The Senate met at 11 a.m. and was called to order by Hon. H. J. Harrington, a Senator from the State of Iowa.

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

Almighty God, we thank Thee for everything around us which communicates Thy presence and lights our life with eternal splendor. We thank Thee for the greatness and glory of nature, for the history of the race, for the lives of noble men, for thoughts of Thee conveyed in words, in symbols of stone and glass, in architecture and art. We thank Thee for the memory of those who are now with us who common to us renewed striving. We thank Thee for hushed moments of quiet thought and silent prayer, for seasons of communion when the eternal voice is undisturbed and alone. While we work at temporal tasks, give us grace to bring our labor under the spell of that kingdom which is above all earthly kingdoms whose builder and maker is God.

This name, who is King of Kings and Lord of Lords. Amen.
pore. Without objection, the nomination is considered and confirmed.

U.S. ARMY
The legislative clerk read the nomination of Col. Charles Van Loan Elia, Veterinary Corps, U.S. Army, to be a brigadier general, Veterinary Corps. The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. NAVY
The legislative clerk proceeded to read sundry nominations in the U.S. Navy.
Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.
The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY’S DESK
The legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, in the Navy, and in the Marine Corps, which had been placed on the Secretary's desk.
The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.
The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION
Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.
The motion was agreed to, and the Senate resumed the consideration of legislative business.

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.

TWO MONDAY MORNING THOUGHTS
Mr. SCOTT. Mr. President, I have two Monday morning thoughts, one sacred and one profane.
The sacred one is inspired by the Chaplain's prayer this morning. I would add: We thank Thee, God, for this dear land. Lead us to lend a helping hand, that it may ever better be.
The profane thought is inspired by the Gallup poll yesterday, indicating that Senator Hubert Humphrey is very strongly ahead of Senator Muskie in what is laughingly described as a contest for the presidential nomination of the other party.
I want to suggest that perhaps the ticket should be, once more, HUMPHREY and MUSKIE, because I see no reason for breaking up a losing team.
Mr. President, I yield back the remainder of my time.

TRANSACTION OF ROUTINE MORNING BUSINESS
The ACTING PRESIDENT pro tempore. (Mr. Humphrey.) Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

WELCOME TO SPRING
Mr. BYRD of West Virginia. Mr. President—
The year's at the spring
And day's at the morn;
The hillside's dew-pearled;
The lark's on the wing;
The snail's on the thorn:
God's in his heaven—
All's right with the world.

The ACTING PRESIDENT pro tempore. Is there further morning business?
Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.
The ACTING PRESIDENT pro tempore. The clerk will call the roll.
The second assistant legislative clerk proceeded to call the roll.
Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.
The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 9:30 A.M.
Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow.
The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The above order was subsequently changed to provide for the Senate to convene tomorrow at 9:15 a.m.)

ORDER FOR RECOGNITION OF SENATORS NELSON AND MONDALE TOMORROW
Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders on tomorrow under the standing order, the distinguished Senator from Wisconsin (Mr. Nelson) be recognized for not to exceed 15 minutes and that he be followed by the distinguished Senator from Minnesota (Mr. Mossale) for not to exceed 15 minutes.
The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.
The second assistant legislative clerk proceeded to call the roll.
Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.
The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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

ECONOMIC OPPORTUNITY FOR MINORITIES—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92-194)
The ACTING PRESIDENT pro tempore (Mr. Hughes) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:
From its start, America has professed itself on being a land of opportunity.
In recent years, we have done much to press open new doors of opportunity for millions of Americans to whom those doors had previously been only half-open. In jobs, housing, education, old obstacles are being removed. But for Blacks, Mexican-Americans, Puerto Ricans, Indians and other minorities who are known discrimination, economic opportunity must also increasingly be made to mean a greater chance to know the satisfactions, the rewards and the responsibilities of business ownership. Such opportunities are not only important in themselves; they also help make possible the economic and social advances that are critical to the development of stable and thriving communities on which the social and economic vitality of the Nation as a whole depend.
Despite a long history of frustration and lost potential, minority Americans in business ownership—and they should. Potential minority entrepreneurs are eager to join the mainstream of the Nation's commerce. Many need help in getting started—and increasing numbers are getting that help. A working coalition of the Government, the private sector and minority communities is moving rapidly to provide disadvantaged Americans with opportunities to own and control their own successful businesses.
The principal need of minority business today is for a greater supply of investment capital. Technical assistance, training, promotion and business opportunities are all fundamentally related to investment capital, that centripetal force which draws together the people, skills, equipment and resources necessary to operate a profitable business.
The coalition of public and private sectors and minority interests supporting disadvantaged business enterprises must be strengthened now, if we are to achieve the goal of generating the additional investment capital needed.
Today, therefore, I am turning to the Congress for its cooperation and help. I
urge the approval by the Congress of the following:

first, the Minority Enterprise Small Business Investment Act of 1972;

—second, a budget request for the Office of Minority Business Enterprise of $1.5 billion for fiscal 1973;

—third, a variety of other small business legislation currently pending in Congress which will directly and collaterally aid minority enterprise.

The Nation's black, Spanish-speaking, and Indian and other minorities constitute about one-sixth of the American population. Yet in 1967—the last year for which final figures are available—they participated in only about 1.5 percent of the total business income of the Nation. Gross receipts of almost $1.5 trillion were reported in that year by all American businesses. Of this amount, minority-owned firms received only $10.6 billion, or less than 1 percent. In the United States today, there are more than 8 million businesses; minority enterprise represents 4 percent of these, despite the fact that they constitute almost 17 percent of our population.

These figures summarize the gross disparity of the minority enterprise imbalance, but they do not adequately outline the broader effects on our society at large. The human cost, in terms of lost potential and lowered horizons, is immeasurable.

**RESPONDING TO MINORITY NEEDS**

Recognizing the need for Government incentives and leadership, I took steps in my first months in office to awaken the Federal Establishment to the private sector to the potential for development of minority business. First, I established the Office of Minority Business Enterprise (OMBE) within the Department of Commerce. To plan and coordinate comprehensive minority business development. Secondly, the Small Business Administration (SBA) undertook to increase minority participation in Federal procurement programs. Thirdly, I directed all Federal departments and agencies to respond to the aspirations and needs of minority entrepreneurs, particularly by use of their procurement powers.

**PROGRESS REPORT**

I am pleased to report to the Congress that our efforts to stimulate the Federal Government and private sector have been highly productive. A comprehensive statement of accomplishments was published in January of this year entitled, "Progress of the Minority Business Enterprise Program." Let me summarize the highlights and the progress for you and outline our current status.

**Office of Minority Business Enterprise.**

Only the private sector working with the Government can reverse a century of this country's discriminatory and disadvantaged position. Government cannot do it alone. The Nation's established corporations, financial institutions, professional associations, foundations, and religious organizations are indispensable to meet the demand of minority businessmen for seed capital, operating funds, suppliers, markets, expert technical and management assistance and related business essentials.

Three years ago, there were no precedents, no rule books, no methods, no blueprints on how to focus the resources of these groups on a common objective. OMBE's greatest achievement during these past three years has been to forge an alliance of Government, private sector, and minority business interests. The Office has succeeded in launching a carefully contoured, integrated set of programs that will work to encourage minority entrepreneurs fully in our Nation's economic life.

**Gains.** Since the establishment of OMBE American minorities have gained greater access to Government contract set-asides and private sector contracts and concessions, business loans and loan guarantees, technical and management assistance, and other business aid. This investment assistance has reduced programs available to non-minority small businessmen. Federal assistance, channeled through these vehicles, has been enlarged from less than $100 million in fiscal 1970 to about $400 million currently, and the $1 billion threshold for fiscal 1973—five times the 1969 level—is within reach. New markets have been opened as minority suppliers and businessmen have expanded their operations and sales in unprecedented volume.

**Funding OMBE and SBA.** Our efforts on behalf of minority business secured substantial congressional approval, and OMBE was appropriated a supplemental budget increase of $40 million for the last six months of fiscal 1972, as I requested. I am hopeful that both the House and Senate will give favorable consideration to our present request for a fiscal 1973 OMBE budget of $63.6 million to provide urgently needed technical and management assistance to minority business. Together, these budgets will total more than $100 million. This figure offers a dramatic index of the commitment of this Administration to the purposes of this Office. Funded at $63.6 million for fiscal year 1972 with less than four million dollars.

OMBE is a coordinating agency of the Federal Government, and as such does not itself engage directly in business financing. Direct loans, loan guarantees, surety bonding, lines of credit, and contract set-asides are supplied by the Small Business Administration (SBA) to small businessmen, including minority businessmen.

**THE IMMEDIATE NEED: MESSIC Legislation**

Enactment of the Administration's proposed Minority Enterprise Small Business Investment Act of 1972 would give major impetus to the minority enterprise program, and would create a more productive mechanism to achieve its objectives.

**Background.** When the Congress passed the Small Business Investment Act of 1958, it recognized that small business generally lacks seed money and working capital. To give incentives for small business investment, the act empowered SBA to license "Small Business Investment Companies" (SBICs). Such companies are private investment institutions capitalized at a minimum of $150,000 from private sources. SBICs are eligible to borrow from SBA at an incentive ratio of 5% of SBA for each $1 of its private capital. Thus, a $150,000 SBIC can borrow $300,000 from SBA for investment in its own account. Also, after it raises $1 million in private capital, an SBIC is eligible to borrow from SBA for every $1 of private capital.

Because of these incentives, substantial amounts of private capital have been invested in small business through SBICs. Since SBICs alone, $700 million in small business financings have been completed by SBICs from the program's inception, totaling $1.9 billion in risk capital. But the SBIC program has been done into minority businesses, because usually risks and costs are even higher for minority small businesses than for small businesses generally.

To fill the need for minority enterprise high risk capital, the SBA evolved the Minority Enterprise Small Business Investment Company (MESSIC). A MESSIC is a specialized SBIC: 1) it is supported by financially sturdy institutional sponsors; 2) it is supported by financially sturdy institutional sponsors; 3) it is underwritten in large part by its sponsors. In 1968, OMBE joined with SBA in launching a network of MESSICs with SBA licensing and regulating MESSICs and OMBE promoting them. Today, 47 MESSICs operate throughout the Nation with private funds totaling in excess of $14 million. Since MESSIC seed capital has the potential of freeing $15 for investment in minority enterprises for every one privately invested dollar, more than $210 million is currently available through this program. All this is achieved at relatively low cost to the Government.

MESSICs have the potential of becoming sophisticated investment companies, knowledgeable in the peculiar problems of minority business investment, and able to bring sound business principles and practices to their tasks. Seeking a fair return on their investments, MESSICs can set effectively to raise the success prospects of portfolio companies.

