedom, democracy and loyalty.

The major concern during the formulation of the American Legion was the plight of the returning veteran, and that concern continues today as many veterans return from Vietnam after having served honorably in the Armed Forces of their country. The Legion is concerned with the complete well-being of the returning Vietnam veteran, but one of the most critical problems facing the new veteran is the matter of suitable employment.

This concern led to the beginning of the Jobs for Veterans program, where the Legion conducts job fairs or job marts in order to bring prospective employers and the veteran together.

The Legion has fought long and hard for veterans' benefits, and the possible enactment of a National Health Insurance Plan, which threatens the continuation of VA hospitals, led to the appoint-

ment of the American Legion Special Committee on Veterans Medical Care. This committee will recommend a plan of action to combat any scheme that would restrict, reduce or weaken the VA Medical Care program. This is how the Legion works to serve the older veteran while taking positive action to care for the new veteran.

"The Amazing American Legion—An Organization with REACH" has adapted its goals and its service to the needs of today's young veterans, and maintained the values and ideals of the basic blueprint drawn up in Paris in 1919.

The doughboys of the American Expeditionary Force brought with them to the Paris caucus a strong desire to create an organization based upon firm comradeship, born of war service and dedicated to equitable treatment for all veterans, particularly the disabled, their widows and their orphans. This framework of service to God and country remains today.

The Legion today is deeply concerned with the plight of the prisoners of war and their families, and the fate of those missing in action in Southeast Asia. Immediate efforts to focus the attention of the American people and other people of the world on the need for humane treatment of these prisoners and the speedy return to their families is a major goal of today's American Legionnaires.

The American Legion is a hometown organization, and many of the important things the American Legion do are being accomplished in the local community. Programs such as the American Legion Baseball, Boy Scout sponsorship, American Legion Boys State and High School Oratorical Contests instill our young Americans with patriotism and trust in our great country.

Offers of friendship and compassion to the returning Vietnam veteran in his own home town help ease his difficult adjustment to community life. Extended hands from Legionnaires to the sick and disabled veteran give him and his family strength and assistance in every possible way.

American Legionnaires are pledged to promote peace and good will on earth and to consecrate their endeavors by their devotion to mutual helpfulness. As a Legionnaire, I am proud to honor the American Legion in its 53d year of patriotic service.

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## U.S. FOREST SERVICE

### HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

*Thursday, March 2, 1972*

Mr. METCALF. Mr. President, in the last 2 weeks the Senator from Utah (Mr. Moss) has made two speeches in which he pays tribute to the U.S. Forest Service for the contributions the Service as a whole, and many of its members individually, have made to the Nation—with special emphasis on what they have done in the field of ecology.

He points out that our foresters were among our first practicing ecologists and environmentalists and "are still among our best."

He said:

A whole corps of trained and dedicated men have been working quietly for years to spare our forests from the ecological blunders we were making elsewhere.

In a February 22 speech in Provo, Utah, celebrating the Diamond Jubilee of the Uinta National Forest, the Senator discussed what a productive forest means to the local economy, to recreation, to the protection of water resources, and credits the Forest Service with "saving America's wilderness resource."

In a speech before the Intermountain Society of American Foresters in Salt Lake City the Senator thanked its members for their work in conservation and urged them to continue to give the Nation their advice and counsel in saving our environment, calling their "calm, quiet pool of expertise a valuable natural resource in itself." He then discussed proposals before Congress to establish a Department of Natural Resources, one of which is a Moss bill, and of which I am a cosponsor.

I ask unanimous consent that the two speeches be printed in the RECORD.

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

FORESTS ARE FOR THE PEOPLE

(By Senator FRANK E. MOSS)

We join here today to celebrate a notable event—the 75th anniversary of the Uinta National Forest. This is the diamond jubilee of the *first* forest reserve established in Utah, and one of the *first* in the West.

The Uinta National Forest provides a magnificent backdrop for this great university where we are gathered. The mountains which tower above us rival the Swiss Alps in beauty and allure. It is little wonder that thousands of people come to the Uinta's cool and leafy depths each year to enjoy camping, skiing, fishing, hunting and just plain enjoyment of the out-of-doors.

The people here in Provo and Utah County know all too well the history of the Uinta National Forest, because you have loved and appreciated it ever since it was established. Time and again down through the years civic groups have been organized to work with the long line of dedicated forest supervisors to improve and enlarge the forest and to solve the flood problems along this part of the Wasatch range. Once in 1933 you asked Congress to put into the forest, and under the good management practices of the Forest Service, areas of private land to the east of Provo which had become so badly denuded from overgrazing or burning, that they posed a threat of floods to this peaceful valley. Congress complied and Congressman J. Will Robinson and Senator William H. King did the work on the bill. Seven years ago you came to congress again, this time to ask that some of the city's watershed lands—both hillside and bottom lands—be incorporated into the forest to protect your water supply, and this time it was my privilege to pilot the bill through the Congress which added the new areas.

The CCC boys were here in the Uinta in the early thirties, and they performed on these lands some of the first erosion and flood control work done in Utah. Extensive road work has from time to time opened new scenic areas and skilled treatment of high mountain slopes, gully plugging and reseeding of denuded areas by the Forest Service is continual hard work against ever threatening flooding and erosion.

I wish there were time to mention the names of all of those who have participated in these undertakings and events which helped deal wisely with the Uinta's resources—I mention a few at the risk of leaving out many who were important—but we should certainly pay tribute to the thirty years of service of BYU's Revered Dr. Vasco Tanner as chairman of the forest and flood committee of the Provo Chamber of Commerce, to Hal V. Hoyt and L. L. Bunnell of the Kiwanis Club, and to R. E. Allen, secretary of the Knight Investment Company, to Provo's Mark Anderson, who served as superintendent of the Hobble Creek CCC Camp and to Dr. Reed Bailey of the Intermountain Forest and Range Experiment Station. I know through my own experience about the contributions some of these men made, as well as about the work done here in Utah County by Mayor Verl G. Dixon, and the other members of the Provo City Commission and the Utah County Commission when my own Uinta National Forest bill was before Congress.

And, of course, none of these accomplishments would have been possible without the sustained services of the many fine supervisors of the Uinta National Forest, of whom the present one, Clarence Thornock is a worthy successor.

But though we are here to pay tribute to the Uinta National Forest, and those responsible for its progress over the years—I would like to widen our horizons and discuss our national forest system as a whole. The Uinta is a part—an exceptional part, I grant—of something the entire Nation can applaud. Our national forests are one of our greatest assets—because our forests are for the people.

There are 154 other national forests throughout the country. And, allowing for slight differences, they are all as well-cared for and as productive as the Uinta. Taken together, they contain some of the most beautiful and productive land in the country. They improve the quality of life enjoyed by all Americans.

Of course, we who live in the West or near a forest such as the Uinta, have some idea of what a productive forest means to the local economy. We know how many jobs are made by timber coming from the forest. We know about the grazing lands that provide forage for our sheep and cattle. And we know many dollars are left behind by tourists who come to the forest to enjoy it. But seldom do we stop to think about what the National Forest System *as a whole*—all 187 million acres of it, means to the Nation *as a whole* and to the social and economic well-being of every American citizen.

For example, the national forests play an enormous role in meeting the voracious requirements of the Nation for lumber. Almost one-fifth of the commercial forest lands of the United States are within national forest lands. Last year these forests produced 10.3 billion board feet of timber. That's a lot of homes!

In 1971, timber sales, grazing fees, recreation fees, mineral leases and permits, and other uses in national forests turned over a total of $234 billion to the Treasury, one-fourth of which is being returned to the States to be used for county roads and schools.

But the major impact is reflected in jobs and industries. Think of all the forest-related industries and the countless wood-using industries throughout the country that depend on these forest resources—homebuilders, carpenters, realtors, furniture salesmen, publishers, and so on. All of these in turn affect other occupations and influence the economy.

I don't have to tell Utahns that outdoor recreation is a tremendously fast-growing industry. How we love to get close to nature! The development of major recreation facilities in a national forest, like some of those upcoming through the central Utah project,

can not only give us great pleasure, but can revitalize an entire rural community.

Or consider water resources. Here in the West, we know the value of good, available water supply. National forests, which comprise only 21 percent of the total land area in the West, produce over 50 percent of the total water run-off. Two-thirds of the irrigated farm lands, hundreds of waterpower developments, and numerous communities depend directly upon the national forests as a source of water for all or most of their needs.

But it is not only in economic benefits that our forests give us unending benefits. There are many other amenity values we receive from them—open space, scenic beauty, homes for wildlife, clean air and water, a quality environment—all of those things we have come particularly to cherish and seek in the past few years.

Has it ever occurred to you, during this past decade as America has become more and more aware of the rape of our environment—more and more concerned about the extent to which we have fouled our water and our air and our land—that the forester has been far ahead of all of us—that a whole corps of trained and dedicated men have been working quietly for years to spare our forests from the ecological blunders we were making elsewhere.

Our foresters were among our first practicing ecologists and environmentalists. They are still among our best. If they and a few others hadn't become concerned about saving the Nation's natural resources 75 years ago, we wouldn't be here celebrating this anniversary.

It was the wise and gifted predecessors of the men serving the Forest Service today who influenced Presidents Harrison, Cleveland and Theodore Roosevelt to save for the future certain of the most desirable portions of the Nation's public domain. And it was men such as Gifford Pinchot, the first Chief of the Forest Service, who helped guide the Nation to an environmental philosophy and developed the idea of conservation of the Nation's natural resources.

It was Pinchot, the Nations' first native-born trained forester, who was the first to use the word "conservation" in the context we use it today—the wise utilization and renewal of forests, waters, and lands for the greatest good of the greatest number in the long run.

It was this idea of conservation which was developed by the Forest Service into the principle of multiple use and sustained yield—the management policy which for almost 70 years now has permitted Americans to enjoy the productivity of the national forests with the assurance that these resources would be renewed and would still be available for the benefit of future generations.

It was the foresight of these first environmentalists that led to what may well be one of the Forest Service's most significant achievements—the saving of America's wilderness resource.

Today we recognize wilderness as a priceless American heritage that has shaped the character of our country. But in earlier times, wilderness was something Americans wanted to conquer which meant to destroy. Long before there was any significant public outcry for saving the wilderness, Forest Service men like Aldo Leopold and Robert Marshall were persuading the Forest Service to "think wilderness."

Thus, it was the forest service that first developed a concept of wilderness land management and designated wilderness areas to be managed and maintained for just this value. The first such wilderness area, the Gila Wilderness in New Mexico, was set aside by the forest service in 1924. And from that year until the passage of the Wilderness Act in 1964, the forest service continued to set aside administratively portions of the national forests for wilderness protection.

Thus, the original components of the national wilderness preservation system, established under the Wilderness Act, were 54 national forest wildernesses—9 million acres worth. Since that time, the wilderness system has grown to over ten million acres, all but 2 million acres in national forests. Just this month, the President submitted to Congress proposals for 1.3 million additional acres of wilderness, of which 1.2 million are in national forests.

How much "wilderness" do you think we would have today if the forest service had not taken the leadership 50 years ago?

Or how productive of timber, and good grazing lands, and recreation sites would our forests be today, if these early forest service environmentalists had not properly managed our forest lands?

Now, what of the future? In what ways can the forest service best serve the American public in the years ahead?

One thing is certain. The needs of the public today are not what they were 10 years ago. And, undoubtedly, they will be different still, 10 years from today. For what the public likes and seeks are changes at an ever increasing pace, and the forest service and other land management agencies are constantly challenged to meet the pace.

Since the days of Gifford Pinchot and those first environmentalists, the forest service has endeavored to catch and hold public interest in the conservation and management of the national forests. Now, at last, the public has this interest. We all know now environmental quality affects every person, that our renewable resources must be conserved, and that some resources, in fact, are non-renewable. We all know now that we must fight for and achieve a cleaner, purer, less ravished environment if America is to continue to be a good place to live.

But most Americans were born and have been brought up in cities and towns and don't have much familiarity with the land or any practical knowledge of conservation. Consequently, some of us follow so-called environmentalists on each new crusade without knowing what is sound and what is not; what to accept as valid and what to reject.

Clear cutting is an example. How many of us who agonize over a clear-cut area have any real knowledge of the facts concerning clear-cutting? How many understand the long-term consequences of a clear-cutting ban? Many emotionally "follow the leader" because they don't know the facts.

Foresters advise that based on extensive research, clear-cutting has proved a desirable way to harvest certain species of trees, and if practiced properly it can result in better regeneration of new trees and more rapid creation of a new forest.

Let me conclude these remarks here today by talking a little about the ecological crusade which has gripped the nation, and which has, for some of our young people, supplanted the Vietnam issue as a new super cause.

There is no doubt that the American environment is in a ghastly state. We have poisoned our streams. We have polluted our atmosphere. We have brutalized our ecology. We have devoured our natural resources at a crippling rate. We are in danger of being engulfed by our solid wastes. We have been careless, irresponsible, short-sighted, criminally negligent. We are in deep, deep trouble.

But most of us know that fact. We accept our plight. We have started facing up to the problem. We are trying desperately to develop the technologies and spend the money necessary to save us. During the last ten years, the Congress has put on the statute books much of the federal legislation needed to help regions, states and municipalities handle their pollution problems. We are now passing other legislation to help us do the rest of the job. We have enormous support from the American people.

Industry is beginning to face up to its responsibilities in cleaning up our environment. They are swinging into vast programs to control the polluted emissions from their factories, and to recycle their wastes. They are not yet doing enough, nor are they moving fast enough. And, of course, there are some stubborn backsliders.

But what we don't need at this time is doomsday environmentalism. We don't need the type of ecological radical who insists the only way we can save ourselves is to give up our standard of living and stop all progress and turn our backs on our democratic institutions.

What we must do is balance our needs against our resources, and find out how we can have what we need without squandering these resources and defiling land, waters and our atmosphere.

Take our energy requirements, for example. We must have energy—great quantities of it—to keep the American show on the road. What we must do is assess our energy needs, and then find out how we can produce enough energy *without* seriously damaging our environment.

Or take transportation. We can't stop moving about this great country. We must decide what type of transportation our people require to get them where they have to go—and then find out how we can provide it with the least amount of detriment to our land, water and air.

Or take housing. We must continue to build houses for our people. Our problem is how to construct them—and where—so that they will not ravish our environment.

What we do need is sane, thoughtful cooperation from all of our people. What we need are people who have *environmental equilibrium*.

The forest service has always been the service of environmental equilibrium. It was directed to achieve a balance in resource use, conservation, and protection which will permit a high standard of living, a wide-sharing of life's amenities, and the regeneration of renewable resources—all in harmony with the environment. And it has carried out its mission admiracly.