**MESSIC Limitations.** Despite the many virtues of the MESSIC mechanism, it is born with high endanger development. The cost of administering minority business investments and the risk of early loss are both very high. Moreover, the short term success pattern that minority businesses has not been sufficiently encouraging to enable them to attract equity investment in normal competitive markets. But the long term success of such businesses has shown that they can compete if they are given enough equity assistance to carry them through this early period.

**The Minority Enterprise Small Business Investment Act**

The primary object of my message today is to urge that the proposed Minority Enterprise Small Business Investment Act be acted on favorably and with dispatch by the House in its upcoming small business hearings. This act will restructure SBA financing of MESSICs so that they can operate on a fiscally sound basis.

**Provisions of the Act.** The legislation proposes a statutory definition of a
MESSBIC and authority to organize it as a nonprofit corporation. This status would facilitate foundation investments and gifts—indeed, such gifts to MESSBICs.

Building on our experience with SBICs and MESSBICs, the act would reduce the level of private capital required to qualify for $3 to $1 assistance from SBA, from $1 million to $300,000; provide increased equity to MESSBICs in the form of preferred stock to be purchased by SBA in place of part of the debt instruments purchased by SBA from MESSBICs under current law; and lower the interest rate on SBA loans to MESSBICs to three points below the normal rate set by the Treasury during the first five years of the loan. 

Restructuring of the Act. The immediate impact of this legislation would be to materially restructure the MESSBIC program and stimulate increased private investment and gifts to MESSBICs, resulting in greatly increased capital for minority business enterprises, at startingly small Federal cost.

The legislation would: Lower the high cost of starting the investment program of a SBIC, by taking advantage of full SBA financing; enable MESSBICs to invest more in equity securities and to reduce interest rates to portfolio companies; provide incentives to existing smaller MESSBICs which have pioneered the program.

In the act, I am proposing a fairer partnership between the private and public sectors—a partnership that would yield enabling capital for minority enterprise. The MESSBIC program is sound, practical and necessary. It equitably extends our free enterprise system by making it work for all Americans.

CONCLUSION

Opening wider the doors of opportunity for one-sixth of our people is a social necessity, which responds to an imperative claim on our conscience. It also is a direct necessity. By stimulating minority enterprise—by permitting more of our people to be more productive, by creating new businesses and new jobs, by raising the sights and lifting the ambition of those who started under handicaps like theirs—are writing records of economic success—we help to stimulate the whole economy.

I therefore urge the Congress to give its swift approval to the Minority Enterprise Small Business Investment Act of 1972, to my fiscal year 1973 budget request for $36.6 million for OMDE, and to our other small business proposals currently pending in the Congress.

Hard work, private risk, initiative and equal chance at success—these are the American way. Helping ensure for all of our people an opportunity to participate fully in the economic system that has made America the world's strongest and richest nation—this too is the American way. And so I look, at the head of our program for minority enterprise.

RICHARD NIXON.


EXECUTIVE MESSAGES REFERRED

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

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

EXTENSION OF PERIOD FOR TRANS- ACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for an additional 6 minutes.

Mr. SCOTT. Mr. President, I ask unanimous consent that the quorum call be rescinded.

Mr. President, I yield to the Clerk.

The Acting President pro tempore. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I yield to the Clerk.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The Acting President pro tempore. Without objection, it is so ordered. Is there further morning business?

PROGRAM

Mr. SCOTT. Mr. President, I yield 3 minutes to ask of the distinguished majority leader what is the program for today and the rest of the week.

Mr. MANSFIELD. Mr. President, in response to the question raised by my distinguished colleague, the minority leader, may I say first, as I indicated to him previously this morning, that it is not the intention to call up the Ervin-Mansfield resolution until later in the week.

SENATE RESOLUTION 280 PLACED ON CALENDAR

This is the first consideration that Senate Resolution 280, which would normally be laid before the Senate under the rule, be placed on the Senate Calendar under "General Orders." This is the discretionary disposition of a Senator for the normal procedure if not disposed of prior to the end of the morning hour. I would hope that would meet with the approval of the distinguished minority leader.

Mr. SCOTT. Yes, I have no objection, and it is desirable that we agree on a later date for the discussion.

The Acting President pro tempore. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, to follow the question raised by the distinguished minority leader, on Monday, Tuesday, and Wednesday, at least, of this week, the Senate will be considering the unfinished business, which is the equal rights for men and women constitutional amendment.

The business is completed on Wednesday—and there is a question as to whether it will be—the order will include the following matters:

On Thursday, Senate Resolution 280, the Supreme Court resolution—the Ervin-Mansfield resolution, as it is called.

Following the disposition of that resolution, on Thursday or Friday—I must emphasize that these days are subject to change because the sequence may be changed somewhat—the Senate will consider S. 2956, the war powers bill.

On Monday, S. 2956, the naval vessel loans bill.

On Tuesday, S. 1821, Government traffic on civil air carriers, on which a time limitation has already been entered in the calendar.

On Wednesday and Thursday, S. 3178, suspension of section 315 of the equal time provision. With regard to this latter item, it may be necessary to endeavor to place it before the Senate during the last 10 days of the session. I must get it at all possible; it depends on circumstances.

Again, it should be said that all of these days are subject to change. Other matters will be disposed of during this period, as they are cleared, will be S. 2955, stabilization of egg prices, and all other legislation which may be available on the calendar.

As the Senate is aware, beginning at the conclusion of business on Thursday next week, we enter on a 2-day Easter recess. I believe; if we can dispose of this week, then by the end of next week, the Senate will be doing extremely well. But, to the best of my knowledge, that is the schedule as we can see it at this time.

Mr. SCOTT. May I inquire whether the majority leader is aware of the possibility of any conference reports or other privileged matters?

Mr. MANSFIELD. Yes, there are some, but the only one I know of is the Radio Free Europe and Radio Liberty conference report, which I understand will be taken up in the House today. If it is, and it is not too late—and that is a flexible term—we will take it up in the Senate, and there will be a yeas-and-nays vote on it.

The other conference reports which are extant, but not in being as far as the two Houses are concerned, have to do with the so-called busing acts first; the Golden Eagle program, on which the House acts first; the stratified area bill on which the House acts first; the higher education conference report, which I understand will be disposed of prior to the end of the morning hour. I would hope that would meet with the approval of the distinguished minority leader.

Mr. MANSFIELD. Mr. President, I yield to the Clerk.

Mr. SCOTT. Mr. President, I yield to the Clerk.

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Mr. SCOTT. Mr. President, I yield to the Clerk.

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Mr. SCOTT. Mr. President, I yield to the Clerk.

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Mr. SCOTT. Mr. President, I yield to the Clerk.

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Mr. SCOTT. Mr. President, I yield to the Clerk.

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Mr. MANSFIELD. Mr. President, I yield to the Clerk.

Mr. SCOTT. Mr. President, I yield to the Clerk.

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Mr. SCOTT. That is a possibility we ought to bear in mind.

Mr. MANSFIELD. Mr. President, may I say once again in conclusion that while certain days were listed in connection with the legislation carried in sequence, if conditions in regard to changes will be on notice that changes will be made. But to the best of our knowledge at this time, this is the schedule, based on the days and the sequence of legislation is concerned which will be considered between now and the beginning of the Easter recess.

The ACTING PRESIDENT pro tempore. All time for the transaction of morning business has expired.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills which were signed by the Acting President pro tempore, action is likely within the next few days will be the one on Radio Free Europe and Radio Liberty, which I think will probably be in favor of the conference report.

We have two other measures in conference, one having to do with the healing arts and the other with manpower development and training, on which the conferences have not yet acted. So, in my judgment, the conference action on which Senate action is likely within the next few days will be the one on Radio Free Europe and Radio Liberty, which I think will probably be in favor of the conference report.

Mr. BYRD of West Virginia. Mr. President, the majority leader has indicated a very ambitious program which will carry over, I think, until the eve of the Easter recess. I want to compliment the distinguished majority leader can indicate whether rollcall votes are expected daily until the beginning of the Easter recess.

Mr. MANSFIELD. Mr. President, it is the anticipation of the leadership that there will be rollcall votes every day between now and the 3-day Easter recess. I call to the attention of the Senate that as of today, there have been 160 rollcall votes this year, which indicates that the Senate has been applying itself and that the record up to this moment is quite respectable and I think very good.

Mr. SCOTT. Since the newspapers are often not commendatory in referring to absenteeism, I wish to state that I have answered 94 of those rollcall votes. I have been absent 18 days during the first part of the session, and that on business of considerable importance, in attendance at the university board of visitors of which I am a member.

The distinguished majority leader, the assistant minority leader, and the assistant majority leader have all been very assiduous in their attention to their duties; but at times we are plagued by absenteeism, and I hope this notice will help us to get a good representation between now and Easter.

Mr. MANSFIELD. Mr. President, may I say once again in conclusion that while certain days were listed in connection with the legislation carried in sequence, if conditions in regard to changes, the Senate will be on notice that changes will be made. But to the best of our knowledge at this time, this is the schedule, based on the days and the sequence of legislation is concerned which will be considered between now and the beginning of the Easter recess.

Mr. HUGHES. The ACTING PRESIDENT pro tempore. All time for the transaction of morning business has expired.
STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. McGEE:
S. 3374. A bill to amend title 5, United States Code, relating to the permissible activities of Federal employees in political elections, and for other purposes. Referred, by unanimous consent, to the Committee on Post Office and Civil Service.

Mr. McGEE. Mr. President, I send to the desk a bill to amend title 5, United States Code, to revise the law relating to political activity of Federal employees and State employees who are engaged in the legislation of federally financed programs.

Under existing law, generally known as the Hatch Act, all Federal employees in the competitive service are forbidden to participate, in any campaign for any candidate, or to seek any financial or other advantage for any political party. Under the Hatch Act employees cannot work for the party, and perform other acts which are now forbidden. There is no real evidence to substantiate this charge, but it is commonly accepted that Federal employees need this protection by law.

What it is, of course, is not a protection against participation in any campaign, but is a protection of basic rights of citizenship. Our employees cannot serve in any capacity in the management of any political campaign for Federal, State, and local offices. It is a violation of the Hatch Act to serve on any committee, write letters in support of any candidate, serve on any board of any kind which advocates the election of any candidate in a partisan election. This is the law today would change the law to permit some, but not all, political activity. Any employee would hereafter be permitted to play an active part in any campaign for any office, but would not be permitted to be a candidate himself while still employed in the civil service or in certain State agencies. In essence, the rights of full citizenship would be restored to these nearly 3 million Federal employees, so that they in their own good judgment can decide what role, if any, they wish to play in the American political process.

At the same time, it is necessary to protect the employee from political organizations, for example, or from the political contributions. This is the heart of enforce ment. If the Civil Service Commission exercises its authority to investigate fundraising shenanigans or other prohibited activity, and vigorously prosecutes those who are responsible, the employee will be secure. It may be that further legislation in this regard will be required to insure that neither political parties or higher ranking authorities in the Government are able to influence improperly the political activity of any employee.

Mr. President, I ask unanimous consent that the bill be referred to the Committee on Post Office and Civil Service.

The Acting Chairman (Mr. McGEE). Without objection, it is so ordered.

Mr. McGEE. Mr. President, I also ask unanimous consent for a certain correspondence between the Senator from North Carolina (Mr. Jordan) and me be printed in the Record at this point.

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

MARCH 3, 1972.

Hon. B. Everett Jordan, Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

Dear Everett: Enclosed is a copy of the bill I mentioned to you the other day to amend the provisions of title 5 regarding political activity of Federal employees.

The bill would relieve any restrictions on Federal employees now subject to the Hatch Act of employees of state or local government, and also any employee who deals with the administration of programs financed by the Federal government to the extent that they may participate but may not be a candidate for any political office.

Under the Hatch Act employees cannot play any active role in the management of any campaign. For instance, an employee in the competitive service cannot serve as a member of a committee to plan the menu for a reception for a Governor, Representative, or Senator who is a candidate for re-election. Although the Hatch Act was upheld by the Supreme Court many years ago, I am convinced that it is an unfair and abhorrent restriction upon the rights of citizenship and should be modified substantially.

The Hatch Act was reported to the Senate in 1939 by a special committee of the Senate. The rules of the Senate do not seem to me to be perfectly clear, but because my bill involves the status and privileges of Federal employees, I am inclined to think that it might be appropriate for our Committee. If you do not have objection to the referral of this bill to the Committee on Rules and Administration, I shall ask unanimous consent that it be so referred. If you do have some further question in your mind, I will be happy to discuss it with you.

With kind regards.

Sincerely,

Gale McGee, Chairman.

Enclosure.


The Honorable B. Everett Jordan, Chairman, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.

Dear Gale: This will acknowledge your letter of March 3, 1972, advising me of a bill you plan to introduce to amend Title 5 of the Hatch Act, which would relieve any restrictions on Federal employees, and specifically asking me if I would have any objection if you were to seek unanimous consent to have the bill referred to the Committee on Post Office and Civil Service.

As you know, the Hatch Act was not originally considered nor reported by the Committee on Rules and Administration. It emanated from the Senate Civil Service Committee. Since the Act's provisions do not affect elections per se, but only the activities of Federal employees in elections, I did not have any objection to your proposal that the bill in question be referred to your Committee.

In passing, I might advise you that Senator Howard W. Cannon, Chairman of the Subcommittee on Privileges and Elections, does not intend to hold hearings on this bill this year on a bill introduced by Senator Moss, S. 2032, to amend the Hatch Act. That bill was referred to the Committee on Rules and Administration, but could have been referred to the Committee on Post Office and Civil Service since election laws would not be directly affected by the bill, but only the political activities of Federal employees.

I am taking the liberty of sending a copy of this letter to Senator Cannon for his information.

With all best regards,

B. Everett Jordan, Chairman.

By Mr. BIBLE (for himself and Mr. CANNON):
S. 3375. A bill to convey to the Battle Mountain Indian Colony, a territory in certain Federal land. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of myself and distinguished colleague Senator CANNON, I introduce, for appropriate referral, a bill to convey to the Battle Mountain Indian Colony the beneficial interest of some 320 acres of land in Lander County, Nev., to be used for the benefit of these Indians. The selected land is immediately adjacent to the present colony and includes the main cemetery used by the Battle Mountain Indian tribe, and for many years that the tribe has used this area as its home.

The enactment of the bill is necessary to provide a base for a viable economic community. In addition, it would permit the tribal members to construct their own homes and provide sanitary facilities and living conditions so necessary to the continued existence of the tribe. I trust that early approval will be secured from the administration and the committee will move with dispatch to take care of this situation.

An unanimous concurrence that Resolution No. 71-BM-2 of the Battle Mountain Tribal Council dated December 4, 1971, printed in the Record as a part of my statement.

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

RESOLUTION OF THE BATTLE MOUNTAIN TRIBAL COUNCIL

Whereas, the United States of America holds in trust, lands described as the NW 1/4, 1/2 NE 1/4 of section 18, T. 32 N., R. 45 E., and the W 1/2, 1/4 NE 1/4 of Section 12, T. 32 N., R. 44 E., the Battle Mountain Indian Colony as set forth in Executive Order 3639, dated June 16, 1917, and

Whereas, certain Public Domain lands described as the SE 1/4 of Section 12 and the NE 1/4 of Section 13, T. 32 N., R. 44 E., are contiguous to these lands set forth in Executive Order No. 3639,

Whereas, the addition of the Public Domain lands described as the SE 1/4 of Section 12 and the NE 1/4 of Section 13 to adjoining Colony lands would consolidate Colony lands, and therefore enhance its potential use and economic development,

Whereas, the main cemetery of the Battle
Mountain Indian Colony is located in a portion of the NE\% of Section 13, T. 33 N., R. 44 E., surveyed by Public Domain lands, limiting the best use of the land by all others except the Tribe, and

Now therefore, be it resolved that we request the vacated Public Domain lands adjacent to the Battle Mountain Colony described as the 33 1/4 Section 12, and NE\% Section 13 N., R., 44 E., be withdrawn and added to the Battle Mountain Indian Colony to be held in trust by the Secretary of the Interior;

Be it further resolved that the Tribal Secretary is authorized to send copies of this resolution to the Superintendent, Nevada Agency; Inter-Tribal Council of Nevada; the Commissioner of Indian Affairs, and the Secretary of the Interior.

By Mr. BELLMON:

S. 3376. A bill to amend the Natural Gas Act to provide, after a 3-year period, for the termination of the Federal Power Commission's authority with respect to the fixing of charges for the production and gathering of natural gas in the United States. Testimony was received from witnesses representing virtually every part of the natural gas spectrum. The committee heard from representatives of exploration companies, production companies, pipelines, natural gas distribution companies, environmental organizations, public policy, and regulatory agencies, and local, State, and Federal Governments. As a result, one can safely say that a severe gas shortage does exist in the United States.

Opinions expressed regarding the cause of this gas shortage, however, varied from immediate low wellhead prices imposed by the Federal Power Commission, which preclude expanded exploration and production of natural gas, to inadequate distribution facilities for the transportation of this gas, to unfounded charges of government-industry collusion in restricting natural gas supplies in order to force higher gas prices. The recommended solutions to this present natural gas shortage were equally as varied and complex.

The vast amount of information gathered is now pending further action and will be documented and become part of the official hearing record. Hopefully, this will help guide the Interior Committee in the formulation of a national fuels and energy policy. Unfortunately, this committee action will come too late to avoid serious gas shortages. They are already upon us.

The natural gas supply shortage is not new to us. It has persisted for several years, particularly during the winter months. It has resulted in temporary shutdowns of schools, commercial establishments, factories, and even military bases. It has become more acute with the increasing amount of natural gas consumed. Therefore, it is necessary that we begin to look into this critical situation, yet action has failed to materialize. Public awareness of this problem has been isolated to those communities where the gas shortages have occurred. Hopefully, this legislation has not reached the level needed to stimulate corrective action.

Unfortunately, the natural gas predicament is not an isolated case. This situation is only symptomatic of the far larger national energy crisis that exists today, which could bring grave peril to this Nation in the future. "Energy crisis" can be defined in many ways. It is the detrimental effect upon U.S. citizens brought about by the natural gas shortage; it is the increasing frequency of brownouts and blackouts in our large metropolitan areas; it is the grave disruptions in our urban way of life; it is the continued dismantling of our self-sufficiency in the production of fuels that has ominous overtones of a trend toward military energy participation. It is the increased pollution in areas where the supply of desirable fuels is far short of the need.

Our Nation's reserve electrical generation capacity declines year by year, while nuclear powerplants constructed to supply that needed capacity lie dormant, Nor are these concessions to be the last. In the case of petroleum, the export of crude oil, and naphtha, the export of synthetic natural gas plants that will depend in large measure upon foreign sources for their raw materials, such as crude oil, and many of these have been established with long-term commitments of billions of dollars by U.S. industry, from which a reversal would be difficult indeed, unless industry is immediately given sur­face corrective opportunities to be attracted back to our shores.

In the case of petroleum, the export of capital, technology, and producing capabilities has already occurred. In 1970 the investment by American companies in foreign areas exceeded the U.S. domestic investment by 45 per cent. Last year approximately 26 per cent of our petroleum products were imported. The organization of petroleum exporting countries—OPEC—representing the major oil producing nations of the Middle East, Africa, South America, and Asia, now represent 90 per cent of the world's non-Communist oil. Many have developed ambitious plans for the control and distribution of this American-produced foreign oil to world markets. Just this last weekend the American-owned Aramco oil consortium has agreed in principle to Saudi Arabia's demand for a 20-per cent share of its operation. Algeria has already taken control of at least 51 per cent of both French and American interests in that country. Nor are these concessions to be the last. It has been clearly indicated by the overwhelming majority of the American oil companies that foreign oil producers, located on their soil, will be the goal of the future.

At the same time, we continue to see the mounting presence of the Soviet Union in the Middle East from expansion of its Mediterranean fleet, to its air operations out of the former U.S. Air Force Base in Libra, to establishment of naval service bases in Egypt. Mr. President, I ask unanimous consent that my amendment be printed in the RECORD.

The article goes on to say:

There is evidence that even if Russian oil production reached the targets set for 1978, East Europe's consumption needs will still outpace it; perhaps by a figure as big as 100 million tons a year. With this emergency not so far off, Russia could have an interest, diverting the established pattern for Middle East oil flow.

Mr. President, I ask unanimous consent that a copy of this article be printed in the CONGRESSIONAL RECORD.

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

"BY MR. BELLMON, OF CALIFORNIA—March 9, 1972"

WE DON'T HAVE TO LIKE YOU—WHAT IS MR. BRENNER PAYING SO MUCH ATTENTION TO?

A treaty, like beauty, is in the eye of the beholder and never more so than when it is between a strong power and a weaker one. A treaty short of a mere "convenience." Arab leaders were denouncing such treaties as crude imperialist tools designed to per-
petuse the influence of the stronger—
which, in one or two instances, is just about
what it takes to be a demonstrative signal that
all was not lost between the two countries. But
ever since there have been regular reports, as regularly
denied, of Egyptian resentment at the in-
adequacy of the friendship offered; the Rus-
sians, while not indignant in public indisc­
cretions, have from time to time allowed their
impatience to hit surface.