America's national forests *are* for the people.

So, today, as we hail the 75th anniversary of the establishment of the Uinta National Forest, and hail the men who worked down the years to combine use of these forest lands with their preservation. Let us also give a bow in the direction of the U.S. Forest Service as a whole, and the men and women who are part of it. It is a dynamic and vital organization not only in step with the times—but ahead of them.

DEPARTMENT OF NATURAL RESOURCES

It is a privilege to address the Intermountain section of the Society of American Foresters. It allows me to thank you personally for the work you have been doing for years to conserve one of our greatest natural resources—our forests.

You chose as your life's profession what has now become part of a national crusade; to preserve our national heritage and our common life with nature. Quietly and without fanfare you have been managing and protecting our national, State and private forest lands in a way which has prevented some of the ecological blunders which are so dismaying us elsewhere.

I am sure it is a satisfaction to have been ahead of the pack—far ahead.

But knowledge and skill and experience also have their frustrations. I am sure you sometimes feel like handing out a "teething ring" as you hear recently-converted conservationists mouth proposals which you have known about and supported for years, or perhaps have tried and discarded.

But I say to you most earnestly, in the jargon of the day, "Hang in there" with us through these days of stress and smog and pollution and noise. We need your advice and counsel. You professional foresters rep-

resent a calm, quiet pool of expertise—a valuable natural resource in itself.

In my time, I've felt like a "teething ring", too.

Seven years ago I proposed the establishment of a department of natural resources and environment. It was my good fortune to choose as my first field of legislative activity in the Senate, the field of natural resources.

It soon became clear to me that we had to concern ourselves with the total environment—that we had to establish overall policies for the development and management of all of our natural resources, as a coordinated whole.

It furthermore became clear that if the great tasks in this field were to be performed efficiently and effectively, we had to reorganize the Federal structure which deals with natural resources. Out of this conviction grew a bill which I introduced first in the 89th Congress, and have reintroduced, adjusted and improved, but essentially the same in structure, in every Congress since.

This session, the establishment of such a department has become a principal goal of the Nixon administration.

The Moss bill and the Nixon proposal have been the subject of hearings in both the Senate government operations and the Senate interior committees.

Even in the seven years that I have been actively advocating the establishment of such a department, the idea has acquired enormous momentum. Technological changes which have revolutionized our views on environment, has made reorganization of the machinery which manages, conserves, and protects our natural resources not only desirable, but, in my opinion, *truly essential.*

The most significant difference between my proposal and the administration proposal is indicated by the difference in name—my Department of Natural Resources and Environment would include the components of the environmental protection agency—the water quality office, solid waste office, air pollution control office, pesticides office, and radiation office. The administration proposal retains EPA as a separate agency.

In other words, the basic thrust of the Moss bill is the placement—within the same department—of functions governing protection or preservation of natural resources as well as those governing development or exploitation of natural resources.

The second major difference is that the Moss proposal places the Bureau of Indian Affairs and the Office of Territories in the Department of Health, Education, and Welfare; the administration proposals place both in Natural Resources.

And there are several other, less important, variations which I will not take the time to detail here.

But, to begin, let me discuss briefly the fundamental reasons for the establishment of a Federal resources department.

First, perhaps is the terrible toll American progress has exacted from the natural environment.

You have heard all too often the grim recital of fouled rivers, smoky skies, scarred hillsides, crowded national parks, disappearing wetlands, and endangered species. You understand better than most of us that time is running out on this recently virgin land.

A second fundamental reason for the placement of principal resources responsibility in one department is the structure of nature itself.

Robert Frost said that what makes a nation in the beginning is "a good piece of geography." A piece of geography is a unit: land, water, atmosphere, forests—all are part of the same system. For thousands of years, man's activities left nature relatively unscarred. But as we have put more and more pressure on the environment, a "multiplier" effect has come into play.

The numerous and complex responsibilities of the Federal Government in the resources field offer numerous other reasons for the establishment of a DNR. These responsibilities include not only resources management, but also construction of public works; establishment of resources policy, dissemination of a vast range of information; and the conduct of many kinds of research and development.

Fulfilling such responsibilities for a Nation expanding rapidly both in population and production of goods has led to the establishment of vast and numerous programs. Particularly in the last 15 years. Congress has enacted a long list of resource development and conservation laws. But most have applied to a single resource, or area of the country, or agency, or project. We have shied away from giving one head to our resource management effort.

WATER

Primary water resources responsibility is still divided among three Federal departments. These are the Department of the Army, the Department of Agriculture, and the Department of the Interior. At one time, there was a fourth—Health, Education and Welfare—but in 1967 President Johnson, under his reorganization of part of our public lands, transferred the water pollution control administration from HEW to Interior. Now there are again four. As President Nixon has moved WCPA to the new Environmental Protection Agency and renamed it the Water Quality Office.

Congress did not set out to confuse water resource responsibilities. The Federal water management agencies were created years ago to solve specific problems and were placed in departments which were deemed appropriate then.

The Corps of Engineers was born in the 1920's with an appropriation of $75,000 and an assignment to remove sandbars and "sawyers, planters and snags" in the Mississippi and Ohio Rivers to aid navigation.

The Bureau of Reclamation—in the Department of the Interior—was created in 1902 to "reclaim" for agriculture land in 17 western States.

In 1954 a watershed protection operation which was assigned to the soil conservation service put the Department of Agriculture into the water resources picture in a big way.

Thus we came to have three major dam-building agencies.

All three also engage in River Basin planning. In addition, an important independent agency—the Federal Power Commission—likewise does River Basin planning because with it rests the authority to license the dams built by investor-owned power companies.

A higher degree of coordination in water resource planning and management has, of course, been advocated for a long, long time.

But it was only in 1965 that Congress enacted a Water Resources Planning Act. It provided, essentially, a committee of Cabinet officials—assisted by a very competent staff—to coordinate the programs of the great departments in the water field and to make a biennial assessment of the adequacy of the Nation's water supply.

The act was a step forward; but the weakness of the program it established is evident.

First, it places responsibility in a committee rather than in an individual.

Second, it involves Cabinet Secretaries who have more than full time jobs managing their own departments, and who already serve on several other high level committees. Such an arrangement might have worked 30 years ago, but it is clearly inadequate today.

LAND

Administration of public lands is another resource area which suffers from dispersed management responsibility.

At present, the Bureau of Land Management in the Department of the Interior is responsible for the administration of our public lands, while forest lands, as you all know, are administered by the Forest Service in the Department of Agriculture.

These two agencies now operate under several conflicting policies and procedures which might well be coordinated in the interest of good resource management as well as for the convenience of the public. In the area of the 1872 mining law alone, there are steps which should be taken to protect mining activities and access. River Basin drainage and geography do not take into account where the Forest Service boundary ends and the BLM jurisdiction over public domain begins.

I recognize that there would be many problems for both Forest Service and BLM personnel in blending the two bureaus into the same department. Several Forest Service people I know have been eloquent in expressing their opposition, both vocally and in writing. I would want all of the problems thoroughly aired in hearings before any final action was taken, of course.

RECREATION

The management of outdoor recreation resources is also divided up among major departments. Citizens are frequently surprised to learn that the Army serves more recreation "customers" than any other department. This, of course, results from the millions of visits made each year to the reservoirs built and managed by the Corps of Engineers.

Next in recreation volume is the Department of Agriculture which manages the national forests. Behind Army and Agriculture trails the Department of the Interior, even though it contains the National Park Service and the Bureau of Outdoor Recreation.

OCEANS

The problems of two other resources—the oceans and the estuaries—should also be mentioned.

The sea is a somewhat new frontier in the resource field. In my view, coordinated natural resources programs cannot be set up without recognizing the rich resources of the oceans and the fact that—in management—it is difficult to separate the sea from the land or the ocean from the river which flows into it.

The need for an oceanography program has been well demonstrated. The only question that remains is which department can operate it most efficiently. I believe it fits into a Department of Natural Resources, and I am pleased to support Mr. Nixon's efforts to place it there.

Also the need for a policy to preserve, develop and restore the estuaries of the United States coastal and estuarine zone is well known, and the development and management of such a policy should obviously be directed by a department concerned with ocean and other water resource management.

MOSS BILL

I wish there were time to discuss here in more detail what I think a Department of Natural Resources and Environment should do—and what functions should be assigned to it.

But there is not.

I do want to pursue, however, my thought on why I feel our resource development programs must be coordinated with our resource regulation programs—and therefore placed in one department as I recommend, rather than in an agency and a department, as the Nixon administration recommends.

The best reason is—it's more sensible.

Let me use just one specific example.

A number of coal-fired electric generating plants are in various stages of development in the four corners area of the Southwest. These are designed to utilize the plentiful coal of the region and water from the Colorado River system.

Some plants may be built on Federal lands, and power directed to population centers. The transmission lines must cross large stretches of public land. Therefore, ease-

ments for land use and contracts for water use would have to be negotiated with the Department of Natural Resources as they now must be with the Department of the Interior.

Numerous environmental problems are arising including: impact of plant construction on sites; discharge of pollutants into the air; disposal of coal waste; location of powerlines—frequently the least expensive route renders a scenic area unsightly; and often the return of water to the river system at a temperature higher than that at which it came out is involved.

Should not these questions be considered and resolved by the same department that grants permission for the use of public property? My answer is "yes."

Again, consider what it would be possible to do to properly manage and develop the nation's streams if we had a Department of Natural Resources. The streams would be looked upon not only as locations for dams or objects of pollution abatement, but also as parts of a national system of waterways and water supply and scenic beauty—a public treasure to be preserved and enhanced.

Consider the land. The responsibility of the Secretary of Natural Resources would include evaluating its use on a national basis. For instance, how much more land can we afford to devote to subdivisions or to super highways and how much must be retained open and free?

Consider energy. How much will be required in the years ahead? How much pollution can we afford in this generation? What fuels and what quantities need to be burned in its production?

Creation of a department of natural resources should also focus and make more efficient all research programs relating to resources. And it should mean that areas mostly neglected in the past—estuaries for example—now will be fully considered as part of resource planning.

I am concerned about the interaction between protection and development because I recognize that both are essential. In this matter, our Nation is cast on the horns of a dilemma. Like a hero of Greek tragedy, we find only two courses of action open, either of which could be fatal. If we put the brakes on production, we face a sinking standard of living; if we press full steam ahead on production willynilly we may—through pollution—destroy the life-giving environment.

Somehow the technological and political genius of the American people must be harnessed to give us both development and conservation. Otherwise, American society as we have known it must pass into oblivion.

To accomplish this dual task, I believe we need a Department of Natural Resources and Environment exercising comprehensive authority. It must have the responsibility and the capability of keeping the environment clean and of developing sufficient resources to maintain an acceptable standard of living. It must lead the nation into the new paths that must be found and marked—paths that will permit an advanced industrial society to grow and still survive.

If ever there were an idea whose time had come, it is a Department of Natural Resources and Environment. It would for the first time make a member of the President's cabinet responsible for formulating and augmenting a program to care for all of the nation's natural resources.

I realize that no one who works in a Federal bureau or department likes to be reorganized—there are always unknown pitfalls ahead—and the status quo is always easier to take—but I honestly believe that until we do put all of our natural resource developments and regulating agencies in one department—until the right hand knows at all times what the left one is doing—we will never be able to control the total environment.

Thank you.

## WILLOWBROOK—THE INESCAPABLE SHAME

### HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 2, 1972*

Mr. BRASCO. Mr. Speaker, this Nation is busily involved in pouring money into a variety of foreign aid programs abroad. We support innumerable petty dictators, propping up their regimes with dollars. We pursue the war in Southeast Asia at a staggering cost of billions of dollars. We pour cash into weapons projects which rarely prove out to be workable. We lever subsidies in the billions of dollars down the throats of fat cats of our Nation. But our prisons and mental institutions, even in supposedly advanced jurisdictions, are both the shame and disgrace of America. Such an instance has been exposed at the Willowbrook Hospital for the mentally retarded. Children there have been found to be existing in the most indescribable conditions. Buildings and facilities by themselves are not as bad as the lack of adequate personnel. There is a shortage of workers in an age of devastating joblessness.

As the State of New York cut its budgets, Willowbrook and some other similar-type hospitals were left with a minimum of attendants.

Just as shocking was the revelation that money to remedy the worst aspects of this appalling situation was there all the time. Governor Rockefeller released $5 million for these hospitals immediately. Another $20 million is supposed to come at a later date. Now, it was said, some of the empty buildings there will be put to the use they were originally intended for. More help would be available to adequately feed and clothe these children. Rather than overcrowded rooms, which were revealed to our entire State's shame, there would be an additional amount of space for each child.

In an effort to see for myself, I joined a Federal investigating team, headed by Dr. Brown and Senator JAVITS, in a visit to Willowbrook on Monday, February 28.

What I found was that the problem is a rather complex one—that the patients of Willowbrook break down into two categories, those severely retarded and those with limited retardation. For those with limited retardation, skills can be taught, enabling them to be reintroduced into society. For those who are severely retarded, the answer was custodial care, which meant complete and constant supervision over every aspect of their lives, for their mentality would not increase beyond the age of 3 to 5 years, and they had no control over their body functions.

It was obvious that where the additional funds were spent, the buildings were cheerful, staffing adequate, and programs for motivation existed. In those areas, one of which was a building constructed partially with Federal moneys, children were sitting at tables with crayons, coloring books, toys, puzzles; older children were learning how to sew clothes and cook their own meals. The answer is additional moneys.

Overall, the lack of funds was the immediately obvious culprit. All parties agree that financially we must have assistance in order to meet our obligations.

In the process, we must rethink our entire concept of the retarded or handicapped child. Why do we always try to hide them away from sight? Out of sight; out of mind, seems to be our motto. Isolating them from family and society is no solution.

There are alternatives for families of such children, who often are not told there is a choice. The Association for the Help of Retarded Children runs a series of day schools, specializing in treatment of such children. In each case there is home life as well as an effective teacher-student ratio allowing for significant attention to be accorded each pupil.

It is recorded that it costs the State of New York only $2,000 annually to keep a child of this type in such a day school. This is compared to an average annual cost of $5,000 for a child to be maintained in institutions such as Willowbrook.

Some retarded children must be institutionalized. But most can be trained usefully in such day schools. A revamping of how New York State trains its retarded and handicapped children is very much in order, involving easing of the institutional approach, which in many ways has been proven totally bankrupt.

And what of the other children around our State, crippled and blind and deaf? What is the situation in their facilities? Is the same state of affairs to be encountered there? What further horror stories are to be revealed and told? Why not primary application of resources to this last of our priorities? Has there been a published census of the handicapped children of our State? Certainly one is required.

There is absolutely no excuse under the sun for the neglect of a single child in New York. Handicapped children can rarely speak for themselves, as the recent exposé has shown. It is for responsible public officials and the media to do the job.

What conclusions can we draw from these firsthand observations? It is obvious that we must have a bill of rights for those in our society who are handicapped. In that regard, I will join in sponsoring legislation in the House similar to that being introduced in the Senate by Senator JAVITS, which would call for both adequate personnel and adequate funding to meet the needs of these children. Congress must, before this session concludes, pass meaningful legislation in this area, and a big boost toward our goals would be approval of the revenue-sharing bill. I pledge myself to these efforts.

As a society we confess our failure by such exposés of the Willowbrooks. Is this all we can offer in this day and age? Certainly a more activist approach is required. It should have leadership from the top, funds and a willingness to try new ideas. All of this has been lacking up to now. We have reached a point of choice, a juncture where we must do something better.

## THE EQUAL RIGHTS AMENDMENT AND THE DRAFT

### HON. MARGARET CHASE SMITH

OF MAINE

IN THE SENATE OF THE UNITED STATES

*Thursday, March 2, 1972*

Mrs. SMITH. Mr. President, Carol Burris, task force chairman for the National Organization for Women, has requested that I place in the CONGRESSIONAL RECORD a statement of the George Washington University Women's Liberation made on November 13, 1970. In response to that request, I ask unanimous consent that the statement be printed in the Extension of Remarks.

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

THE EQUAL RIGHTS AMENDMENT AND THE DRAFT

We, as draft-age women, deplore the proposition implied by certain senators that if we demand equality of rights, we deserve the punishment of the draft. The question that is being asked of women in an attempt to dampen their desire for equality of rights under the law is this: How many women do you know who want to be drafted? If these senators seriously consider this question worthy of an answer, it is this: Just as many as the number of men who want to be drafted.

Perhaps the obvious must be pointed out: No poll was taken before the passage of the Selective Service Act to find out how many men wanted to be drafted. The draft is now being used to intimidate women in their efforts to gain recognition of rights that are inherent in the principles of a democratic society. Senators who pose the threat of conscription are obscuring the issue of our equality. Serving in the armed forces has never been a prerequisite to equality under the law.

In addition, we have heard President Nixon propose elimination of the draft and the creation of a volunteer army. We question the members of Congress who use the issue of the draft to impede passage of the Equal Rights Amendment at the same time they are considering abolishment of the draft. We must question the credibility of a government that talks of an end to the draft and at the same time uses that hammer to nail women to the wall.

If it is their intent to have us believe that the draft is a permanent institution, then we again attest to our equality and demand equal application of the Selective Service Law. Sex exemption from the draft is a negation of our ability to face the most onerous self-determination question of our time. We are not asking to be spared from making critical decisions. If the passage of the Equal Rights Amendment means that both men and women will be subject to involuntary induction, we claim the right to answer for ourselves.

For long enough we have been given an easy out solely because we are females. We did not ask for this easy out, and we will accept it no longer. Neither will we have our credibility diminished, our need for equal rights demeaned by senators who seek to deny us this equality with the tactic of fear.

No, we do not want to die in Viet Nam. But neither do we want to be told that our place is one of servitude to the male power structure, that our only role in life should be as mothers and housewives, that we should be so limited in our choices and denied our freedom to assume the degree and kind of responsibility we deserve.

We are not asking to be protected. The kind of protection that the Ervin Rider imposes invalidates the concept of equality for which the Equal Rights Amendment stands. Ervin's brand of protection, by denying us our total equality with men perpetrates the insidious discrimination based on sex that now exists in every area of our lives. We are not asking for protection that implies an elitist sexist attitude of the superior capability and intelligence of men in setting national policy. We are asking for protection of our right to become directly involved in these issues and to determine for ourselves the kind and quality of lives we will lead. Whether to accept or resist induction is one of these issues. Where conscience dictates, when and if it becomes necessary, we will resist the draft.

As women we are dedicated to the belief in a more humane society, a constructive society, one which allows all of its people the full realization of their abilities, creativity and intelligence, where human resources are not limited by law. We stand for a better world for all humankind. The Equal Rights Amendment is a means to that end.

## MEMORY OF DR. EPHRAIM McDOWELL

### HON. WILLIAM P. CURLIN, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 2, 1972*

Mr. CURLIN. Mr. Speaker, tomorrow marks the 43d anniversary of the date on which Kentucky dedicated the two statues which represent our noble State in the U.S. Capitol.

Indicative of Kentucky's great humanitarian spirit, the two men chosen were Henry Clay, who worked unceasingly for peace, and Dr. Ephraim McDowell whose medical achievements and discoveries relieved suffering and agony, and extended the lives of many persons.

At this time I insert the very inspiring statement made at the dedication of Dr. Ephraim McDowell's statue by the Honorable Ralph Gilbert on March 3, 1929, reprinted in the CONGRESSIONAL RECORD today to help remind us of our great heritage and encourage us to emulate these men's lives and their contributions to their fellow men.

I am very pleased that the widow of the late Representative Ralph Gilbert, Victoria V. Gilbert, who in this spirit leads a very active life on behalf of worthy causes while pursuing a legal career, brought this august occasion to my attention so that we may again honor this event.

The statement follows:

UNVEILING OF THE STATUE OF DR. EPHRAIM McDOWELL

Mr. GILBERT. Mr. Speaker, under leave granted to extend my remarks in the RECORD, I insert the remarks I made at the unveiling of the statue of Dr. Ephraim McDowell in the Capitol on Sunday, March 3, 1929, at 2 p.m.

The matter referred to is as follows:

Mr. President: Reverently, in the presence of these mighty shades, we, commissioned by the proud Commonwealth of Kentucky, consign to this Hall of Fame two of her sons worthy to be placed here among the immortals.

From the selections here we are persuaded that a partiality exists among men for those who have distinguished themselves in combat either on battle field or in legislative forum.

Kentucky bows to none in the prowess of her warriors. "The dark and bloody ground" was both a description and a prophecy. Chivalry and romance brighten every page and tragedy darkens every chapter of her history. The adventures of Boone, Kenton, Harrod, and Logan are the inspiration of every American boy. The daring of Clark at Vincennes, Shelby at Kings Mountain, Johnson at Tippecanoe, Taylor at Monterey, and Morgan on his raids thrill all who love men of blood and iron, valor and action.

Kentucky's statesmen have been as able in peace as her soldiers have been mighty in war, Menifee, Wickliffe, Crittenden, Beck, Carlisle, Breckinridge, and Clay assumed commanding influence in the councils of the Nation. After Clay, of whom you have just been so eloquently told, had, with one hand on the shoulder of the southern slaveholder and the other on the shoulder of the northern abolitionist, averted the Civil War for a generation, it was Kentucky that, in those dark days of fratricidal strife, gave unsparingly and impartially of her sons to both sides and gave Abraham Lincoln to the North and Jefferson Davis to the South, each to guide the destinies of a separated nation. Pennsylvanians fought side by side for the North; Tennesseans fought side by side for the South; Kentuckians fought face to face, some for the North, some for the South.

Kentucky's list of eminent divines includes Bascom, the greatest Methodist orator; Broadus, the greatest Baptist scholar; Breckinridge, the greatest Presbyterian theologian; Campbell, the great founder of the Disciples; and Spalding, the greatest of Catholic historians.

As these great statesmen and preachers swayed the Nation with their eloquence, Prentice and Watterson lashed it with the power of their editorials.

Kentucky's jurists have been as outstanding as her statesmen. The learned and classical opinions of Robertson, Miller, and Harlan have been read and followed in the courts of the world. Kentucky today leads the States in the number of justices of the Supreme Court of the United States. She has two, which is more than have 42 States combined.

What giants in the court room were Davies, Marshall, Hardin, Goebel, and O'Dougherty!

Did poets ever sing more sweetly than her sons, Stanton in the Moneyless Man and O'Hara in the Bivouac of the Dead?

Her painter was the matchless Jouett, her sculptor the incomparable Hart.

Oh, Kentucky, the mother of genius, had your sons dwelt elsewhere their parise would have been heralded by a thousand messengers. As the name America is an injustice to Columbus, so in this very hall has your own son lost the credit that was his through your modesty. Why have you not sung of your doctors? In your starry heaven of achievement here is your brightest constellation.

When the tread of the warrior has passed on, the hurrahs and shouts are hushed, the strains of martial music have died away, can be heard the sob of the widow, the wail of the orphan, the groan of the dying as pestilence and famine stalk through the land.

What a relief to leave the scene and enter with the doctors into a field of human service, aiding to rise, not to fall; helping to live, not to die. In this field have your sons surpassed all the rest. You have had five presidents of the American Medical Society, which is many more than any other State. What soldiers of daring, what masters of skill, what giants of brain were these men of mercy.

This is a fitting time to mention a few of your greatest—Brashear, McDowell, Dudley, Drake, Yandell, Gross, Blackburn, Sayre, McMurtry, Matthews, Gilbert, McCormack, and Abell. Two of these performed successfully feats never before accomplished in all the world. Doctor Brashear was the first surgeon

in the world to have the courage and the skill to amputate the leg at the hip joint. Doctor McDowell was the first surgeon in all the world to cut into the abdominal cavity and remove an ovarian tumor. He is the father of ovariotomy and the pioneer in abdominal surgery. Doctor Brashear's feat was performed in 1806, Doctor McDowell's on December 13, 1809, both in the backwoods of Kentucky. I have never held proximity to brick and mortar necessary to greatness.

"What though on common fare they dined,
Were hodden grey and a' that.
Give fools their silks
And knaves their wine;
A man is a man for a' that."

Doctor McDowell was born November 11, 1771, in Rockbridge County, Va., son of Samuel and Mary McClung McDowell. He was married to Sarah Shelby, daughter of Gov. Isaac Shelby. He was the ninth of 12 children. His ancestry were Scotch on both sides. Though a Virginian by birth, he was Kentuckian from childhood, having moved to Danville when only 13 years of age. Kentucky was then a wilderness and that now splendid city of Danville was a pioneer village of 300 people, nestled in the forests of oak and poplar. His father, Samuel McDowell, was judge of Kentucky's famous land court, and of sufficient affluence to educate Ephraim in the universities of America and Scotland. Edinburgh was then the medical center of the world, and to the great university there young McDowell was sent. His inspiration, however, was received at the feet of a private tutor who fired his imagination with the possibilities of removing diseased female organs from the vital cavities of the human body. This was Dr. John Bell, of Edinburgh, who dreamed of, but never attempted, these operations.

Perhaps it was the backwoods setting, the heroic environment, the very necessity of the thing, that gave Doctor McDowell, then recognized as the leading physician and surgeon of the South and West, that undefinable resignation of mind and soul that precedes an entry into the unknown. Columbus was the most skillful navigator of his time; he had studied deductions from all the known facts; he was inspired by a resigned faith. McDowell possessed the same qualities of mind and soul, and as Columbus sailed into the unknown secrets of a human life.

The circumstances were these: Jane Crawford, a woman in the prime of life who lived in Greene County, Ky., was suffering what were supposed to be the pains of childbirth. As time and suffering went on without apparent progress, Doctor McDowell was called into the case and rode horseback 60 miles through the wilderness to her bedside. A thorough diagnosis, an explanation to the attending physicians preceded the ordeal of telling the unhappy woman of her fate. It was fully explained to her that those pains, similar to labor pains, came from an ovarian tumor, that they would increase until death, shortly, would relieve her of her agony. Such then was the unhappy state of suffering womanhood.

Doctor McDowell in that crucial situation rose to sublime heights. Here was the problem whose solution Bell had dreamed of, McDowell was called up to meet. Had he been in Philadelphia, then the medical center of the United States, learned doctors would have cautioned against his rashness; would have explained that the woman would in all probability not survive the operation; that he, having caused her death in a foolhardy attempt to do that which never before had been attempted, would naturally be censured as a man and probably disgraced as a physician, and he having shifted responsibility might have faltered.

Who will contend that the backwoods did not play a part in this achievement; that a kind Providence, who tempers the wind to the shorn lamb, did not arrange that this woman should be the bravest of her race to meet the most daring and skillful surgeon of the age.

Doctor McDowell told her that he would, if she desired, remove the diseased parts with the knife; that it had never been done before; that death would follow failure; that she must come to Danville and submit to the ordeal without even a local anesthetic, for even morphia was then unknown.

In a few days she came on horseback, 60 miles, every step an agony. Do you daughters, with the comforts and luxuries of today realize and appreciate the hardihood, bravery, and sacrifice of your mothers? Are you proud of this great heroine of the backwoods? The operation was performed, success crowned the effort, and 40 years were added to the life of this one woman. It has been calculated that to now at least 30,000 years of pain have been in this way saved suffering womanhood.

O Napoleon, where are your achievements? Every year of life you took from man this physician has added to woman. Oh, victories of war, how much greater tower the victories of peace!

Some would give to Jane Crawford an equal part of glory in this event. Surely in courage she bears the greater part, but McDowell added to courage knowledge and skill.

When the intelligence of this great accomplishment reached the universities of Philadelphia and Europe it was sarcastically dismissed as untrue and impossible, but three repetitions by this wonderful physician prior to 1820 brought apologies and recognition.

Doctor McDowell was unassuming and kindly, always interested in the smallest concern of his associates. He was criticized for lack of dignity and reserve by those who know not that simplicity is the companion of greatness.

McBeath's masterpiece of fame—

"Do dreams of fame thy restless soul engage?
With sword or pen thou canst inscribe thy name
Upon the brow of Envious Time himself
And bid defiance to his blighting breath;
But thou must find, round thy human heart
An adamantine wall, impregnable alike
To love's sweet smile or pity's tear,
On the altar of thy purposes lay
Freedom and ease and rest and calm content
The joys of home, hope, happiness, and heaven;
And when thou'st reached the lonely mountain top
And stand at sunset by the glittering thing
For which thou'st left the peaceful vale below,
Thou'lt find the brightness that had lured thee on
Above the dear companionship of men
Was but a mocking gleam of chilling light
Reflected from some bleak and icy cliff
That frowns above eternal fields of snow"—

never applied to him.

Greatness must ever be accorded men, measured by their supreme accomplishment—Poe not by his intemperance but by his Raven; Bunyan not by his dissoluteness but by his Pilgrim's Progress; Clark not by his sullenness but by his capture of Vincennes; and McDowell not by his indifference but by his ovariotomy.