Friendly or not, February has been a social
month for Arabs. Mr. Saddam Hussein, who
has been reported to be on the way to Moscow
as the strong man in the Iraqi government,
went to Moscow and came back with a con-
municated assurance that the go-between
reference agreement, signed last May,
accepted, a return visit; presumably this
would also be the occasion for signing the
treaty, if not yet formed, a central to his thesis. Speculation is batted
around in all directions but there is evi-
dence that, even if Russian oil production
are no longer able to satisfy the market
are facing, the US is well placed to survey Nato's,
and, and, and, and accepted, a return visit; presumably this
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month's expected production will fall short of meeting purchaser demand by 123,847 b/d.

"To satisfy the March market as evidenced by the nominations would require approximately an 18% increase in depth bracket, or bring the depth bracket to approximately 93% of the July 1971 revised depth-bracket allowable," he said. Menefee pointed out that under the old depth-bracket formula, nominal crude oil would be 105%.

Nominations for Texas crude totaled 3,397,312 b/d, an increase of 96,790 over February.

Under the 86% factor, Texas is expected to produce 3,397,200 b/d.

Texas Railroad Commission Chairman Earl Menefee told the Journal that Texas crude stocks have dropped to their lowest point since 1966 at 57.5 million bbl for the week ending Feb. 11.

During the hearing, representatives of three companies testified they are having difficulty with crude supply. Coastal States Crude Gathering Co., Clark Oil & Refining Co., and Texas City Refining Inc. all said they sorely need more oil. Texas City's purchasers said short supply has reduced their plant throughput since the last 5 days of January. And spokesmen for Coastal and Clark spoke of increasing demand for both crude and refined products as well as oil. Both expect to be out of tickets by mid-year.

Nominations up. Humble Oil & Refining Co. posted the largest increase in nominations for March, up 54,000 b/d to 584,000.

"The true demand for oil," a spokesman said.

Other significant increases included Citites Standard Oil Co. from 11,000 to 12,000 b/d; Continental Oil Co. up 11,100 to 38,100 b/d; Mobil Oil Corp. up 10,000 to 310,000 b/d; Shell Oil Co. up 20,000 to 240,000 b/d; Sohio from 17,780 to 33,880 b/d; and Texaco Oil Co. of California up 8,000 to 83,000 b/d.

Companies registering demand for spot-market crude oil, in addition to Coastal, Clark, and Texas City were Crown Central Petroleum Corp., 15,000 b/d; and Sohio, 50,000 b/d. Sohio's representative offered no statement during the hearing but was questioned privately by commissioners.

For February, Louisiana is producing at the 75% rate an estimated 1,706,123 b/d, or about 51,000 b/d under nominations by purchasers. For March, purchasers nominated 1,850,970 b/d, an increase of 61,617 over February.

"We have reached a point in time when we cannot satisfactorily meet the true demand as evidenced by your nominations, and we are in a position worse than we were 30 days ago," the state's oil commissioner, added. Menefee told purchasers at the New Orleans meeting.

Menefee told purchasers the department will try to satisfy as much of possible of the market demand without injury to reservoirs or creation of waste by "allowing production at rates which would result, or tend to result, in reducing a quantity of oil or gas ultimately recoverable from reservoirs within the state." The statute, he pointed out, require prevention of waste.

Increases coming. Louisiana's producing companies have been invited to submit informal price schedules for their additional capacity and fields which they believe could efficiently produce at higher rates.

"Such additional information would have to be well documented and—if higher allowable rates are granted—would have to be supported by evidence that the fields are being drained too slowly, Menefee said, the higher allowable will be withdrawn.

Still some excess. Another department spokesman said he still has some objection to waste. "We think some excess is still there, but we don't know where it is. We are going to find out," he said.

A subsequent spokesman, he said he has no better figure than 300,000 b/d. Industry observers, however, put the figure at closer to 100,000 b/d, with some of this coming from offshore fields soon to fall under jurisdiction of the Department of Interior.

He characterized the ban on statewide increases as "a significant and compelling evidence that we can officially produce any additional allowable without hurting the market," he said. Consumers are producing all or more than they should," he added.

Also, operators present evidence that certain reservoirs and wells can efficiently produce more oil, he said, the allowable will be methodically increased until we can see we do it without creating waste."

"We need to be certain that what we do is right," he said.

Large increase. Assuming that producers promptly supply information on Louisiana's remaining top wells, some additional allowable may or may not be granted, he added.

Plans are to retain the 75 allowable for all fields. The market for oil in excess of what can be produced at this rate will be equally divided among wells which can efficiently produce at higher rates in the form of a supplementary rate.

Most wells, then, will be producing at 75%—and since they cannot really produce any oil below 100% of the allowable rate. The top wells will have the 75% rate, plus a supplement which may or may not be granted, he said.

The supplementary rates, like the normal allowable, will be studied and set on a month-to-month basis with the change in nominations and as top fields are added or withdrawn.

No Texas lid. Although TRC chairman Tunnell reminded the commission that March will be a sad day for the nation when Texas goes to 100%, he said after the hearing that no statewide ceiling will be imposed. Instead, Texas will limit individual fields as they reach the maximum rate at which they can produce without damage. Some fields may be reduced below current levels.

"We may go to 100%, or even over 100%," he told the Journal. "But we will have very few fields at that level when we get through." He said the commission staff has begun studies to determine which fields should be restricted and which may or may not be granted an increase.

[From the Wall Street Journal, Mar. 17, 1972]

TEXAS INTERRUPTS 24-YEAR TRADITION OF OIL OWNERSHIP: BID FOR ENERGY OF APRIL QUOTA ISN'T EXPECTED TO BEGIN A DECREASE IN PRODUCTION—ACTION MAY DOOM PRODUCTION EL PASO—For the first time since 1948, Texas will permit its 194,000 b/d April oil wells to operate at effective capacity next month.

But it doesn't mean a great deal to purchasers of Texas crude oil who are clamoring for more petroleum—perhaps only 160,000 to 200,000 barrels a day more of actual production in the nation's biggest oil-producing state.

The move, however, could signal the beginning of the end of the myths surrounding so-called market demand prorationing of petroleum in Louisiana and Texas, long a favorite target of Eastern politicians. Louisiana, second-largest oil producing state, already has acknowledged that its spare oil-producing capacity has all but vanished.

Texas officials conceded as much yesterday in the face of a hearing of the Railroad Commission, the state's oil regulatory agency. The commission established a market demand level of 100% for regulated wells in the state for April, up from 86% this month.

The commissioners cited rising oil imports, the increase of state oil prorationing—"as a stop-gap" and "for `some time"—and the expansion of offshore drilling and the full development of Alaska's reserves. Petroleum producers long have argued they must have incentives to keep producing at higher prices, to finance any expanded search for additional oil reserves.

Mr. Tunnell yesterday took issue with Eastern critics of Southwestern oil prorationing who contend that such regulation by the state is not necessary because demand is and, consequently, petroleum products like gasoline. He suggested that the Texas move to capacity production will prove the untruthfulness of any allegations that market...

ACTUAL OUTPUT TELL'S

Actual output usually lags behind allowed production simply because many oil wells can't produce at their originally predicted highest. In a state where deficits are permitted between permitted and actual output widen.

Of the 8,700 or so oil fields in Texas, about 8,600 are "prorated" and shut down during March in permitted production rates. Assuming that they would produce all they were allowed to at a 100% rate, these fields would turn out 4.4 million barrels of oil a day. In addition, there are 615,788 barrels daily of production from oil wells, largely marginal producers, that are exempt from prorationing.

This would indicate, at April's capacity rate, more than five million barrels daily of permitted production next month. But Byron Tunnell, chairman of the Railroad Commission, previously has estimated that at a 100% rate actual output would climb by only 150,000-200,000 barrels a day from the March level, thus indicating actual production next month of only 3.5 million to 3.8 million barrels a day at this rate.

Mr. Tunnell yesterday expressed concern over possible premature exhaustion of Texas oilfields at this higher rate. "We're going to watch the reservoirs closely to see that they aren't being overdrawn, and we will cut back first and then call a hearing if we feel they are being drained too fast," he said.

ANNUAL INDUSTRY-WIDE MEETING

Moreover, the capacity output will just barely keep up with requests for Texas oil by crude purchasers. The crude buyers had asked for 152,784 barrels a day more in April than they had requested for March, or a total of 8.5 million barrels a day next month.

Because it was an annual industry-wide hearing by the commission, 15 oil companies sent officials to discuss petroleum needs and the oil outlook with the Texas agency. A. M. Wright, chairman of Humble Oil & Refining Co., chief domicile subsidiary of Standard Oil Co. (New Jersey), forecast that total demand for petroleum this year will be 3.5 million barrels daily.

This would be significantly higher than the 2.8% increase in 1971 largely because of a rise in consumption in economic activity in 1972, he said.

Texas crude oil inventories as of March 10 were 91 million barrels, some of the officials asked. According to Wayne E. Glenn, president of the Western Hemisphere Petroleum division of Continental Oil Co., that is "approximately 20 million barrels below what we consider to be desirable."

"SAD AND HISTORIC"

Mr. Tunnell called it "a sad and historic day for a decision (to go to the 100% rate) that would have been impossible, especially, the need for improved economic incentives for exploration and development of new fields. In the case of Texas as well as the expansion of offshore drilling and the full development of Alaska's reserves. Petroleum producers long have argued they must have incentives to keep producing at higher prices, to finance any expanded search for additional oil reserves.

Mr. Tunnell yesterday took issue with Eastern critics of Southwestern oil prorationing who contend that such regulation by the state is not necessary because demand is and, consequently, petroleum products like gasoline. He suggested that the Texas move to capacity production will prove the untruthfulness of any allegations that market...
I strongly urge, Mr. President, that all of us in the Congress thoroughly acquaint ourselves with these important energy issues and that we strive to encourage constructive and timely action that will be in the national interest.

By Mr. FANNIN (for himself and Mr. GOLDWATER).

S. 3377. A bill to extend the time for commencing action on behalf of an Indian tribe, band, or group. Referred to the Committee on Interior and Insular Affairs.

Mr. FANNIN. Mr. President, on July 18, 1968, there was added to the United States Code, 28 U.S.C. paragraph 2415, as a new subchapter called "Market demand proration is a scheme to maintain prices.

Market demand proration is the placing of a total limit on a state's monthly oil output equal to the estimated demand from buyers for that oil, and the proportionate sharing in the total output by all the state's producing wells.

Oklahoma issued the first market demand proration rules in 1914 to control output from the Cushing field, and it extended control statewide in 1928. Texas imposed state-wide prorationing in 1931 after discovery of the vast East Texas oil field, where excesses of output threatened to wreck the industry. The field had to be closed by National Guard troops, and then the state had to defend its prorationing authority in the courts.

Mr. BELLMON, Mr. President, these reports from our two largest oil producing States, the only States which theoretically have had shut-in oil producing capacity, should bring Americans face with the reality of our energy crisis.

For years knowledgeable students of the energy situation have been forecasting trends which would indicate and galvanize the attention of the energy-consuming public. As a result nothing has been done to remedy the situation. In fact Congress and Government generally have taken action which have aggravated the situation.