These great accomplishments measure the capacity of the man—

"Like some tall cliff that lifts its awful form,
Swells from the dale and midway leaves the storm,
Though rolling clouds around its breast are spread,
Eternal sunshine settles on its head."

May I add my humble judgment to that of the able committee who selected Henry Clay and Dr. Ephraim McDowell and in that of the Kentucky Legislature who approved their finding that among all Kentucky's noble sons and daughters these should represent her here and these statues, like their lives, both remind us—

"We can make our lives sublime,
And departing leave behind us
Footprints on the sands of time."

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## ENVIRONMENT, ANTITRUST, AND ELECTRIC POWER

### HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

*Thursday, March 2, 1972*

Mr. METCALF. Mr. President, on February 9 I spoke to the Missouri Basin Systems Group in Denver, Colo. Some 200 representatives of local power systems met there to review the major issues facing them as they try to fulfill the growing demands for more electricity economically, and with the least environmental impact possible.

They were particularly concerned about the problems which arise when the planning and construction of power generation facilities encounter opposition of citizens concerned about damage to air, water, land and scenic views. They were equally concerned over coordination of power systems and the difficulty in dealing for wholesale power supply with large investor-owned systems.

Two scholarly papers on these points were presented to the group. One was delivered by Phineas Indritz, chief counsel of the Conservation and Natural Resources Subcommittee of the House Committee on Government Operations. His speech deals with the relationship between the National Environmental Policy Act and the electric power industry. The other speech, on coordination and the antitrust laws, was presented by Wallace Edward Brand, an attorney in the Antitrust Division of the Justice Department who previously was on the legal staff of the Federal Power Commission.

I believe that the remarks of Mr. Indritz and Mr. Brand help to provide an understanding of these important issues. I ask unanimous consent that they be printed in the RECORD.

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

SPEECH OF PHINEAS INDRITZ

Until recently, the public generally welcomed construction of power facilities. They provided employment, increased the community tax base, improved standards of living, and brought the convenience and economy of electricity to home, farm and factory.

However, the huge growth of the electric power industry, which as you know, doubles about every 8 years, has created mounting concern about the harmful effects which proliferating bulk power facilities have on our air, water, land, scenic view and wildlife.

Power generating plants and transmission lines already occupy millions of acres, and are visible from many more millions of acres, including areas used for recreation, parks, historic sites, residences, wildlife sanctuaries, and other non-industrial purposes.

Fossil fuel plants spew vast tonnages of sulfur dioxide, nitrogen oxide, and particulates into the atmosphere.

Widespread fears are expressed about the possibility of catastrophic accidents and the emission of radioactivity from nuclear plants.

Both nuclear and fossil fuel generating plants dissipate enormous amounts of heat into both the air and the waters of America.

Even hydroelectric plants, which do not pollute air and water, require dams, and involve drawdown practices, which change river flow, topography and ecology, and effect fish and wildlife.

As the national concern about contamination of the environment continues to grow, more and more people are asking—what will the electric industry do, 20 years hence when it is 5 times larger, to our air, water, land use, esthetics, fish and wildlife, and the quality of human life?

This challenge to the electric industry is very real. For example:

Environmental concern killed the Nez Perce dam project on the Snake River because it would have blocked fish returning to spawn in the Salmon River.

It stopped the Marble Canyon dam project because it would have backed water into the Grand Canyon National Monument.

The Cornwall "Storm King" pumped storage peaking plant has been involved in years of litigation by citizens who oppose its scenic impact on the palisades of the Hudson River.

The City of Woodside, California, blocked construction of a transmission line needed by the Atomic Energy Commission until Congress stepped in to work out a compromise leading to a less visually intrusive line.

The U.S. Court of Appeals in its recent *Calvert Cliffs* decision[1] required the Atomic Energy Commission to revise its procedures for licensing nuclear power plants and to consider all relevant environmental effects of the proposed plants.

The State of Minnesota went to court to compel the Monticello nuclear plant to conform to much more rigid requirements on radioactive discharges than those specified by the Atomic Energy Commission.

Even the Interior Department, which has several power marketing agencies and knows the importance of expediting the construction of more power facilities, instituted legal action to stop the Florida Power and Light Company from discharging waste heat from its nuclear plant into Biscayne Bay.

The electric utility industry can no longer plan its construction of generating plants and transmission lines solely on the basis of engineering feasibility and economics. It must now consider the impact of every new facility on the environment. Will it pollute the air? Will it overheat the water? Will it intrude on historic and recreational sites? Will it uglify and scar the landscape? Will the public view the harm to the environment as more serious than the threat of brownouts?

This rising tide of environmental concern about bulk power facilities began to accelerate about six years ago in the *Scenic Hudson* and *High Mountain Sheep* cases.[2]

In the first case, the U.S. Court of Appeals for the Second Circuit stressed "as a basic concern the preservation of natural beauty and of national historic shrines, keeping in mind that, in our affluent society, the cost of a project is only one of several factors to be considered." (at p. 624).

In the High Mountain Sheep case, the Supreme Court admonished the Federal Power Commission and the electric industry (at p. 450) that:

"The test is whether the project will be in the public interest. And that determination can be made only after an exploration of all issues relevant to the 'public interest', including future power demand and supply, alternate sources of power, the public interest in preserving reaches of wild rivers and wilderness areas, the preservation of anadromous fish for commercial and recreational purposes, and the protection of wildlife."

In both cases, the projects were sent back for restudy and reconsideration of their environmental impacts.

The *Scenic Hudson* case is also significant for its substantial expansion of the judicial doctrine of "standing" to sue. It ruled that citizens concerned about the environment—about aesthetic, conservational and recreational matters—have legal standing to file suits challenging the action of a governmental agency's ruling, such as the FPC's licensing of a hydropower project. This principle has been further expanded in the past 2 or 3 years, so that now it is pretty clear that almost any person or group can establish the requisite legal standing needed to institute legal action against all sorts of conduct, whether by government agencies or by corporations, which may affect aesthetic, conservational, or recreational values.[3]

There is a wide variety of legislation now being enacted as a result of concern about the environment which complicates the life of the power executive. Not only Congress, but also many state and local legislative bodies as well as administrative agencies, at both Federal and State levels, are adopting laws and regulations and policy statements intended to increase environmental protection against possible adverse effects of constructing new power facilities, or of operating existing power facilities.

The most significant of these new laws is the National Environmental Policy Act of 1969.[4] It commands Federal agencies to administer all their activities with a keener eye toward their environmental effects. The Act established a statutory Council on Environmental Quality to give high level guidance to the Nation on dealing with environmental problems. In addition, the Act directs that "all agencies of the Federal Government shall" develop procedures which will "insure that presently unquantified environmental amenities and values" be given "appropriate consideration in decision-making along with economic and technical considerations".

The Act also requires "all agencies of the Federal Government" to prepare a "detailed statement" to be included in "every recommendation or report" concerning "Federal actions significantly affecting the quality of the human environment." That detailed statement must cover each of the following matters:

(i) The environment impact of the proposed action;

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) Alternatives to the proposed action;

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

The Act also requires the Federal official, before making the detailed statement, to first "consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved". Copies of such statement and comments "shall be made available to the President, the Council on Environmental Quality, and to the public . . . and shall accompany the proposal through the existing agency review processes." (Sec. 102.)

In addition, the President's Executive Order 11514 issued on March 5, 1970 (35 F.R. 4247) directs all Federal agencies to establish procedures for public hearings on their plans and programs which affect the quality of the environment, and to "provide the public with relevant information, including information on alternative courses of action".

The electric bulk power industry has been accustomed to some of these requirements. For example, public hearings are held by the AEC on applications to construct nuclear power plants, and by the FPC on applications for hydropower licenses. Both the FPC and the AEC consult with other agencies concerned with environmental effects, such as the Interior Department with its Fish and Wildlife Service and Geological Survey, the Corps of Engineers, and others. But the National Environmental Policy Act went much further. It has required revisions of agency procedures which are enabling conservation and environmental groups to have a more substantial input into agency decisions. It has broadened the opportunities of Federal, State and local agencies to express their views on the environmental effects of Government actions, such as the licensing of nuclear power plants and plants which reprocess fuel discharged by nuclear reactors. It requires the operators of such plants to comply with environmental standards, including controlling the thermal effects of releasing their heated waters.

The requirements of the National Environmental Policy Act have had a tremendous impact. Agencies have begun to give greater attention to the environmental effects of their proposed actions. A considerable number of projects, which otherwise might have been carried forward, have already been revised or deferred as a result of such review.

The requirement that agencies make environmental impact statements has, furthermore, given a new legal weapon to citizens concerned about environmental damage resulting from government action or projects. They have sought, and obtained, injunctions against many major projects because the agency failed to file an environmental impact statement, or because its environmental statement was deemed inadequate.

Among the well-known projects which were deferred, or stoppeed, until an adequate environmental impact statement is filed are:

The Trans-Alaska pipeline (*Wilderness Society v. Hickel*, 1 ERC 1335, D.D.C. 1970).

The numerous highways through parks, cities, etc.

Timber cutting in the Monongahela National Forest (*West Virginia Highlands Conservancy v. Island Creek Coal Co.*, 2 ERC 1442 (4th Circ. 1971).

Further construction of both the Cross-Florida Barge Canal and the Gillham Dam in Arkansas were enjoined even though both projects had been authorized and partly constructed prior to the enactment of NEPA (*Environmental Defense Fund* v. *Corps of Engineers* 2 ERC 1173, D., DC. 1971); (*Environmental Defense Fund v. Corps of Engineers*, 2 ERC 1260, E.D. Ark. 1971).

The Secretary of the Interior was enjoined from cancelling Federal contracts for purchase of helium (*National Helium Corp. v. Morton*, 326 F. Supp. 151, 1971).

Channel clearing on the Gila River (*Sierra Club v. Laird*, 1 ELR 20085, D. Ariz. 1970).

In *Natural Resources Defense Council v. Morton*, —— F 2d ——, —— App. D.C. —— (Jan. 13, 1972), the Interior Secretary was

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[1] *Calvert Cliffs Coordinating Committee* v. *Atomic Energy Commission* 449 F.2d 1109, 2 Env. Rep. 1779 (C.A., D.C. July 23, 1971).

[2] *Scenic Hudson Preservation Conference* v. *Federal Power Commission* 354 F.2d 608 (C.A. 2, 1965), *cert. den.* 384 U.S. 941 (1966); *Udall* v. *Federal Power Commission*, 387 U.S. 428 (1967).

[3] *E.g. Data Processing Service* v. *Camp*, 397 U.S. 150 (1970); *Citizens Committee for the Hudson Valley* v. *Volpe*, 425 F. 2d 97 (C.A. 2d, 1970); *Environmental Defense Fund* v. *Corps of Engineers*, 2 ERC 1260 (1971).

[4] Act of January 1, 1970 (Public Law 91-190; 83 Stat. 852; 42 U.S.C. 4321).

enjoined from leasing oil lands on the continental shelf, not because of failure to file a NEPA environmental impact statement, but because the statement did not adequaely discuss some possible alternatives for meeting energy demands, including some alternatives beyond the Secretary's authority to adopt, such as the possibility of eliminating oil import quotas. The Court emphasized the importance of having Federal agencies develop information about, and discuss in adequate detail, the alternatives as well as the proposed action, so that not only the agency but also the Congress and the public could weigh them and decide on the best course of action compatible with protecting the environment.

The U.S. Court of Appeals for the District of Columbia ruled in *Calvert Cliffs Coordinating Comm. v. Atomic Energy Comm.*, 449 F 2d 1109 (DC Circ 1971) that the AEC must itself examine the environmental aspects of the projects it approves, including their impact on water quality, rather than merely accept the certificate of a State or other agency.

In *Kalur* v. *Resor*, 3 ERC 1458 (D., D.C. Dec. 22, 1971), the Corps of Engineers was enjoined from issuing any Refuse Act discharge permits until the Corps revised its regulations to require environmental impact statements before issuance of a permit.

More recently, the Atomic Energy Commission was enjoined from issuing a license to enable 50 percent operation of the Quad Cities nuclear power plant until it prepared an environmental impact statement as required by NEPA, because the heated water would have exceeded Illinois state water temperature limitations for the Mississippi River. (*Izaak Walton League* v. *Schlesinger*, 3 ERC 1453, D., D.C. Dec. 13, 1971).

And less than a month ago, the Tennessee Valley Authority was enjoined from doing further construction work on the Tellico Dam and Reservoir Project, even though the project had been initially approved and funds appropriated as long ago as 1966 and the concrete part of the dam completed early in 1969; and even though TVA had already prepared a draft environmental statement and was working on the final statement. (*Environmental Defense Fund* v. *TVA*, 3 ERC 1553, D.C. Tenn. E.D., N.D. Jan. 11, 1972). The court examined the draft statement and ruled that it "consists almost entirely of unsupported conclusions" and showed "lack of careful research and planning".

Why did Congress require the agencies to prepare environmental impact statements, under section 102(2)(C) of the National Environmental Policy Act? The answers are quite evident. Congress intended such statements as the mechanism to implement Government coordination and to help agencies make a comprehensive approach to environmental management. Making these impact statements would require the agencies to face the problems of pollution while they are still of manageable proportions and while alternative solutions are still available, rather than to persist in environmental decision-making wherein policy is established by default and inaction, the environment continues to be degraded in small but steady increments, and the mistakes of the past are perpetuated and not dealt with until they reach crisis proportions.

Furthermore, the environmental impact statement provides at least some evidence that the agency has given consideration to environmental factors, and enables the public to evaluate and weigh them also. The Act and the environmental impact statements thus make the decision-making more responsive and more responsible.

The importance of such coordination has recently become very clear to the 130 rural cooperative, public power and Federal systems which participate in the Missouri Basins Systems Group and utilize its joint transmission system. You know that the Black Hills Power Company has been seeking to construct a 230 KV transmission line across the Black Hills National Forest. Such line, if used exclusively by the company, would soon have to be duplicated with another line to serve members of your Group. It is apparent that coordination is needed to minimize the potentially adverse impact of duplicate lines on the national forest.

Our Subcommittee has been following the progress of the studies being made by the Bureau of Reclamation and the Forest Service concerning this matter. We trust that these studies will result in an environmental impact statement which examines all alternatives and selects the one that will maximize the benefits for all persons and minimize unnecessary intrusion upon the environment of the forest.

NEPA and its requirement for environmental impact statements are now under attack. Last week, the Chairman of the Council on Environmental Quality and the Administrator of the Environmental Protection Agency sent a joint letter to Congress urging that NEPA be amended in several respects:

First, that the Act shall not apply to any matter involving water quality considerations in connection with any Federal license or permit "for the conduct of any activity which may result in any discharge into navigable waters" if a State certifies that the discharge will comply with applicable water quality standards, or if the activity receives a permit from EPA or the Corps of Engineers.

Second, that the Act shall not apply, so far as concerns environmental impact statements or other procedural matters, to any regulatory actions since Jan. 1, 1970 by EPA "or by other Federal agencies . . . under any . . . Federal statute presently in effect or hereafter enacted, as may be . . . identified by . . . the Council on Environmental Quality. . . ."

On Feb. 7, 1972, just two days ago, both Congressman John Dingell chairman of the House Subcommittee which held the hearings on the enactment of NEPA, and Congressman Henry Reuss, Chairman of the House Conservation and Natural Resources Subcommittee, stated on the Floor of the House, that they intended to oppose those Administration amendments (Cong. Rec. pp. H 802, H 805).

Another area of conflict affecting the coordination of the electric power industry and the environment will come when the House Interstate and Foreign Commerce Committee takes up the Macdonald bill (H.R. 11066) which, according to its title, is "designed to balance reasonable power needs and reasonable environmental factors in planning and authorizing the construction and operation of bulk electric power facilities."

It would extend my talk far beyond the limits of your patience, and your hospitality, if I were now to launch into a detailed exposition of this bill. I do suggest, however, that at least one provision has an Orwellian appearance, and ought not to be enacted. I refer to section 412(c), on pages 25–26 of H.R. 11066, which states that when an *ad hoc* panel of three members approves an electric utility's proposal, the utility can proceed under that proposal to construct and operate a bulk power facility, and use Federal lands for that purpose, without regard to any provisions of Federal or State law relating to "questions of siting, land-use, air or water quality, or other environmental factors, or to public convenience and necessity and other aspects of regulation of electric utilities". (The only exceptions would pertain to Atomic Energy Act provisions relating to radiological safety, and the laws of States which have a siting agency).

I suggest that such elevation of electric power over environmental protection is not in the best interest of our country.

The bill is important, it is receiving serious consideration by the House Interstate and Foreign Commerce Committee, and it ought to be studied in detail by you so that you can express your views to the Congress.

Thank you for listening.

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## Coordination and the Antitrust Laws—Remarks of Wallace Edward Brand

In any industrial economy there are three important kinds of decisions to be made. They are: What is to be produced? How shall it be produced? and Who shall benefit from the production? [1] In our economy we rely primarily upon the force of competition acting through the market to make these decisions. This is what Adam Smith, the eighteenth century economist, called the "invisible hand," a hand which controls the correct answers to these three questions, what to produce, how to produce it and who is to benefit, in the simplest most efficient way.

Most economists recognize that Adam Smith's invisible hand is not operative in at least two cases. One of these is the case of "external diseconomies." [2] Another is the case of monopoly.[3] I think it is interesting that these two areas where the "invisible hand" doesn't work, are among the most troublesome in the electric utility business today. The first, of course, is at the root of the environmental problems facing the industry, and I'm sure anyone trying to secure a license for a power plant contested by environmentalists will agree that we are far from a satisfactory *method* of handling these problems. The second, which I believe we are much farther along in solving, has been dealt with through direct regulation and the application of the antitrust laws.

Today, I'm going to discuss this latter aspect—the application of the antitrust laws to the electrical utility business. I'm going to divide my talk into three parts—First a little technological history of electric power supply, second some legal history and third some recent developments. Afterwards, I'd be happy to answer any questions you may have.

### HISTORY

In the early days, the 1920s and before, the key to success in the electric power business was often control over the low cost water power sites. Firms having such control weren't concerned with alternative sellers of electric power being a source of competition especially any competition from isolated steam generation with its high costs of reserves and fuel.[4]

In the decade from 1910–1920, when the technology of high voltage transmission began to permit the tying together of remote generating stations, both steam and hydro, into large statewide and regional systems and tying together growing loads to be served by these systems, the economics of power supply changed very drastically. After 1920, access to various kinds of coordination over high voltage transmission was the necessary prerequisite to installation of large units and the resulting low cost competitive power.[5] Before 1920 in several areas of the country some interests bought up much of the low cost water power to gain control over the electric power market and one of the evils the conservationists under the leadership of Pinchot clamored against, was such monopoly of water power.[6] After 1920, a number of operators seeing substantial profits to be made, started buying up isolated distribution properties served by isolated thermal or hydro generation for the purpose of tieing them into large integrated systems, or when that was not possible, using them for trading purposes.

The technique used was to purchase a property for more than value based on present earnings having in mind the greatly increased earnings which could be realized from the savings from an integrated power supply.

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Footnotes at end of article.

LEGAL DEVELOPMENTS IN ELECTRIC POWER

Predictably, the laws reflected some awareness of the economics of bulk power supply and of its technology.

From the time of Theodore Roosevelt, the Reclamation laws declared a preference to smaller public and non-profit systems in the sale of surplus hydroelectric power making available an independent supply of bulk power to many small distribution systems. This policy was continued to several later acts including the Bonneville Act and the Flood Control Act of 1944.

The 1920 Water Power Act[7] reflected a concern over monopolization of water power sites in many sections of the country. It was intended to give preference to non-profit systems in the licensing of water power sites and Section 10(h) provided that the license could be revoked if the licensee restrained trade in the sale of electric power. However, I am not aware of any case where that section was successfully invoked.

The 1935 Public Utilities Act[8] had a drastic effect on the integrating and coordinating patterns that were emerging.

In Title I, the Holding Company Act,[9] holding company acquisitions of isolated properties were limited to those which could be integrated into a single system and which would not lead to an undue "concentration of control". Presently owned properties that could not be integrated were required to be divested as were other non-electric utility properties.

These isolated properties could under Section 9 of the Holding Company Act[10] or Section 203 of the Federal Power Act,[11] be built back into holding company or operating company systems. Or, under Section 202(b) of the Federal Power Act[12] they could get access to a limited amount of the physical and economic benefits of integration by compulsory coordination. It is interesting to note that while this alternative was present from 1935 on, it wasn't until the middle 1960s that any independent systems attempted to utilize it, and even then publicly owned systems had to run the gauntlet of judicial determinations that they were "persons" within the meaning of the Federal Power Act which would entitle them to claim the benefits of compulsory coordination.

A recent beneficiary of that line of decisions confirming FPC's right to compel coordination was the City of Gainesville whose reserve sharing arrangement with Florida Power Corporation as ordered by the FPC was by the Supreme Court last year.[13]

Integration rather than coordination was often the choice of the privately owned systems. Even now the Justice Department is participating in the SEC proceeding on American Electric Power's proposal to acquire Columbus & Southern Ohio Electric Co. Witnesses have testified that the acquisition may unnecessarily destroy the three-party power pooling arrangements between Columbus & Southern, Dayton and Cincinnati G. & E.[14]

In 1954 during the debates on the Atomic Energy Act, national attention again became focused on the electric power monopoly question—this time the focus was on nuclear electric power. A central theme was that nuclear technology was the result of heavy federal expenditures and that it would be wrong to have the economic benefits of that technology captured by a few giant corporations.

Up through 1970 the antitrust review built into that 1954 atomic licensing act[15] hadn't been applied because all reactors were licensed under a section dealing with experimental and medical therapy reactors. The 1970 amendment[16] changed the law so that almost all reactors owned by public utilities would require antitrust review.

On each license application the Department now advises AEC whether any antitrust problems are present. If there appear to be antitrust problems and the Department recommends a hearing, the AEC must schedule a hearing to determine whether the activities proposed under the license would "create or maintain a situation inconsistent with the antitrust laws." The Commission has broad authority to impose license conditions to alleviate any monopoly problem which it finds.

For a good exposition of the nature of our antitrust review I'd like to refer you to a talk made recently by Mr. Milton Grossman, Assistant Chief of the Public Counsel and Legislative Section in the Antitrust Division which was covered fairly thoroughly in the December 1971 edition of Nuclear Industry. I also have some copies available here and I will be glad to answer any questions regarding our procedures and our criteria.

A brief word or two about the antitrust statutes—Sherman Act Section 1 generally prohibits arrangements between two or more companies if they unreasonably restrain trade. The kinds of such restraints of trade that most people have heard of are combinations or contracts to fix prices or to divide markets—practices that have a direct effect on consumers by raising prices. These kinds of arrangements are so pernicious that the courts call them *per se* violations and usually refuse to accept any evidence by the parties to such arrangements proffering special reasons as to the reasonableness of their particular agreement. It also deals with such things as collective arrangements between companies which advantage the companies to the arrangements but exclude and prejudice other commercial entities—a principle that we have applied to coordinating arrangements in electric power. It also covers tying one product or service to another, certain agreements limiting end use of products sold, and so forth. Section 2 of the Sherman Act is also a general and flexible prohibition; it outlaws monopolizing and attempts to monopolize.

The two elements of a Section 2 violation are (1) "market power" and (2) some conduct responsible for the development or maintenance of that "market power"—conduct that really wasn't necessary to attain any legitimate business purpose. The court has described these as efforts not "honestly industrial."

In our electric power supply context, "market power" could be the power to grant or deny access to coordination which stems from a strategic dominance in transmission.

Clayton Act Section 7 is often referred to as the antimerger statute. The Clayton Act was passed in 1914. One major purpose of the 1914 legislation was to stop incipient Sherman Act violations.

The Sherman Act became law in 1890 at the very birth of the electric power industry.

Until fairly recently there has not been much antitrust litigation in the electric power industry and the Courts have not been presented with the necessity of reconciling the competitive price and regulated monopoly statutory schemes.[17] In the field of regulated industries generally, a number of recent cases have held that the policies of the antitrust laws must be applied by the regulatory agencies unless there is some public purpose contemplated in the regulatory statute which can be served only by ignoring anticompetitive impact.[18] In addition the courts have consistently held that the Sherman Act is directly applicable to regulated industries in the absence of specific exemptions. In early cases the Act was applied even to railroads where an extensive scheme of regulation had been enacted shortly before the Sherman Act.[19]

RECENT DEVELOPMENTS

In the last several years the Department has filed two complaints under the Sherman Act against electric utilities, one in a District Court in Florida, the other in Minnesota.

In the Florida case, the City of Bartow, a distribution system, found it could get a better price on bulk power supply by having the ability to turn to an alternative supplier. But its supplier, Florida Power Corporation, had signed a territorial agreement with Tampa Electric Co. and Tampa refused to negotiate with Bartow. Despite the lack of state statutory authorization for this type of agreement, it had been approved by the State regulatory commission. Similarly, the City of Sebring had difficulty in negotiating a reserve sharing arrangement with Florida Power Corporation and found Tampa would not deal with it because of the same agreement.

The Department filed a complaint under Section 1 of the Sherman Act and after extensive briefing and discovery the case was settled by consent decree in August, 1971.[20] Tampa Electric Co. and Florida Power Corp. were prohibited from allocating customers or territory for electric bulk power supply with any other utility. Electric bulk power supply was defined to include coordinating power and energy. The decree was also effective against any such agreements which the two defendants had with all other utilities in Florida.

The second case involved Otter Tail Power Company which is the dominant power supplier in portions of Minnesota, North and South Dakota. It had a franchise with the Village of Elbow Lake that was due to expire and some friction developed when the Village officials tried to get improved street lighting fixtures for the mainstreet as quid pro quo for granting a new franchise. Elbow Lake decided it would put its own distribution system into operation and attempted to get a bulk power supply. It had to overbuild Otter Tail's system because Otter Tail refused to sell its distribution facilities to the Village. Otter Tail also refused to sell power in bulk and further refused to wheel a Bureau of Reclamation allocation of power. Meanwhile Elbow Lake was virtually foreclosed from access to other power sources because Otter Tail had contracts with other bulk power suppliers in the area prohibiting them from dealing with third parties in its service area. Otter Tail also refused to share reserves with Elbow Lake.

At trial the Department of Justice showed all this in its direct case, as well as establishing a pattern of vexatious litigation employed by Otter Tail to retain its monopoly.

In September 1971 the Court held that Otter Tail's market power stemmed from its strategic dominance over transmission and found that its conduct had violated Section 2 of the Sherman Act.[21] So at the present time the Department is in the position of having filed two and won two, although I must add that a notice of appeal in the *Otter Tail* case has been filed in the Supreme Court.

In general, we have found that control over, or access to, high voltage and e.h.v. transmission tends to be the key factor in present day competition in the electric power industry, although control over low cost hydro or pumped storage sites can also play an important part.

In the *Otter Trail* case the Court found that Otter Tail's control over the subtransmission gave it the market power to commit the violation of Section 2 of the Sherman Act in that case.

Now let me turn to particular facts, acts or episodes which may be relevant to a determination whether a violation of Sherman Act Sections 1 and 2 were present. These matters may also be relevant to a recommendation to the Atomic Energy Commission concerning its antitrust review.

MARKET STRUCTURE

Probably the most significant questions are:

1. What are the market shares of the various competitors in a bulk power supply market? Usual antitrust principles will be relied on to define the market. Frequently

Footnotes at end of article.

a state will be found to be the appropriate market area although many factors could change this.

2. Who owns the transmission in the area?

CONDUCT

1. If there is monopoly control over transmission, do these monopoly systems refuse to let others use their transmission on fair terms if there is no economically feasible alternative?

2. On the other hand, do they insist on others using their transmission when it is economically feasible to build additional transmission?

3. Are monopoly systems unwilling to interconnect and share reserves on reasonable terms with other thermal systems in their area having no other potential coordinating partners?

4. Are monopoly systems unwilling to engage in programs of coordinated development with others in their area having no other potential coordinating partners?

5. If there are two smaller entities or groups of entities in the area of monopoly systems that could coordinate with one another, does a monopoly systems discriminate by coordinating with one and excluding others?

6. In bulk power supply contracts with full requirements customers, are there dual rates, limitations on large resales, or price squeezes?

7. Have the monopoly systems engaged in vexatious litigation[22] or financed third party litigation with the effect of delaying a competitor's bulk power supply program?

8. Do large bulk power supply systems have any bulk power supply territorial allocations?

9. Do bulk power suppliers exact retail or wholesale territorial or customer conditions as a price for coordination or bulk power supply?