Now the hard realities of the energy crisis are upon us. No longer do we possess shut-in oil and gas reserves or adequate stocks in storage. Instead, we face a rapidly rising dependency on insecure foreign sources.

It is time, therefore, that this Nation and its leaders address the issues. It is time that we concentrate on developing our own still abundant coal, oil shale, gas and oil reserves. It is time we commit ourselves to develop these reserves to provide us with self-sufficiency in energy and the assurance that we will not become subject to political or economic coercion by unfriendly powers, which seems to be inevitable, if the present trend continues.

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for seismic research from the Defense Department's Advanced Research Projects Agency to the Arms Control Agency. I ask unanimous consent that a statement explaining these amendments, prepared for delivery at the Senate Foreign Relations Committee hearings today, be printed in the Record.

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

SENATOR CASE PROPOSES TRANSFER OF SEISMIC RESEARCH FROM DOD TO ARMS CONTROL AGENCY AS ESSENTIAL TO EFFORTS TO BEARING ABOUT AN UNDERGROUND NUCLEAR TESTING TREATY

(Text of Statement by Senator Clifford P. Case, Prepared for Delivery at Senate Foreign Relations Committee Hearings on the Arms Control Agency Authorization Bill, March 16, 1972)

My amendment to the Arms Control Agency bill before the committee authorizes an additional sum of $9,995,000 for research and testing in fiscal year 1973.

A related amendment I have submitted to the DOD procurement bill deletes an equivalent sum requested for the Advanced Projects Agency (ARPA).

The additional funds is to transfer to the U.S. Arms Control and Disarmament Agency the seismic research program now being carried out within the Department by the Advanced Research Projects Agency.

The seismic research program is directed towards improving and developing the techniques by which the United States could monitor an underground nuclear test ban treaty.

The Defense Department's responsibility for what is essentially an arms control measure, however, conflicts with its primary military role.

I do not believe that Congress intended that the Defense Department should be in the position of both controlling the development of the means by which underground testing can be ended and serving as the adversary needed for the military importance of continued testing.

For almost nine years, the United States and the Soviet Union have been deadlock on the negotiation of an underground nuclear test ban treaty. One of the principal causes of the deadlock has been U.S. insistence upon, and Soviet resistance to, on-site inspections as a means of verifying compliance with such a treaty.

During this period there have been great advances in the state of the art in seismic monitoring techniques. The potential of these discoveries is that the United States may be able to rely upon seismic means for verifying compliance and drop its insistence upon on-site inspections.

Has the Defense Department pursued and exploited the opportunities offered by these advances in a manner commensurate with their treaty obligation to do everything in our power to bring about an end to underground nuclear testing?

NO JURISDICTION—AND ITS CONSEQUENCES

Seismic research was once a high-priority program. In 1963, when a total nuclear test ban was the focus of widespread public attention, funds available for seismic research totaled $414 million.

1963 turned out to be the high point. Since then, the trend in funding has been straight down.

By 1966—$30.9 million.

By 1970—$18.5 million.

By 1972—$14 million, or slightly more than one-third the 1963 funding level.

For the 1970 fiscal year, the Defense Department's request is below $10 million, and reports are persistent that plans are under way to phase out this research program entirely.

Has this declining effort simply reflected reductions in Department's request as items to distinguish between underground nuclear explosions and earthquakes in the Soviet Union?

I think not.

Despite the attempts of some individuals in the Defense Department to suppress public knowledge of the U.S. capability to monitor without the necessity for on-site inspections. Defense officials assert that research movements in our existing capabilities remain unexploited at this late date. Nonetheless, the Department has continued to request less and less funds for this purpose.

The ready availability of these means of improvement, together with the recognition that they as yet remain unrealized, recently made the subject of specific mention by the Senate Armed Services Committee. Senator Henry M. Jackson, in his capacity as chairman of the subcommittee which maintains oversight over U.S. monitoring capabilities, had this to say about the U.S. seismic network:

'It is in this area of research and development that highly worthwhile advances are still to be made, which can be continued and enlarged. Even at this time, a relatively inexpensive improvement of the seismic system could mark the reduction of the number of events are not unambiguously identified. Such improvements and continuing research on seismic detection method and systems are particularly desirable and necessary in view of discussion of a possible comprehensive test ban, whereby it might be possible to determine the possibility that deliberate evasive techniques could be applied in clandestine testing. (Emphasis added.)'

For the Defense Department, Dr. Stephen Lukasik, Director of the Advanced Research Projects Agency, said on June 30, 1971:

'Improvement in seismic instrumentation is clearly needed to attain a level of accuracy below magnitude 4.5 and to assess the limits of teleseismic discrimination.

'We have seen that a major scientific understanding of the identification problem into improvements in the seismic verification capabilities of the present network is now the primary concern. We have moved up the technology from the present installations that are not capable to those who can-[Emphasis added.]

But he also failed to offer any concrete plan of action which would realize these goals. Instead, he dwelled upon the cost and effort which would be required and then dropped the subject.

Defense officials have also referred to relocation of existing seismic stations to quieter areas as a way in which capabilities would be improved. As recently as October 27, 1971, this long-available means of improvement was still being offered as a "good idea": (Dr. Lukasik). (Emphasis added.)

'One should note that it is possible to improve some stations by moving them to quieter locations where monitoring capability requires less sophistication and time.

'But he also failed to offer any concrete plan of action which would realize these goals. Instead, he dwelled upon the cost and effort which would be required and then dropped the subject.'

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'But he also failed to offer any concrete plan of action which would realize these goals. Instead, he dwelled upon the cost and effort which would be required and then dropped the subject.'

Indeed, I understand that several years ago the Department decided that a project which would have substantially upgraded the performance of our worldwide network, in part through relocation, should be further explored. This decision was based upon the judgment that the task would be politically difficult and might be unacceptable to the Senate. But should the Defense Department alone be responsible for policy decisions of this nature?

Secretary of State McCloy, in his capacity as chairman of the subcommittee which maintains oversight over U.S. monitoring capabilities, had this to say about the U.S. seismic network:

'While the ability to identify explosions as small as two kilotons by seismic means alone.

Before I was able to confirm this report— and I finally had to canvass the scientific community to do so—I had to deal with censored documents, a series of contradictory statements, and generally a run-around from Defense Department officials.

Certain Pentagon officials even classified the previously unclassified summary of the conference itself. And when I protested this practice, an unidentified Pentagon official told reporters that the summary represented the views of only one participant at the conference and not the views of the scientific and political leadership of the Arms Control Agency.

It appears to me as one of the original co- signers of the Senate resolution supporting the Arms Control Agency that Defense Department jurisdiction over this arms control program was never intended.

THE CALIFORNIA CONGRESSIONAL RECORD

The Arms Control Act of 1961, the Department of the Arms Control Agency is autonomous and directed by Congress in insuring, arranging for, and coordinating research in the following fields:

(a) the detection, identification, inspection, and enumeration of nuclear . . . including thermonuclear (and) nuclear . . . weapons.

(b) the techniques and systems of detecting, identifying, inspecting, and monitoring of tests of nuclear, thermonuclear and other.

In testifying before the House Foreign Affairs Committee in 1961, former Deputy Secretary of Defense Gilpatric forcefully stated the need for and function of this agency:

'I think that the basic thought has been to this question is the question of an ambiguity, a position where it can build up a staff and can do a job that I don't believe can be done by a location. With the help of discussions on security, or State, which isn't equipped to do research work and many of this disarmament and controls business that require talents that are not in the State Department.

Later, in stating the Defense Department's support for the assumption of research responsibility by the Arms Control Agency, Secretary Gilpatric underlined the primary role expected of it:

'The Department of Defense expects the new Agency to make its principal, biggest contribution in the area of policy formulation. Such policy formulation will be all the more necessary as the departmental legislation enabling the new Agency to conduct and coordinate research in the disarmament field requires the greatest possible efforts and the use of the best minds of the foreign policy experts, scientists, and military strategists.'

The legislative history is also unmistakably clear that the Arms Control Agency was created to develop the means for verifying compliance with such agreements as an underground nuclear test ban treaty. (Emphasis added.)

Senator Humphrey specifically questioned Mr. John J. McCloy, the President's representative on this point:
Senator Humphrey. Is it not a fact that the disarmament agency, as it is suggested in the bill, particularly with respect to the question that the agency would have in its functions under title III, could accelerate research, exploration and development in this field of detection?

Mr. McCloy. Yes. Senator Humphrey. And control? Mr. McCloy. Yes.

Senator Humphrey. Now, this agency could have the responsibility, and could be able to carry out the three fundamental areas of research; is that not correct?

Mr. McCloy. That is right.

Senator Humphrey. Mr. McCloy later referred to the post-World War II experience with disarmament negotiations which made Arms Control Agency responsibility for this research of such pressing importance. As a general proposition, it remains as valid today as justification for the amendment which I have introduced to transfer jurisdiction over this research to the Arms Control Agency.

The experience in the disarmament negotiations which have been conducted since the termination of World War II shows the importance of this agency in the defense of the nation. The problems of disarmament are highly complex, for they encompass not only the physical aspects of the control systems but also the political aspects, including the questions of interpretation, reliability of inspection and control systems and techniques for their implementation, but also basic political questions concerning the maintenance of peace and security under various levels of disarmament. . . .

For this reason, research and the study of the type authorized by S. 2180 must be a primary function of an agency dealing with disarmament, not simply for the short term with respect to current negotiations, but especially for the long term. (Emphasis added.)

A DEPARTURE FROM CONGRESSIONAL INTENT

No doubt it will be contended that the Arms Control Agency has in fact exercised a measure of supervision over the Defense Department's handling of the seismic research program.

Even should this be claimed, the fact is that responsibility has been delegated to the Defense Department to such an extent as to eliminate any direct or substantial purposes for which the Agency has been established.

My investigation has led me to believe that the Arms Control Agency has not participated in even the most basic decisions regarding funding or program content. Typically, it has been a DoD agency doing research, but I learn how much money will be spent on seismic research until after the decision has been made and the budget information released to the public.

The blunt judgment of one scientist who is intimately aware of the history of this program was expressed to me as follows:

"... we have not had occasion to review formally the prospect for this kind of research, but we will blame this for what has developed. For it is clear that this state of affairs would not have obtained had the Congress sustained a high degree of interest over the years and pressed for everything possible to bring about a test ban."

This must be said because simply transferring research from one area to another, or from the Arms Control Agency to the National Defense Establishment, will not bring about the kind of major initiative which will be necessary if an underground test ban be to be feasible. The U.S. negotiating position on the test ban has remained static since 1958. This has not even been true of the negotiations as far as the United States is concerned. Nevertheless, even though there have been enormous improvements in the past nine years in our ability to monitor compliance with such a treaty by seismic means.