This is not an all inclusive list but these are some of the things that I would look for. To these facts would be applied an analysis based on classic antitrust principles confirmed over the years by the courts in a number of cases.[23]

In the minds of many, competition is the antithesis of the regulated monopoly so that the antitrust laws can not or should not be applied to regulated industries. I think it is fair to say that neither competition nor regulation is an end in itself but they are only a means to the end of the proper solution to the questions "What is to be produced"?; "How"?; and "For whom"? In our context this means the right amount and quality of electric power at the cheapest possible cost with the benefits of this activity properly allocated among the members of our economic society.[24] In a very few cases, including some aspects of electric power, Congress has decided that regulated monopoly is a necessary solution to the "How" problem and that "What" and "For Whom" can be achieved by regulation.

But, even in those cases, one has to be careful to insure that regulation is comprehensive. If there is only partial regulation, the public is not completely protected against the monopoly results on "What" and "For Whom" and so the antitrust laws can provide such relief.[25]

Having now returned to the three questions with which we started, this seems like a good stopping point.

Thank you very much for asking me to be here today. Are there any questions?

FOOTNOTES

[1] Samuelson, *Economics*, McGraw-Hill, New York 6th Ed. 1965, p. 40.

[2] Samuelson at 466.

[3] Samuelson at 484, 485.

[4] Kerwin, *Federal Water Power Legislation*, Columbia University Press, New York 1926, pp. 44–57, 118; Van Hise, *The Conservation of Natural Resources in the United States*, New York, McMillan Co. 1911, p. 136.

[5] Murray, *Superpower*, McGraw Hill (1925) *Report of the Giant Power Survey Board of Pennsylvania* (1925); Keller, *The Power Situation During the War* (1921); U.S. Geological Survey, *A Superpower System for the Region Between Boston and Washington*, Professional Paper No. 123 (1921); *Report of the Northeastern Superpower Committee*, Herbert Hoover (Secretary of Commerce) Committee Chairman (1924); *Fourth Annual Report of the Power Authority of the State of New York* (1934); *Report of the Mississippi Valley Committee* (1934).

[6] U.S. Bureau of Corporations, *Report of the Commissioner of Corporations on Water Power Development in the United States*, U.S. Government Printing Office, Washington, D.C., 1912, pp. 7–31, 95–189. See also, e.g., *Water Power Proceedings of the Fifth National Conservation Congress*, Washington, D.C., Nov. 18, 19, 20 (1913), Testimony of Clifford Pinchot and O. C. Merrill in 63rd Cong., 28d Sess. *Hearings before the Senate Committee on Public Lands on H.R. 16673*, p. 132 et seq., p. 382 et seq. (1914).

[7] 41 Stat. 1063 June 10, 1920.

[8] P.L. 74–333, 49 Stat. 803, 15 U.S.C 79a et seq. 16 U.S.C. 791a–825r.

[9] 15 U.S.C. 79a et seq. Title II of the 1935 Public Utilities Act is Part II of the Federal Power Act.

[10] 15 U.S.C. 79i.

[11] 16 U.S.C 824b.

[12] 16 U.S.C 824a(b)

[13] 40 FPC 1227, 425 Fed. 1196 (CA 5, 1970) *Gainesville Utilities Dep. et al.* v. *Florida Power Corp.*, 402 U.S. 515 (1971).

[14] *Columbus & Southern Ohio Electric Co. acquisition by American Electric Power Co.*, SEC Adm. Proc. No. 3–1476.

[15] Section 105, 68 Stat. 919, 42 U.S.C. 2135.

[16] 84 Stat. 1472, 42 U.S.C. 2132 et seq.

[17] *Penn Water* v. *F.P.C.*, 343 U.S. 416 (1944); *Penn Water* v. *Consol. Gas, Electric Light & Power Co., 184* F. 2d 552, 568 (CA 4, 1950) cert. den., 340 U.S. 906 (1950). See also related decisions in 186 F. 2d 934 (CA 4, 1951); 97 F. Supp. 952; 194 F. 2d 89 (CA 4, 1952); 209 F. 2d 131 (CA 4, 1953) cert. den. 347 U.S. 960 (1954).

[18] *F.M.C.* v. *Aktiebologet Svenska Amerika Linien* (Swedish American Line) 390 U.S. 238, 242–246 (1968); *U.S.* v. *El Paso Natural Gas Co.*, 376 U.S. 651 (1964); *Marine Space Enclosures, Inc.* v. *F.M.C.*, 420 F. 2d 577, 585 (1969); *Mass. Municipals* v. *SEC*, 413 F. 2d 1052 (1969); *Northern Natural Gas Co.* v. *F.P.C.*, 399 F. 2d 1953, 959 (1968); *Denver & Rio Grande W.* v. *U.S.*, 387 U.S. 485 (1967).

[19] *U.S.* v. *Trans-Missouri Freight Assn.*, 166 U.S. 317 (1897), *U.S.* v. *Joint Traffic Assn.*, 171 U.S. 505 (1898), Ripley, *Trusts Pools and Corporations*, Ginn and Co., New York (1905), pp. 484–505.

[20] *U.S.* v. *Florida Power Corp.*, et al., 68–297, Civ. T. 1971 Trade Cases ¶ 73,637 (Mid. Fla.-Tampa Div., August 19, 1971).

[21] *U.S.* v. *Otter Tail Power Co.*, 6–69–Civ.–139, 1971 Trade Cases ¶ 73,692 (D. Minn., Sept. 9, 1971).

[22] *California Motor Transport Co.* v. *Trucking Unlimited*, 432 F. 2d 755 (CA 9, 1970) affd. No. 70–92, Jan. 13, 1972—U.S.—

[23] *U.S.* v. *United Shoe Machinery Corp.*, 110 F. Supp. 295, 344, 345 (D. Mass., 1953) aff'd per curiam, 347 U.S. 521; *U.S.* v. *Grinnell Corp.*, 236 F. Supp. 244 (D.R.C., 1964), 105 (1948); *U.S.* v. *Terminal R.R. Assn.*, 224 U.S. 383 (1912); *Silver* v. *N.Y. Stock Exchange*, 373 U.S. 341 (1963); *Associated Press* v. *U.S.*, 326 U.S. 1 (1945); *U.S.* v. *Colgate & Co.*, 250 U.S. 300, 307 (1919); *Gamco, Inc.* v. *Providence Fruit & Produce Bldg.*, 194 F. 2d 484 (CA 1, 1952) cert. den., 344 U.S. 817 (1952); *American Fed. of Tobacco Growers* v. *Neal*, 183 F. 2d 869 (CA 4, 1950); *U.S.* v. *New England Fish Exchange*, 258 F. 732 (D. Mass, 1919); *U.S.* v. *Tarpon Sponge Exchange*, 142 F. 2d 125 (CA 5, 1944); cf. *Anderson* v. *U.S.*, 171 U.S. 604, 618–619 (1898).

[24] *Northern Natural Gas* v. *F.P.C.*, 399 F. 2d 953, 959 (1968).

[25] *Hecht* v. *Pro-Football, et al.*—F. 2d—(D.C. Cir. 1971), AT RR No. 511, pp. ¶–1, D–1 cert. den. — U.S. ——— Jan. 13, 1972.

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CLEAR-CUT CAVE IN

## HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 2, 1972*

Mr. WALDIE. Mr. Speaker, when President Nixon sent to Congress his proposals to protect the environment, he claimed to offer a plan through which the needs of productivity could be coherently and rationally weighed with the needs of protecting our resources and our wilderness areas.

President Nixon has foresaken his own intentions by acquiescing to the demands of the lumber industry and permitting the clear-cutting of U.S. forest lands.

The industry claims that it can maximize profits by using clear-cut methods. It is the responsibility of the Government to remind this industry that if it succeeds in devastating these lands it will also destroy that resource upon which it depends. Moreover, the inevitable result will be the permanent loss of the wilderness and recreational areas needed by a growing society and rightfully the property of the citizens of the future.

Our environment and our natural resources cannot be lost in the quest for votes or the quest for temporary profits.

A recent editorial in the Evening Star elaborates on this principle and offers a judgment about the administration's performance in this area.

The editorial follows:

CLEAR-CUT CAVE IN

Let us all hope that the latest White House decision on clear-cutting U.S. forest lands does not truly represent the administration's courage under fire in the arena of environmental protection. Otherwise, the nation is in for a bad time.

The issue is one that has been building up for years. The timber industry has found that it can maximize production and profits through clear-cutting, which means cutting down all the trees in an area rather than selectively cutting only the trees that have matured. Gradually, the U.S. Forest Service has acceded to the practice. And it continues to lean toward industry's position despite the accumulation of public protest and plenty of evidence of abuse—widespread devastation of forest land with consequent bad effects on wildlife, soil stability and scenery.

The President's Council on Environmental Quality had drafted a set of restraints in the form of an executive order it hoped President Nixon would include in his 1972 environment message. But the timber industry's lobbyists reacted quickly. After meeting with CEQ Chairman Train, Agriculture Secretary Butz (the Forest Service is part of Agriculture), and Interior Secretary Morton, they got their way. The executive order was shelved.

Although the administration now is arguing that Agriculture and Interior have adequate safeguards coming along, what happened seems fairly clear. The administration caved in primarily because of the political influence the timber companies can bring to bear in the states of the Far West. This is, if nothing else, a very political year.

In saying all this, we do not put ourselves on the side of the wilderness purists who

would lock the forest industry out of the public forests. Logging these forests is essential if the nation's needs for wood products, largely in the home building industry, are to be met. Moreover, in some kinds of forests, notably the Douglas fir, there is even a case to be made for judicious clear-cutting.

At the same time, the timber industry's constant cry of timber famine would go down a lot better if it did not also insist on exporting its products or if it had not compiled such a dreary record of mismanagement in so many public and private forests, down through the years.

The public forests are there for use, including commercial use, but only at a level that will never result in their being used up. The Forest Service, and eventually the White House, bear the burden of protecting those lands for the benefit of all Americans. At this point, it appears it would use more backbone.

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## SURFACE MINE LAND RESTORATION IN GERMANY

## HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

*Thursday, March 2, 1972*

Mr. METCALF. Mr. President, the January-February 1972 issue of Environment contains an excellent account of surface mine land restoration in the coal fields of West Germany. The article was written by E. A. Nephew, a research staff member at the Oak Ridge National Laboratory who is currently engaged in a National Science Foundation program, "The Environment and Technology Assessment," which includes an investigation of the environmental impacts of electricity production and use.

I believe that all of us who are charged with responsibility for legislation in this area should become familiar with the West German experience. I ask unanimous consent that Mr. Nephew's article be printed in the RECORD.

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

### HEALING WOUNDS

(By E. A. Nephew)

(NOTE.—Figures referred to are not printed in the RECORD.)

Present surface-mining practices in the United States are devastating large areas of land and are producing great environmental damage. The growing national concern over this problem is evidenced by the number of different surface-mining regulation bills that are currently before Congress. Some of these bills would only slightly alter present strip-mining practices, while others would require a substantially greater degree of land reclamation after completion of the mining, and at least one bill would prohibit future coal stripping altogether.

A program ensuring the full restoration of all lands disturbed by surface mining could be an environmentally acceptable alternative to banning the practice completely. This option has been adopted by the Federal Republic of Germany (West Germany) and several other European countries. To assess the feasibility of this approach to the problem, we visited the Rhineland brown-coal fields of West Germany and studied the land restoration methods employed to reclaim the huge, open-pit lignite (brown coal) mines of that region. Here, we were particularly interested in the German reclamation laws and how well they are enforced. In general, we found that the German land restoration program is highly successful. Many features of the planning, technological, and regulatory procedures used in West Germany to ameliorate the adverse environmental consequences of large-scale surface mining are applicable to strip-mining problems in the United States.

The nature and extent of environmental damage from surface mining in the United States have been documented in several excellent reports.[1] Essentially, two basic factors have contributed to the magnitude of the problem we face today: the rapid development of strip-mining of coal since the beginning of World War II and the greatly increased consumption of coal for electric power generation. Coal consumption for electric power generation increased from 51,474,000 tons in 1940 to 310,312,000 tons in 1969 and, during the same period, the amount of coal that had been either strip-mined or augered (mined by boring into the mountainside) rose from 43,167,000 tons to 213,373,000 tons.[2]

In coal surface mining, the overburden (the earth and rocks lying above the coal seam) is first removed, and the exposed coal is then extracted. Surface mining conducted in relatively flat terrain is commonly called area stripping. The surface of the land is first scalped of trees, and a deep trench is then cut through the overburden to expose a long strip of the coal bed. The earth, clay, and rock overburden is deposited adjacent to the trench to form a long "spoil" bank. After the coal is removed, a second trench is cut parallel to the first, and the overburden is dumped into the first trench. The process is repeated until all of the coal has been extracted, resulting in a series of parallel, adjacent spoil ridges, which give the mined land the appearance of having been worked over by a giant plow. The final cut produces an open trench bounded by a steep wall called a highwall.

Contour stripping in hilly regions progresses in the same manner except that the process is halted sooner—as the thickness of the overburden becomes too great. Starting at the outcrop of coal along the hillside, a slice of overburden is removed and dumped on the downslope side. The coal is then removed and a second cut is made through the overburden to expose more coal. Finally, when the overburden is too thick for further economical stripping operations, augers as large as seven feet in diameter may be used to drill horizontally some several hundred feet into the mountain to bring out additional coal. Using this combination of stripping and augering, the mining operations proceed along the hillside, leaving a twisting trail of churned earth in their wake. On one side the bench (or shelf) is bounded by a steep, nearly vertical highwall, and on the outside by the mass of spoil material precariously balanced on the downslope of the mountain.

To our knowledge, an accurate survey of the total land area disturbed by the surface mining of coal has never been made. On the basis of data reported by coal producers, Paul Averitt has estimated that, as of January 1, 1970, the cumulative past production of 4.4 billion tons of stripmined coal resulted in 2,450 square miles of disturbed land in the U.S.[3] He further estimates that the mining of the remaining 128 billion tons of strippable coal in the 0 to 150-foot-thick overburden category would create an area of disturbed land comprising 71,000 square miles. At present coal strip-mining rates, roughly 100 square miles of additional disturbed land are being created each year. We must consider that advanced earth-moving machinery and changing economic conditions will probably make deeper deposits accessible to surface-mining methods. This would expand the strippable coal reserves and the total amount of future land damage.

The damage often extends well beyond the boundaries of the actual mining areas. Where mountains are scarred by contour mining, the whole landscape is rendered ugly even though only a small fraction of the land is disfigured. The distruction of watersheds (catchment areas from which stream waters are drawn) by sedimentation and acid water runoff also extends the harmful effects of strip-mining. (Acid water is water containing high levels of sulfuric or other acids.) According to a recent study,[4] contamination caused by both deep and surface mining has substantially altered the water quality of some 10,500 miles of streams in Appalachia. Acid drainage seriously pollutes about 5,700 miles of streams, reducing or eliminating aquatic life. A recent study by the U.S. Department of the Interior on the environmental effects of strip-mining in Cane Branch Basin, McCreary County, Kentucky, showed a market decrease in the variety and abundance of invertebrate bottom fauna in Cane Branch and in Hughes Fork downstream from the strip-mined areas.[5] This was caused by alternate deposition and erosion of sediment and the killing of aquatic vegetation by acid water, effectively destroying the stream habitat. Annual erosion losses from freshly strip-mined areas in Appalachia are as high as 27,000 tons per square mile, or up to 1,000 times greater than for undisturbed lands.

Strip-mining is only now beginning on a large scale in the western states, so the extent of damage is not yet clearly defined for climates and terrain different from Appalachia. In addition to increasing the susceptibility of these lands to wind and water erosion, surface mining in the semidesert regions of the Southwest poses the danger of exposing highly saline material to the surface.[6] This overburden material, enriched in salts by the process of percolation of surface water, if brought to the surface, would make it difficult to establish and maintain even sparse vegetation on the disturbed land. Before the environmental impact of surface mining in arid regions can be fully assessed, revegetation methods effective in areas of low average rainfall must be developed, soil conditions must be investigated, and groundwater movements must be determined. (Groundwater is the water beneath the earth's surface, between soil and rock, that supplies wells and springs.) Much work remains to be done. However, it is already clear that strip-mining, whether it is conducted in Appalachia, in the arid regions of the Southwest, or in the harsh climate of the northern coalfields, can seriously affect the natural ecological balance of the region.

### COSTS OF SURFACE MINING IN THE UNITED STATES

The true economic and social costs associated with the surface mining of coal have not yet been adequately assessed. Coal can be strip-mined at an average cost of about $1.50 per ton less than deep-mined coal, largely because a number of important externalities,[7] such as the cost of adequate land reclamation work, are not included in the production costs. For a coal density of 1,800 tons per acre-foot and a recovery factor of 80 percent, the yield of a typical three-foot-thick seam is about 4,300 tons per acre. This means that some $6,000 per acre could be spent on land restoration without destroying the competitive position of strip-mined coal with respect to deep-mined coal. In West Germany, the actual costs of restoring mined-out lands to full agricultural productivity range from $3,000 to $4,500 per acre. To the extent that strip-mining is carried out without subsequent restoration of the land, a portion of the true production costs of strip-mined coal is being imposed on neighboring communities and on posterity.

It is easy to find evidence that the burden

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Footnotes at end of article.

of external costs associated with strip-mined coal is not fairly borne by the consumer. In some regions of Appalachia, approximately 40 per cent of the maintenance budgets for state and county roads is used to repair damage caused by heavy coal-truck traffic.[8] Land made worthless by strip-mining operations no longer serves as a tax base to provide needed revenues for local community development. Floods and landslides resulting directly from conditions created by coal surface mining destroy both public and private property. Funds that could otherwise provide needed local services are thereby diverted to repair the damages. Poverty, apathy, and blighted social development all too often characterize our coal-producing regions.

The consumption of coal for electric power generation is expected to increase greatly during the coming decades. Perry has estimated that the use of coal for this purpose alone will reach some one billion tons by the year 2000.[9] This would represent nearly a threefold increase over present coal consumption rates for electric power generation. More and larger strip mines may be expected. The problem of meeting the ever-growing energy demands of society without needlessly destroying land, water, and forest resources must somehow be resolved.

In view of the extensive environmental damage already inflicted by coal surface mining, and the anticipated future growth of the industry, *the adoption of sound mining and land restoration practices is urgently needed*. The environmental effects of coal surface mining are clearly regional in nature, extending across state boundaries, so that it is difficult for the individual states to deal with them effectively. For this reason, federal mining and land restoration standards that would apply equally to all of the coal-producing states seem highly desirable.

MINING AND RESTORATION IN WEST GERMANY

The land restoration policies adopted in the Rhineland brown-coal (lignite) fields of West Germany represent one possible way of supplying the energy needed by society while also preserving the environment. The German program for dealing with the social and environmental effects of surface mining affords a valuable reference point in considering the relative merits of various surface-mining control options that have been proposed in the United States. General descriptions of the land restoration practices of the German state of North-Rhine Westphalia are available in the public literature.[10] We have supplemented this information by making an on-site visit to the Rhineland brown-coal fields to gain a firsthand impression of the effectiveness of the land reclamation techniques employed and to obtain a more detailed insight into the regulatory process. The Germans appear to have developed an exemplary process for exploiting the mineral resources of a region without permanently impairing the quality of its environment.

The total West German production of brown coal in 1970 amounted to 108 million tons, of which some 81 millions tons were burned in thermal power stations to produce 60 billion kilowatt-hours of electricity. (A kilowatt is equivalent to 1,000 watts; the kilowatt-hour, a common unit of electric power consumption, is the total energy developed by a power of one kilowatt acting for one hour.) This represents 38 percent of all the power generated in the nation's thermal electric power plants in 1970. The importance of brown coal to West German industry, therefore, can hardly be overemphasized. The very existence of such an important domestic energy source exerts a strong stabilizing influence on the economy of the nation, which nevertheless was forced to import 55 per cent of its primary energy during the past year. Thus, it is not possible in West Germany to consider seriously the luxury of banning the surface mining of brown coal. Instead, methods of mining and land restoration had to be developed which would permit continued production of brown coal without incurring serious environmental damage.

*Brown-coal mining*

The Rhineland brown-coal fields lie in flat plains country in the triangle formed by the cities of Aachen, Cologne, and Düsseldorf. Surface mining of brown coal currently encounters overburden thicknesses of up to 550 feet when mining coal from beds 50 to 350 feet thick. The coal bed lies on a slightly inclined plane, near the ground surface in the vicinity of Cologne, but is buried under several hundred yards of overburden near Düsseldorf. For this reason, mining began in the southern portion of the coalfield during the latter half of the nineteenth century and has moved steadily northward, becoming progressively more difficult. The final depth of open-pit mines currently being worked is as much as 900 feet. Such mining requires the development of giant wheel excavators and a complex transportation system of conveyor belts and trains to haul away the spoil material and lignite. In 1970, some 243 million cubic yards of spoil were excavated and transported to worked-out mines for use as fill material. In addition to necessitating the moving of earth, each ton of brown coal produced requires pumping about fourteen tons of water out of deep wells to lower the groundwater level. Nearly 2,000 such deep wells have been drilled near the mine pits for this purpose.

The problems of economically moving such massive amounts of material have been solved by introducing largescale, automated equipment, which increases worker productivity. Excluding maintenance personnel, only two men are needed to operate a 7,400-ton wheel excavator, which has a digging capacity of 130,000 cubic yards per day. Larger machines, weighing 13,000 tons and having a capacity of 260,000 cubic yards per day, have already been ordered and are scheduled to begin operation in late 1975. A 70-mile-long network of conveyor belts moving at speeds up to 12 miles per hour delivers the coal and spoil material to trains to be hauled away. The trains move on some 300 miles of special heavy-duty track, and the locomotives are controlled remotely by radio signal during loading and unloading. These measures have increased the average worker productivity to 64 tons of brown coal per man-day. The productivity at the largest, most modern mine, located at Garsdorf, amounts to 81 tons per man-day, or to a heat equivalent of 22 tons of bituminous coal. The average productivity in U.S. bituminous coal strip mines is 35 tons per man-day.

*Land restoration*

Because of the steady northward progression of mining operations during the past 50 years, the various stages of the land restoration process are open to view, spread out in sequential order. At the active mines in the northern and central portions of the brown-coal field, the huge wheel excavators selectively strip off and save the top layer of loess (an extremely fertile type of loam—a soil consisting of a mixture of clay, silt, and sand); remove the remaining sand, gravel, and clay overburden; and extract the loose, black layers of exposed lignite. Immediately to the south, mammoth spreader machines fill the overburden back into mined-out pits while bulldozers level it out in preparation for applying the top layer of loess. Still further southward, the leveled areas are subdivided into five- to ten-acre tracts by loam dikes. These will be filled with loess slurry (a watery mixture) which dries out after several months, leaving behind a three- to six-foot thick top layer of loess. Near Berrenrath, fields of grain and hay are already thriving on land that was restored less than five years ago. The sequence in the forested areas is similar: To the north are newly planted stands of young trees less than five years old, and in the south are recreational and forested areas reclaimed in the 1920s. The latter are nearly indistinguishable from natural forests and are superior to the stands of scrub timber which originally grew there.

*Different conditions*

Brown-coal mining in West Germany differs greatly from Appalachian strip-mining in the topography, the type of technology employed, and the degree of government regulation imposed upon the mining industry. In the German lignite fields, excavation is easier because the coal beds are not covered with rock strata as in Appalachia. The terrain is relatively flat, and sulfur-bearing minerals, which produce acid wastes, are not present. Furthermore, the lignite fields are located in a rich agricultural area, providing a strong incentive for restoration of the land after mining is completed. In addition, almost all of the brown-coal resources are located within a single state. This makes it easier for the state to impose adequate land reclamation requirements because significant competition from neighboring states does not exist. As a consequence, nearly all government control of brown-coal surface mining is by the state of North-Rhine Westphalia rather than by the German federal government. Federal laws affecting surface mining in West Germany are general in nature; for example, water quality regulations apply to other industries as well.

*Comprehensive approach*

The German land restoration program begins long before the first shovel of brown coal is mined. It begins with detailed plans for the evacuation and relocation of populated settlements and for the restoration of land after the mining operations have ceased. Thus, land-use patterns are proposed and approved far in advance, and the new landscape is planned accordingly—the topography, the water drainage system, lakes, and the designation of areas to be restored for forestry and for agriculture. Such comprehensive early planning allows the mining operations to be tailored to fit the land restoration work which will follow. Modern principles of city planning are used in designing new towns for the displaced people. Residential areas are removed from the main flow of traffic; green areas for recreation are provided; and the towns are more compact than the former unplanned settlements. The basic costs for land reclamation and population resettlement are borne by the mining company. Local and state governments provide supplementary funds to cover the incremental costs of providing better schools, sewer systems, and other community services than existed at the former town site.

This comprehensive approach is based upon an acceptance of the fact that brown-coal mining moves not only coal, but also trees, buildings, people, and the land itself. In most cases, conditions are vastly altered. The state of North-Rhine Westphalia and the lignite mining industry have accepted the responsibility of finding feasible solutions to the entire set of social and environmental problems created by brown-coal surface mining. This approach makes it possible to treat the overall problem as an integral whole rather than dealing with single problems on a piece-meal basis. This approach represents a major change in the philosophy of what constitutes mining. The old concept, which appears to be prevalent in the United States, holds that mining consists merely of extracting minerals from the ground in the quickest, most "economical" manner possible. The new concept includes the qualification that this must be done in a way consistent with the needs of society as a whole. The planning and enforcement methods used

Footnotes at end of article.

in West Germany to assure that this latter goal will be achieved are thus of great interest and relevance.

GOVERNMENT REGULATION OF SURFACE MINING

*Historical development*

The present form of the brown-coal industry and the adoption of enlightened land restoration practices in Germany emerged gradually over the past several decades. Prior to 1960, four large mining companies dominated the lignite mining industry. In 1960, economic pressures, arising partly from the need to automate the mines, forced the four companies to merge into a single firm, the Rheinische Braunkohlenwerke A.G. mining company. Even before this economic regrouping of the industry, the public became concerned about the large tracts of unreclaimed land left over from World War II. This concern was particularly evident in Cologne, where the proximity of the mining areas made the disturbed lands highly visible to great numbers of people. As a result, new surface-mining control legislation was enacted in 1950 to assure orderly, well-planned mining practices.

On March 11, 1950, the state legislature of North-Rhine Westphalia passed West Germany's first Regional Planning Law. This law, later modified in May 1962, established a Land Planning Commission charged with the responsibility of developing overall guidelines for land use within the region. The main purpose of the commission is to coordinate the diverse social, economic, and industrial activities of the region. With this aim, the commission designates land areas for agriculture, forestry, and industry, and specifies the boundaries of population settlements. It develops long-range plans for transportation networks, the preservation of historic sites, and the construction of recreational facilities to serve the entire region. Later in the same year, on April 4, 1950, the state legislature enacted two additional laws applying specifically to the brown-coal-producing areas of the region. These were The Law for Overall Planning in the Rhineland Brown-Coal Area and another law establishing a community fund to finance land restoration. The first of these laws formed the Brown-Coal Committee, which develops detailed plans for exploiting the lignite resources of the state within the framework of the overall regional planning law.

The basic objective of the Brown-Coal Committee is to ensure that land areas temporarily used for brown-coal mining will not become permanently devalued and made unsuitable for more lasting uses. This means that it is not sufficient merely to prevent the creation of moonscapes by requiring that the land be restored for forestry or agriculture. Rather, in light of the general objectives of the overall regional planning, the land must be restored so that it will harmonize with the social, cultural, and industrial interests of the rest of the region. The Brown-Coal Committee is composed of 27 members especially selected to represent the interest groups affected by mining operations. This broad base provides a coordination of the various conflicting interests long before actual mining activities begin. The committee formulates land restoration requirements based on the future use of the land as defined in the regional planning program.

*The Brown-Coal committee*

The composition of the Brown-Coal Committee, as fixed by law, is shown in Figure 1. The primary function of the committee is to review and consider proposals for extending mining operations to new land areas and to make appropriate recommendations to the minister-president of North-Rhine Westphalia. As can be expected in view of the composition of the Brown-Coal Committee, the final recommendation to the state government is based on considerations of overall land use, conflicting local issues, and national energy requirements. The Brown-Coal Committee has gradually emerged as a powerful force defining the conditions under which the brown-coal industry must operate. Its existence subjects the brown-coal industry to public scrutiny and has been instrumental in bringing about the conservation practices of the industry. The Brown-Coal Committee serves as a quasi-public forum where the divergent interests of society can be considered before mining commences. Public hearings and the signature of the state chief executive are required before the recommendations of the committee become legally binding.

The introduction of requirements that a certain portion of the land disturbed by the surface mining of brown coal be restored to agricultural productivity illustrates the importance of such a planning and review body. Although reforestation of disturbed lands has been carried out since the early 1920s, a coalition of agricultural groups within the Brown-Coal Committee became concerned over the destruction of fertile farmland by the mining operations. In the late 1950s, this coalition of agricultural interests, known as the "green front," successfully introduced requirements that the valuable top layer of loess, often fifteen to twenty feet thick, be saved, and that a portion of the land disturbed by surface mining be restored to agricultural productivity.