In 1963, U.S. insistence upon on-site inspections was probably justifiable in view of our then-relatively primitive ability to verify compliance solely by seismic monitoring stations on our own soil or on that of countries bordering on the Soviet Union. As we stated before this committee last year by Doctor Franklin A. Long, formerly Assistant Director of the Arms Control Agency, "... it was generally agreed (in 1963) that one could not, in any real sense, 'identify their warheads through this testing, with an underground test ban, and that one could only do so by making available to us the detailed technical data and making some basic assumptions'". Earthquakes could not be distinguished from underground nuclear explosions by seismic means, and, in Dr. Long's words, "... at present we have no way of telling small underground explosions (was by) a process of elimination."

Now the seismic state of the art has advanced so far that the controversy is no longer about whether we can tell the difference between earthquakes and underground explosions. Now the debate is over how small an underground explosion can be identified. Now even Defense Department ofF. E. has been asked to be able to identify tests as small as one or two kilotons (by way of comparison, the yield of the Hiroshima bomb was 16 kilotons), and scientists compete as to the precise number of inspections we would require (emphasis added)."

GETTING BACK ON THE TRACK

There is presently considerable among arms control experts as to whether any further improvement in our seismic monitoring capabilities is even necessary. Some contend that the United States is now in a position to negotiate negotiations of a test ban without requiring on-site inspections in the Soviet Union to verify compliance.

Others, especially within the Defense Department, argue that our seismic systems will never be sufficiently sophisticated to be tolerable to deter covert underground testing.

The advocates of "negotiation now" are concerned that primary emphasis upon the technical issue—our seismic monitoring capabilities—can lead to irremovable bickering among contending scientists and the construction of unnecessarily sophisticated and ever-more-refined monitoring systems. They contend that in the final analysis entering into an underground test ban treaty is necessarily a political decision.

Whatever the outcome of that controversy, it presents no argument against the transfer of responsibility for seismic research to the Arms Control Agency.

All avenues must be explored in order that the U.S. position for a limitation on nuclear test can be realized. Reviving our seismic research effort is surely one step to that end. It by no means excludes a revision of our non-nuclear limitation.

There are compelling reasons to pursue this matter; I don't need to remind the committee of the importance of the nuclear test. Since the date of the conclusion of the Limited Nuclear Test Ban Treaty, the rate of nuclear testing has actually increased.

The non-nuclear powers have become increasingly restive at the prolonged delay in ending nuclear testing. The Nuclear Non-Proliferation Treaty itself is further endangered with the passage of every day—and we have been specifically warned by nations who have not yet ratified it that time is running out.

The United States and the Soviet Union continue their inexcusable competition to reclaim the high ground in the nuclear arms race. The potential for a technical breakthrough by either side which would wreck our efforts for arms limitations is real.

As one step in the effort to resolve the impasse in which we find ourselves, I ask my colleagues on the Senate Foreign Relations Committee to accept this amendment which I have offered.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 999

At the request of Mr. Church, the Senator from Montana (Mr. Mansfield), the Senator from Iowa (Mr. Hruska), and the Senator from Minnesota (Mr. Humphrey) were added as cosponsors of amendment No. 999, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

ADDITIONAL STATEMENTS

WHAT IS AN AMERICAN?

Mr. Ervin. Mr. President, each year the Freedoms Foundation of Valley Forge conducts a letter writing program in which Active and Reserve Armed
Forces personnel compete for George Washington Honor Medals and cash prizes.

Marine Gunnery Sergeant Berimer Nelson, whose letter "What Is an American?" won an honor medal and $100 in the 1971 contest lives in Wilmington, N.C. He is currently stationed with the 5th Marine Aircraft Wing, with his wife, the former Miss Carolyn D. Pompey, presently reside in Wilmington, North Carolina. They have one child.

Sergeant Nelson has served in combat in the Republic of Vietnam, with the 3rd Amphibian Tractor Battalion, 1st Marine Division (Rein), FMP and is the recipient of the following awards: Purple Heart, Combat Action Ribbon, Presidential Unit Citation, Good Conduct Medal, National Defense Medal, Vietnam Service Medal (with two (2) stars), and Good Conduct Medal. Sergeant Nelson

subject: biography, case of gunnery sergeant berimer nelson

WASHINGTON, D.C.

Dear Mr. MATHIAS,

Thank you for your letter of January 7, 1972 and for your consent that Dr. Comblath's letter describing this encouraging program be printed in the Record.

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

UNIVERSITY OF MARYLAND,

To list a few of the achievements that have occurred during the past three months, the Head Start program in Cumberland was begun, giving much needed service to more than 600 children in the community. Arrangements were made for families without private physicians to register and be seen at the Children's Medical Center in Cumberland where the patients can be seen at no charge. Regular head-start examinations have been initiated and conducted in the Garrett County School systems of Grantsville, Kurtzville, Friendsville and Oakland. An acute care clinic held once weekly at Grantsville has been established through the efforts of the County Health Officer, the Pediatric resident and the public health nurse. The Pediatric resident, assisted by the public health nurse, sees all sick and well children there. The cooperation of the County Health Office, the public Health staff and the community has indeed been most exciting and gratifying thus far.

In addition to immediate programs, our resonates in cooperation with the programs in Garrett County as well as the County Health Officials and the State Health Department for making plans for future training of public health officials and the public health nurse care for children as well as adults. The programs will be self-sustaining and continued. This program has caused us to always plan for the possibility that federal funds will not be forthcoming or will be significantly reduced. From this, we have made plans to transfer as many of the programs as possible to local health officials as well as physicians. In this way, the expectations of the population can be realistically achieved.

I would be delighted to meet with you at your convenience and bring Doctors Payne, our first Appalachia resident, Weaver and Khan, my co-workers in this program to meet with you in detail. We have been very fortunate in having Sister Mary Louise from the Sacred Heart Hospital in Cumberland serve as a most able and competent Principal Investigator of this program. We have also had the complete cooperation of Doctor Brodell, Dawson and Fleming of the Children's Medical Center in Cumberland, who have been the on-site supervisors of our resident in Appalachia. I would certainly welcome your contribution to this overall program acknowledged.

Please excuse the length of this letter, but our system is subject to such routine updates in such a short time have been beyond our expectations. I trust that this is the information you want and would be glad to discuss it for you at your convenience.

With all good wishes and personal regards,

Sincerely yours,

Mavis Comblath, M.D.
Professor and Head, Department of Pediatrics.
PEACE CORPS' NARROW ESCAPE

The Peace Corps has gotten a welcome, last-minute reprieve from President Nixon.

In signing an absolutely minimal $3.1 billion foreign aid appropriation bill, Mr. Nixon omitted money for the Peace Corps. The money was to come from other budget sources if need be—to keep the Peace Corps in full operation.

As it now stands, the Peace Corps budget of $82 million appropriated by $10 million by Congress. Without the assurance from President Nixon, that money would have been chopped by as much as a half.

This has been disastrous for the Peace Corps, which since its creation in 1961 has been one of the most effective people-to-people ventures in the U.S. foreign aid program.

Ironically, the congressional cutback of Peace Corps funds came at a time when the agency was regaining momentum in attracting volunteers.

Although Louisa Rep. Otto Paman, Pennsylvania foreign aid expenditures, reportedly had a change of heart on reducing the Peace Corps budget, the appropriation measure still went through Congress with a $10 million cut.

Thus it remained for President Nixon to rescue the agency.

However, it is not certain that the Peace Corps will remain in full operation was the shot in the arm that the agency needed. In any case, Mr. Nixon's action was also a well-deserved vote of confidence in Blatchford and the way he has revitalized the Peace Corps.

RHODESIA ORE: HERE'S TO THEE, OH "CLUB 503"

Mr. KENNEDY. Mr. President, I wish to place in the Record an account of the events leading up to the arrival of the first shipment of Rhodesian chrome ore since the 1965 United Nations embargo on trade with Rhodesia.

As a result of Senate action last fall, the United States joins Portugal and South Africa as the only nations violating a United Nations resolution that was enacted to support Great Britain's struggle to seek reform of the rebel Rhodesian regime.

As Bruce Oudes has expertly described in the Washington Post, on March 19, the debate over Rhodesian chrome is a shameful event in the administration of our foreign affairs.

Accordingly, I ask unanimous consent to have printed in the Record the article entitled "Rhodesian Ore: Here's to Thee, Oh "Club 503,"" written by Bruce Oudes and published in the Washington Post of March 19, 1972.

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

RHODESIA ORE: HERE'S TO THEE, OH "CLUB 503"

Mr. Oudes.

"We love the people we are with. And raise a glass for Ian Smith...."

We were at a Christmas party given by the chairman of the board; John Donahoy, of Foote Mineral Co. of Exton, Pa., and Union Carbide with Rhodesia's chrome. I suppose you would get a scolding by the Secretary of Commerce if you ventured to call the event a "Free World" party in the musical sense. But it is a "Free World" event in the sense of the United Nations, where it was decided that it would not vigorously protest, either publicly or privately, the violations.

According to a knowledgeable Department official, Union Carbide began to undermine the sanctions in 1968 with the promise of 150,000 tons of chrome ore that had not yet left the country for its claim that it should be granted an exception to permit import of the 150,000 tons.

Meanwhile, Foote, which had not been that assiduous in 1966, began to think in terms of a "Free World" country so long as it was being imported from a Communist country. In 1966, the United States imported a half a million tons of chrome ore from the Soviet Union. Since the sanctions, the Soviets have furnished a half a million tons of chrome imports. Given the size of the U.S. stockpile and the relatively modest chrome needed for modern life, the U.S. is in a position to buy its chrome from Russia at a lower price than the chrome that the Soviets could bring the United States to its knees by stopping chrome exports. But this was a powerful argument.

Union Carbide quickly associated itself with Foote's effort, and both testified before House Foreign Affairs and Senate Foreign Relations subcommittees hearings last summer in favor of the bill. Although they complained strenuously about sanctions violations by other nations, nowhere in their testimony did they suggest the United States begin blowing the whistle on violations by other nations. And yet, the embargo is worth much more for the white-minority government but more equitable for the world's chrome users in sharing the burden of the loss of Rhodesian chrome.

Instead they were foursquare against sanctions. Foote chairman Bliss told the Senate "we're not going to throw use against the United States, the Foote Mineral Company, and, I think the rest of the producers in the United States, is this: 'It would destroy the association of producers in the United States, and it would lead to a general embargo of British constitutional harassment in November, 1965, a move designed to stifle the black majority's demands for political power. Rhodesia's $6 million healthy whites whites would beanding a 20-1 ratio. Britain's Labor government, fearful that its troops might mutiny if ordered to quell a rebellion, quickly endorsed the plan. The government, announced six months before the event that it would not use force to bring down an event while Rhodesia uprising."

Instead, Prime Minister Harold Wilson—under the pressure of world opinion—chose a compromise strategy of asking the United Nations to lift its embargoes against Rhodesia. The last time a world organization attempted such a step was in 1968, when the United Nations lifted the embargo of its economic sanctions for invading Ethiopia. Thus far, the U.N.'s Rhodesia sanctions have been about as stonge as the League's.

Back to the Christmas party, presumably because of his love for his "kith and kin" and the relatively modest chrome needed for modern life, the U.S. is in a position to buy its chrome from Russia at a lower price than the chrome that the Soviets could bring the United States to its knees by stopping chrome exports. But this was a powerful argument.

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world demand." A Union Carbide spokesman said that accurately reflects his company's position.

Andrews of Allegheny Ludlum, who testified in favor of the legislation as chairman of the Henry Reed Committee of the Steel Institute, took the same position in a telephone interview. "I opposed the embargo because of the pressure," he said. "The social and political aspects (of sanctions) have been oversimplified to the detriment of the economic aspects." Andrews said he visited Rhodesia in early 1970 and attended the Nov. 11 Rhodesian victory party. But he denied knowing of the song, in which he is hailed as being "true blue."

**BYRD AMENDMENT**

When the Foreign Relations and Foreign Affairs committees of the Senate met to consider the embargo bill by now known as the "Byrd Amendment," Sen. Byrd took it to the sympathetic Senate Armed Services Committee, which reported it as section 508 of the Military Procurement Act. When it reached the Senate floor in a series of roll calls Sept. 24 and 25 the White House remained silent—as it had been.

A White House aide maintains that it was preoccupied with other elements of the President's foreign policy program. But other sources suggest that corporate influence had carried the day in a fluid situation in which Henry Cabot Lodge, the national security adviser, preferred not to focus on something as remote as Rhodesia.

Ervin, a former House staff member says that of the President's aides, speech writer Pat Buchanan was particularly receptive to U.S. interests. Last week Buchanan said, "I was sort of involved two or three years ago, but I haven't been involved since."

A former Senate committee staff member said that now-Deputy Defense Secretary Kenneth Rush supported Union Carbide's case in private conversations in Bonn as U.S. ambassador. Rush, a Duke professor when the President was a student there, left the presidency of Union Carbide to join the Defense Department.

In the Senate, Byrd stressed that the measure would effect only chrome. However, the administration recently has added the import of some 72 products from Rhodesia, excluding tobacco, a major Rhodesian export but not chrome. However, the administration more recently has allowed Rhodesia to test chrome, "You nearly were the death of me," he said thinking of Foote, Carbide, and Rhodesia's future rode on your decision."

The Byrd amendment passed its last Senate test Oct. 6 with the assistance of key switches by Sens. William Roth (R-Del.) and Lee Metcalf (D-Mont.). Metcalf's office said later his switch was due to pressure from unspecified "Montana chrome-mining interests."

"The measure sailed through the House, 251 to 100, on Nov. 10. The corporations involved, the Rhodesians, and apparently the White House seem to share an unusual private coziness that has influenced U.S. Rhodesia policy during the present administration, it is rapidly becoming a candid remark seeps into the public record.

One such comment was made by John Moos, president of the Provo River Chapter of Trout Unlimited, who said: "I have in the back of our minds the apprehension that the same people that are upset about Rhodesia will become upset about Utah and then we are in a mess . . . ." He quickly added that he is "not in sympathy with an apartheid or any of these things." He called U.S. participation in the U.N. sanctions a "short-sighted decision."

"We have in the back of our minds the apprehension that the same people that are upset about Rhodesia will become upset about Utah and then we are in a mess . . . ." He quickly added that he is "not in sympathy with an apartheid or any of these things." He called U.S. participation in the U.N. sanctions a "short-sighted decision."

One U.S. official who closely follows the influence of Foote and Union Carbide in American Rhodesia policy is philosophical. He noted that the Foote and Union Carbides in Rhodesia are still producing chrome which he gives as a fact of the Smith government, "They've got a lot in common," he said thinking of Foote, Carbide, and Rhodesia. "You just don't work that closely together without getting involved."

**THE ABSOLUTELY TENTATIVELY PROVISIONAL OFFICIAL MARCHING SONG OF THE "503 CLUB"**

Verse I: (To be sung with great joy). Oh, 503; oh, 503 We gave our very best for thee. Oh, 503; oh, 503 We celebrate our victory. To Harry Byrd, we'll drink a toast And sing his praise from coast to coast Jim Collins, too, we'll honor thee And hang you on our Christmas tree. Verse II: (To be sung mournfully). Oh, 503; oh, 503 You nearly were the death of me. Oh, 503; oh, 503 The roll calls were agony We very nearly lost our wits; Fullbright and Fraser gave us fits. We frown upon you, Gale McGee And dimly view Ted Kennedy. Verse III: (To be sung with great sincerity). Oh, 503; oh, 503 Rhodesia's future rode with thee. Oh, Fulton Lewis Number Three, We honor your tenacity. We love the people we are with And raise a glass for Ian Smith Congratulations, gentlemen Are due Lord Goodman, Alec Home. Verse IV: (To be sung with wistful melancholy). Oh, 503; oh, 503 We faced a mighty enemy. Oh, 503; oh, 503 The State Department thwarted thee. We ran afoul of David Newsom Olver and Diggs—an awesome two-some. The U.N. fought you rightly And Harold Wilson censured thee. Verse V: (To be sung lovingly). Oh, 503, we'll blow a kiss To Margaret and Rose Bowl. Oh, 503, we'll blow a kiss To Margaret and Rose Bowl. Verse VI: (To be sung bravely, if homesly). Oh, noble House, your Members there Nailed down the victory with a flair. Let songs of joy ring through the air; And so, tonight let's have some fun; If it's better we can blow a conk! And you'll go down in history, Our dear, beloved 503. Verse VII: (To be sung diplomatically). Oh, Kenneth T.; oh, Kenneth T. Ambassador one day you'll be; And may I have the pleasure To post to great authority. Next winter may it be your lot To spend your Christmas in the sun. Please raise a toast in Salt Lake City in memory of 503.
dacy for the U.S. Senate, or even President of the United States.

It was suddenly during these. Instead, it was a meeting to save a river, the Provo River.

So far as could be determined by oldtimers in the area, this was the first time a meeting had ever been held in Utah to discuss the ecological welfare of a river. The entire fate of the Provo River could be decided in this meeting, whether it was of greater public benefit in its streambed or out of it. Whatever happened here would set a precedent for every other stream in the state. To that extent it was perhaps also a meeting to determine the fate of streams throughout the United States. Several hundred were involved.

Probably in no other state of the Union have laws been set up to more rigidly protect a stream than was done in 1921 in Utah's water law courts. If water could be allowed to pass through a stream for nonconsumptive recreational uses, including fishing, wildlife habitat, esthetics, tourism, and increased real estate values because of nearby run-off, then who would likely be involved in any other state of the United States. No state could have less protective stream laws than Utah.

Checking with the state engineer's office in the early part of 1969, I was told that recreational use was ever mentioned as a beneficial public use of water in the water law books. Utah does have a fish and game law which requires notification of stream diversions and which permits fish salvage, but no one has noticed anything to be done with it. But after notification, for possible fish salvage, nearly anything can legally be done with it. Even the destruction of water from the outlet vent water from reaching the irrigation canals. The canals themselves are usually constructed in the canyons, eliminating perhaps 50 percent of the possible recreational opportunities which might be enjoyed by the general public.

When the first real environmental destruction, the Provo River had for years been moved around by anyone who wanted to put buildings in it. It was not particularly surprising, then, that when the Provo River's lunker brown trout began to disappear.

Roadway construction narrowed the channel, removed streamside vegetation, covered pools and banks, raised water temperatures, and it was impossible to salvage the brown trout, hundreds more brown trout were later leased into the streambed, hundreds more brown trout were carried into the area. This time STPRA members got there in time to move most of them safely into the water far above the dam.

But water was then wholly diverted from the Murdoch-Dam downstream where small feeder streams had been maintaining a small fishery. Legally, no notification was given, no separate water law courts. The reason? Members of the Provo River Water Users Association had decided to put the entire river out into their fields to make water available for irrigation. The power companies had been accustomed to late summer drawdowns, but filling irrigation canals in early May was caught off-guard. There was no fish salvage.

A several-year study by Dr. David A. White, associate professor of zoology at Brigham Young University, turned up some large brown trout in a few areas where neither streambed nor bank had been altered or the water diverted, with water below it. An interesting aspect of both the studies and STPRA salvage operations was the fact that brown trout reduced their brown trout to about one. In Provo's first examination of the dry bed below Olmstead he found one rainbow; in the second, none. Yet rainbows had been planted by the tens of thousands there.

After attempting in vain to get more flow into the streambed, the STPRA called a meeting in downtown Provo for early April 1970. On hand were close to one hundred people; biologists from BYU, government officials, Provo residents, fisherman, recreational users, and others determined to prevent total destruction of the Provo River. As a stream that has been plagued by upstream dumping for years had been altered. The water was then wholly diverted from the Murdoch-Dam downstream where small feeder streams had been maintaining a fishery. Legally, no notification was given, no separate water law courts. The reason? Members of the Provo River Water Users Association had decided to put the entire river out into their fields to make water available for irrigation. The power companies had been accustomed to late summer drawdowns, but filling irrigation canals in early May was caught off-guard. There was no fish salvage.

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After attempting in vain to get more flow into the streambed, the STPRA called a meeting in downtown Provo for early April 1970. On hand were close to one hundred people; biologists from BYU, government officials, Provo residents, fisherman, recreational users, and others determined to prevent total destruction of the Provo River. As a stream that has been plagued by upstream dumping for years had been altered. The water was then wholly diverted from the Murdoch-Dam downstream where small feeder streams had been maintaining a fishery. Legally, no notification was given, no separate water law courts. The reason? Members of the Provo River Water Users Association had decided to put the entire river out into their fields to make water available for irrigation. The power companies had been accustomed to late summer drawdowns, but filling irrigation canals in early May was caught off-guard. There was no fish salvage.

A several-year study by Dr. David A. White, associate professor of zoology at Brigham Young University, turned up some large brown trout in a few areas where neither streambed nor bank had been altered or the water diverted, with water below it. An interesting aspect of both the studies and STPRA salvage operations was the fact that brown trout reduced their brown trout to about one. In Provo's first examination of the dry bed below Olmstead he found one rainbow; in the second, none. Yet rainbows had been planted by the tens of thousands there.
tile meadows that once attracted fly fishermen from throughout the West. Browns averaging 16 to 18 inches were caught with such regularity that fishermen took to planting fish—granted and concentrated on the larger fish. For some fifteen or twenty miles the Provo flowed through countryside that was perfect for agricultural application. So that the Provo Creek Reservoir—constructed west of Heber City in 1937, from there it flowed into what has often been termed the "lower Provo"—were lowest in water, and much of the upper was considered some of the finest brown trout water to be found anywhere. The Sardine, the Deer Creek and the Provo immediately below Deer Creek still remain in their natural condition, and produce the browns and rainbows in the 6- to 10-pound class.