A break-even point has recently been reached in West Germany because of rising land prices and lowered reclamation costs brought about by the development of more efficient land restoration methods. In the United States, the costs of full land restoration would in most cases greatly exceed the value of the restored land. However, it is interesting to note that reclamation was required in Germany long before it became marginally profitable. Because of land restoration requirements, the rich, thick layer of loess is selectively saved and is now regarded as an important and valuable mineral in its own right. Similarly, commercial exploitation of the sand and gravel contained in the over-burden has begun. Thus, the extraction of brown coal is becoming a total mining operation. Of the 53,000 acres of land that have been disturbed by brown-coal surface mining, 33,000 acres have already been restored for forestry, agriculture, and recreational uses. The costs of restoring mined-out lands to full agricultural productivity range from $3,000 to $4,500 per acre.

*Interaction between planning and enforcement*

The key to the German success in land restoration lies in detailed advance planning based on the needs of the region as a whole. When it is deemed necessary to extend mining operations to new, unopened land areas, the brown-coal mining company submits a proposal containing comprehensive mining and land restoration plans to the Brown-Coal Committee. The committee examines the proposal with respect to regional planning guidelines and hears testimony from technical experts, representatives from the enforcement agency and the land planning commission. Following committee discussion and review, the original plan may be accepted, modified, or rejected. When final committee approval has been obtained, public hearings are held and the plan is then sent to the titular head of the state land planning commission for adoption.

After the plan has been finally adopted, the state enforcement agency assumes the responsibility of supervising its implementation and assuring that the mining and land restoration activities are carried out in accordance with its stipulated provisions. The mining company is required by law to submit all information which the state enforcement agency needs to carry out its regulatory function. For example, the brown-coal mining company routinely submits aerial survey photographs of its mining and land restoration progress every six months. The planning and enforcement process, with participation of nonmining interests, affords flexibility in resolving the social and environmental problems posed by surface mining. The recommendations of the Brown-Coal Committee function as a living law which changes and adapts to the requirements of specific situations. Since the deliberations are made well in advance of actual mining, sufficient lead time is available for a full consideration of all of the issues and problems.

*Application to U.S. strip-mining problems*

Some elements of the German surface mining and land reclamation techniques are applicable to U.S. strip-mining in spite of important differences in the climate, terrain, and geological features of the mining regions. Wheel excavators of the type used in the Rhineland have already found limited use in North Dakota and Illinois, where they are used to remove soft and unconsolidated overburden. These machines provide continuous operation and can deliver the broken-down overburden by conveyor belt to any point desired. They are especially suitable for separating the fertile layer of topsoil from the remaining overburden and saving it to be used later for land reclamation purposes. The slurry technique of applying topsoil to graded areas being recultivated can almost certainly be applied in some areas of the United States. The considerable amount of basic research which has been performed in West Germany to determine the most suitable trees and plants for revegetation, and the factors affecting their growth rates, may be helpful in our own country. Of primary interest, however, are the institutional arrangements that have been worked out to provide adequate regulation of surface mining and full restoration of the affected lands.

In devising a policy for the United States, consideration should be given to the German experience. The German program has been in effect for some twenty years and has been highly successful in minimizing social dislocations and environmental damage from brown-coal surface mining. The German program embodies four main principles that have contributed greatly to its success. First, the regulation of surface mining is incorporated within an overall regional development plan. Second, a planning body composed of diverse public interests participates in formulating detailed requirements for mining and land restoration long before the actual mining begins. Third, the recommendations of the planning body are reviewed in public hearings. Fourth, an enforcement agency is provided with the necessary powers to enforce the approved plan. The German program offers visible evidence that, with detailed advance planning, striking successes can be achieved in reducing environmental damage from strip-mining at a price easily borne by the consumer.

FOOTNOTES

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## PHASE II'S GLOW DIMS

### HON. HALE BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 2, 1972*

Mr. BOGGS. Mr. Speaker, in recent days we have been repeatedly told that the leading economic indicators are now a cause for relief, if not rejoicing.

We are told, for example, to "watch the doughnut and not the hole," which means that a record number of our citizens were working during 1971.

That may be true, but it does not really tell us anything. Dr. Arthur Okun told the Joint Economic Committee recently that, while we had a record number of nonheroin addicts last year, it was small consolation in view of the growing problem of heroin addiction.

My point is that it does no good to kid ourselves that unemployment does not exist, or that it does not really matter. We must look at the problem realistically, and understand that the basic problem with unemployment is that the economy is not growing fast enough.

Hobart Rowen took a realistic look at the state of the economy in this morning's Washington Post. I am inserting his column in the RECORD and calling it to the attention of my colleagues:

PHASE II'S GLOW DIMS

(By Hobart Rowen)

To return to Jack Kennedy's phrase, the country urgently needs to "get moving again," and nobody—not President Nixon nor the passel of Democratic candidates—has come up with a way of doing it.

The sense of euphoria that swept over the nation after last August's wage-price freeze, and again after the December agreement on devaluation of the dollar has all but disappeared.

Instead, there are doubts about the Phase II mechanism that supplanted the freeze, and concern in Europe that the December deal on currency rates will come unglued.

It is just as well, as Federal Reserve Board Chairman Arthur F. Burns said on Capitol Hill the other day, to bring these worries into the open instead of sweeping them under the rug.

The U.S. economy is showing the deep distortions of the long Vietnam war, which drained its wealth, created a costly inflation at home, led to balance of payments and trade deficits, and ultimately devaluation of the dollar. William McChesney Martin, former chairman of the Fed, correctly observed in New York the other day that the devaluation—while clearly a necessity—is a confession of failure of economic policy.

Burns, and his associates in the Nixon administration, have been making regular appearances before congressional committees to report that there are evidences of "improvement" on the economic scene.

The usually-mentioned brighter spots include a lessening of the pace of inflation; a decline in interest rates; a rising stock markets; improved demand by business and consumer for materials and products; and an acceleration of industrial expansion plans.

But there are enough other signs of sluggishness to create an uneasy feeling. Industrial production is flat; consumer savings are too high; and a serious trade deficit persists. Governmental expenditures have ballooned so high that taxes are sure to be raised in 1973. In this political year, however, discussion of this will be muted.

Much is often made in some administration circles (but not in the most sophisticated) of the gain in the so-called "leading indicators." The problem with this index is that it often fails to indicate the turning points in a business cycle. Moreover; it is based in part on preliminary data, and the revisions make the use of the "leading indicators" all but useless except for political purposes.

The biggest problems are continued high unemployment and the fear that enormous budget deficits will have an unsettling effect at home and abroad. In helping to finance the huge debt, the Federal Reserve is following an aggressively easy money policy. That will help to keep interest rates low, a policy required for recovery at home.

But low interest rates also make it almost certain not only that dollars will not flow back to the U.S., but that increasing amounts will flow out, again seeking a better return in Europe.

Thus, we will have to live with an enormous balance of payments deficit for a further undetermined period. This creates the potential for a brand-new dollar crisis even before the last one has been resolved. Curiously enough, part of the current dollar outflow, many economists suspect, can be traced to the restored 7 per cent investment credit. Instead of stimulating heavy new expenditures at home, boosting the GNP and jobs here, the credit has helped American corporations build up a fat "cash flow"—and the natural place for corporation treasurers to invest the excess money when interest rates are low here is in foreign money centers.

Little wonder that the administration has begun to emphasize that the pay-off from its New Economic Policy, if any, may be two years in coming. Last August, its tendency was to promise too much too quickly in the extravagant manner that has been Mr. Nixon's hallmark.

Now, we are warned, it takes time for exports to expand in response to better-priced merchandise; it takes time to take care of legitimate wage catch-ups, and to enforce the 5.5 per cent guideline.

Privately, high administration officials are starting to refer to the inflation goal of Phase II as "3 per cent or under," a delicate refinement of purpose that abandons all mention of 2 per cent as a possibility.

The Democrats should be able to make plenty of political capital out of all of this. They expect to do it, without offering alternative programs. To quote Senator Muskie in his interview with The Washington Post last Sunday, "If the incumbent breaks an egg, you know, and scrambles it, the challenger's hardly in a position to unscramble it and start all over again."

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## WHY GIVE UP RADIO FREE EUROPE?

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 2, 1972*

Mr. DERWINSKI. Mr. Speaker, there is growing realization of the damage being done to our country and the efforts of the free world to continue to reach the captive peoples of communism as the chairman of the Senate Foreign Relations Committee continues his deliberate scuttling of Radio Free Europe and Radio Liberty. That there is, in fact, mounting concern in the country over the issue is evidenced by the attention it is being given in editorial commentaries and by prominent columnists.

I insert into the RECORD the article by David Lawrence which appeared in the Wednesday, March 1, issue of the Evening Star.

The article follows:

WHY GIVE UP RADIO FREE EUROPE?

(By David Lawrence)

A controversy of an unusual nature—to suppress free speech—has arisen as a result of an effort by some members of the Senate Foreign Relations Committee to cause the American government to discontinue its support for the broadcasting news services known as Radio Free Europe and Radio Liberty. These have won great praise for their daily operations in informing the population of areas which otherwise would not get the truth about news events.

Rep. Robert Steele, R-Conn., declares that the Senate Foreign Relations Committee has received two favorable reports on the radio stations but has refused to make them public, and that a Senate bill to finance the project and a House bill authorizing creation of a semi-governmental commission to oversee a similar service have been stalemated.

Steele says he has requested Chairman J. William Fulbright D-Ark., to publish the reports made to the Senate committee and has asked Congress to keep the radio service alive pending a study of the findings in the reports.

Meanwhile, the European press is disturbed over the possibility that Radio Free Europe might be discontinued. The London Times a few days ago said in an editorial that the American station "provides a calmer and more factual news service than is very widely heard in Eastern Europe." The editorial added:

It is not always perfect but it clearly meets a very deeply felt need among its listeners, as any traveller in Eastern Europe can testify. It gives them news about the world and about their own domestic affairs that is not available from their own controlled press.

Naturally Radio Free Europe is a thorn in the flesh of East European governments because it breaks their monopoly of information. For them, truth in any form is an enemy agent. It can therefore be said to undermine their system, but only so long as people want to listen to it . . .

"Meanwhile, whether its activities can be regarded as improper interference depends on what you mean by detente. As the Communists themselves never tire of pointing out, detente does not mean ending the peaceful competition between two systems. What it should mean is codifying the rules on a fair and equal basis.

"There is no reason why these rules should exclude peaceful and equal competition between ideas. Indeed, this is one of the basic values of the Western world which should be most vigorously defended.

"Nor can anyone say that the Communists do not have an equal chance. They have free access for their ideas in Western markets. They can work through legal publications and legal Communist parties. They can broadcast as much as they wish, and as their programmes on Ulster have shown they can win all the prizes for vicious inaccuracy.

"The West has far fewer means at its disposal. To give up Radio Free Europe would be a gratuitous act of appeasement that would unbalance things even more and would be a very severe blow to the millions of people in Eastern Europe who still look to the West not only for information but for the defense of values in which they believe, and which even many progressive Communists regard as vital for the salvation of their system."

Congress has not debated the question thoroughly, and presumably hasn't studied the facts contained in the special reports which the Senate Foreign Relations Committee has had prepared. If these were made public, the nation would learn of the importance of Radio Free Europe and Radio Liberty.

The United States has performed no greater act of information distribution than has been accomplished by radio stations that tell what is happening all over the world, including events of international significance. This news reaching into Communist countries has been useful in contradicting propaganda misrepresentations.

Many members of Congress are puzzled that any effort should be made to abolish Radio Free Europe and Radio Liberty, which have rendered so valuable a service to the world.

# SENATE—*Friday, March 3, 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:

Dear Lord and Father of mankind, as the hearts of man everywhere are uplifted to Thee on this World Day of Prayer, we beseech Thee to teach us to pray without ceasing. As prayers ascend in many languages, may the nations learn anew the oneness of the human race. Lift the hearts of men everywhere to the loyalty and love which transcends all earthly loyalties and love—the love of God our Creator and Redeemer. By drawing closer to Thee, may the peoples of the world be drawn closer to one another. Hear the prayers which are spoken and those deeper prayers which are never said. We ask it in His name who taught us to pray "Thy kingdom come, Thy will be done on earth as it is in heaven." 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., March 3, 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 Thursday, March 2, 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.

## NARCOTIC ADDICTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 645, S. 2713.

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

The assistant legislative clerk read as follows:

S. 2713, to amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, on page 1, line 7, after the word "title", insert a comma and "or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201),"; on page 2, line 18, after the word "title", insert a comma and "or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201),"; and, on page 3, after line 7, insert a new section, as follows:

SEC. 3. Subsection 343(b) of part E of title III of the Public Health Service Act is repealed.

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3651 of title 18 of the United States Code is amended by inserting the following paragraph before the last one:

"The court may require a person who is an addict within the meaning of section 4251 (a) of this title, or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), as a condition of probation, to participate in the comunity supervision programs authorized by section 4255 of this title for all or part of the period of probation: *Provided,* That the Attorney General certifies a suitable program is available. If the Attorney General determines that the person's participation in the program should be terminated, because the person can derive no further significant benefits from participation or because his participation adversely affects the rehabilitation of other participants, he shall so notify the court, which shall thereupon, by order, make such other provision with respect to the person on probation as it deems appropriate."

SEC. 2. Section (a) of section 4203 of such title is amended by inserting the following paragraph between the third and fourth:

"The Board may require a parolee, or a prisoner released pursuant to section 4164 of this title, who is an addict within the meaning of section 4251(a) of this title, or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), as a condition of parole or release to participate in the community supervision programs authorized by section 4255 of this title for all or part of the period of parole: *Provided,* That the Attorney General certifies a suitable program is available. If the Attorney General determines that the person's participation in the program should be terminated, because the person can derive no further significant benefits from participation or because his participation adversely affects the rehabilitation of other participants, he shall so notify the Board of Parole, which shall thereupon make such other provision with respect to the person as it deems appropriate."

SEC. 3. Subsection 343(b) of part E of title III of the Public Health Service Act is repealed.

Mr. BURDICK. Mr. President, I urge that the Senate act favorably on S. 2713, a bill providing for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

This legislation is necessary to fulfill an unmet need for treatment of narcotic addicts and other drug abusers who are sentenced to confinement by the Federal courts. At present, only a small portion of prisoners with histories of drug and narcotic abuse qualify for sentencing under the Narcotic Addict Rehabilitation Act, and the legislation before us today will go a long step toward filling this gap for those individuals who recognize a need for treatment.

The institutional phase of the treatment program is authorized under general authority to provide for the treatment, care, rehabilitation, and reforma-