Among the first called on to speak at the Governor’s meeting was Joseph Novak, legal counsel for the Provo Water Users Association. Novak recounted the water users’ engineering efforts to store up water for the irrigation seasons. Lakes at about 9,000 to 10,000-foot elevation in the Uinta Mountains had been "stabilized" by building dams. A tunnel was cut through the mountains to divert the North Fork of the Duchesne River into the Provo just before it entered Lake Valley. This 1.5 miles of mountain tunnel was at that time of greatest productive trout stream, but not only appropriated all of the stream for fish. Novak stated that the "improvements" done to the channel, which consisted of dredging out the streambed and using the material to 'line the Provo, giving it the appearance of a uniformly wide and deep canal, had "enhanced the stream for fish and wildlife uses. Later a physician-fisherman in Heber told me: "They certainly made it more than an irrigation project." And, in fact, they had been more wrong. It didn’t seem likely the statement was made deliberately to bufalo anglers who were thinking of fishing the stream entirely. But even now, after about twenty years, the rippled bed can still be clearly seen. But the reason I knew the streambed was almost entirely removed was that I fished the upper Provo extensively in the early 1960’s. After the dredging had all but annihilated the streambed and the fishing, I walked the river and noticed how few natural pools and riffles had been allowed to remain. Entire miles were changed from Progress to stability at no extra cost. I, as usual, did not fish the upper Provo again for more than fourteen years, nor did any other Anglers in the Provo River Society. I knew what had been a natural fishery costing the state little for stocking, soon became an expensive proposal, and would be even more so now.

But this shift from natural to artificial trout was much more than an esthetic loss. The rainbow and brown fish—especially the rainbows—were planted in the Provo from Deer Creek to a point just above Woodland. Provo officers stepped up recreation a bit as the 1960’s age, at 55 cents per pound (not counting hatchery houses, buildings, raceways, or any capital improvements) this section of the Provo was a place that could not have been bettered last year. Multiplying that figure (number of fish planted has increased, but pound-cost has decreased) by the twenty years since the natural fishery was removed, and it turns out that heavy planting here has cost the licensed fishermen of the lower Provo at least $20,000. Obviously these are rough figures. But they are indicative. Some stocking was done, of course, and the fish lived out during the 1960’s. But the point is that the recreational losses here were economic as well as esthetic.

The thing that never can be measured is the loss in quality. Government flood control engineers may never understand the differences between natural, named, over stocked hatchery rainbows that swim toward the sound of human footsteps. When a streambed is gone and the fish are removed, rather than an attempt to prevent this biological degradation, is that the state will replant it with many hatchery rainbows.

This entire situation points up what is perhaps the conservationist’s greatest problem. He must present both sides of the situation at stake, then let the government officials in charge (and the general public) decide what course of action should be taken. In the early 1960’s, those of us who are allowed to make false statements, presenting an incomplete or erroneous picture, then it is with the greatest concern, that this Congress, and this numerous scientists and officials to render a fair decision.

Such was the case here on the upper Provo. It is quite possible the Provo River Water Users Association never did realize the complete fishery destruction wrought in this area. But the water users were not, and are not, given over to them. They legally owned the stream for fish use.

At this point Governor Rampton interrupted to say there were many values inherent in running, swimming, wading, and fishing, and that the cost of shipping down the critical periods, if fish culture was a better use of the water than agriculture, tourism, travel, and licenses sold to those who fish the Provo almost exclusively, along the mainstream, and could be lost to the state if the irrigation were continued for these two major contributions to the state’s economy, but they are taken mostly from Utah Lake and the Jordan River. Water is not diverted suddenly in wholesale fashion at any point on the Provo for industrial uses, as it is with agriculture.

Once the streambed is dried up for even a two or three minutes, browns and their feed are gone with the temporary downfall that would result from a month’s dry bed. And the longer the bed is without water, the greater the loss in the "seal" which costs live streams and keeps the fish, and who might seek any type of multiple use.

Still, the fact that the Utah courts had legal jurisdiction over the state’s interest in the PRWUA in 1921 could not be disputed. No one in the meeting attempted to demonstrate that the state would be better served by the streambed, even though that was now clearly in the general public interest. The argument that all cultural uses were better served by the fishery, almost on a par with Pyramid Lake, Nevada, with spawners from 15 to 25 pounds...
being taken by the score to commercial
markets. As elsewhere in the United States,
businessmen have cut and sold forest products
in the overexploited areas. The need to
occupy the White House have labeled it as
a sell-out of Taiwan.

In this uncertain time of the Republic of the
China, I have not only re-
viewed the communiqué carefully but have
studied our treaty commitments and our
defense posture. None of this study is for
the public of the United States, but it
includes our interests and those of world peace
to forget the economic and political contribu-

Nothing said here is meant to be an in-
dictment against any individual or organi-
ation. But insomuch as the water users
have not taxed their full share of the
market, a public statement may be neces-

What to do about the Provo River
rests largely with the United States. At the
same time, the need for the stream to be the
natural water source to the Murdock
Dam. The United States condition was
be returned to the American people.

As public concern led the
Provo will ever be buried. As Governor Ramp-

Like trout streams of magnificent history
the May

During 1957-59, there was another
article by former Massachusetts
Brown trout bounced back there from a mere

The Madison River earthquake proved.

...and more resources diminished than
more and more people, more leisure
time, and more resources diminished than

End of the West Paciﬁc. After that party has
given up the cause of the free world.

Under the Mutual Defense Treaty with the
Republic of China in 1954, and the two
major tenets which prompted a pact almost
20 years ago have not lost their validity to-
ay. In hearings before the Senate Foreign
Relations Committee before the treaty was
ratified, former Secretary of State, John Fos-
ter Dulles, said that it would serve two pur-
poses:

...it would provide firm
security for Taiwan and the
Pescadores as a danger to its
own peace and safety and would
act to meet the

We have always had a
Montréal Protocol was more
profitable than of the

The President's Trip to China

Mr. DOMINICK. Mr. President, I was
pleased to note that the Boston Herald-
Traveller of March 8, 1972, published
what it described as "Two Assessments
by the President's Press Secretary:
One was an article by former Massachusetts
Representative Laurence Curtis, with
whom I served in the House of Repre-
sentatives; and the other was the speech
on the ﬂoor of the House of Repre-
sentatives."

Both the article and the speech
emphasize the positive aspects of the
Nixon journey, and, taken together, there
is little in the two pieces that considers the
United States' posture to be a balanced analysis of both U.S.
gains from the trip and our treaty com-
mitments to the Republic of China. To
afford Senators an opportunity to ex-
amine the speech, I ask unanimous
consent that the article and the speech
be printed in the Recess.

There being no objection, the items
were ordered to be printed in the Recess,

The two articles are as follows:

**Two Assessments of Trip to China**

**U.S. COMMITMENTS TO REPUBLIC OF CHINA**

**By Senator Peter H. DOMINICK**

Since the release of the joint communiqué
by President Nixon and Premier Chou En-
tions the Republic of China has made in that area of the world. In essence, our military commitments are a part of our world, not a small part of a long and enduring friendship.

The United States has no intention of ignoring that most valuable, if intangible, commodity. Those who suggest that our initiatives toward peace through expanded communication with traditional adversaries will result in abandonment of our friends doing no favors to the friendship.

Our allies, or to the nations in other areas, and remain the foundation for building a peaceful and prosperous world.

The United States received massive benefits from China visit (By Lawrence Curtis)

The favorable results of President Nixon's Peking trip cannot be judged from the written communique. To understand fully the implications of the visit, it is necessary to see the whole picture. The Chinese, for example, say that President Nixon promised to discuss the normalization of the Indo-Chinese relations with Washington. The Chinese also announced that they have given up the idea of having a united China, which is a major change in the Chinese position. The Chinese said that they would support the United States in its fight against Communist China.

The United States has never had a closer relationship with China than it did after the Peking visit. The United States has now established diplomatic relations with China and has signed a number of agreements with China.

1. The trip marked a starting change in relations between Peking and Washington, a change that may result in a mutually determined era of cooperation.

2. The visit of President Nixon to China was a symbol of the end of the Cold War and the beginning of a new era of cooperation.

3. The trip marked the end of the sterile and unrealistic American policy which had been pursued by the United States in its dealings with China. It signaled a new threat in the cold war and the learning importance of the containment policy.

4. The trip opened the vista toward a new post-Vietnam balance in Asia between the United States, China, Russia, and Japan and the United States, in the position of being the only power which can deal on reasonably cordial terms with the other three.

5. The U.S. rapprochement with China may well improve the prospects of meaningful negotiations with the Soviets.

6. The conclusion is warranted that the visit of the U.S. from the Peking trip were massive.

Theodore H. White's words of 1967 were prophetic: "The most difficult task in the world is to reach the minds of men who hate you. We do not flinch from the immediate task: to guard our skies, defend our friends. We cannot flinch from tomorrow's task: to reach the minds of China. We race today to reach China, but on a task of equal difficulty and far greater urgency."

ECONOMIC CONVERSION OF SCIENTISTS AND ENGINEERS

Mr. KENNEDY. Mr. President, on October 26 and 27, 1971, the Special Subcommittee on the National Science Foundation of the Committee on Labor and Public Welfare held hearings on S. 32 and S. 1261, which would authorize the National Science Foundation to conduct economic conversion programs for scientific and engineering personnel and to provide means to retrain such people be added to S. 32.

Bill S. 32, as noted above, provides for retraining of technicians and engineers but not scientists. The legislation should go a long way toward keeping the scientific and engineering know-how intact.

With respect to implementing the policy, Bill S. 32 provides for retraining of scientists, engineers and technicians but not scientists. The legislation should go a long way toward keeping the scientific and engineering know-how intact.

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turned to the subject, and officials there space and defense employment. March, when Malcolm R. Lovell, Assistant technicians who formerly worked in defense backs have resulted in unemployment for partly suggested by the Blll.

suggested the sturdy numbers when asked about unemployment among scientists and engineers, one finds the following: NSF put the scientist population at 500,000, and found 1,6 percent, or 13,000 were not working. The engineers were estimated at 750,000, which means that with a 3.4 percent unemployment, 25,500 were jobless. Grand total: 38,500. The most realistic estimate of the situation, however, is a special report made by Vetter, executive director of the Scientific Manpower Commission, testimony before the Senate Labor and Public Welfare Commission. From Vetter's numbers and forecasts were indeed grim: as nearly as I can determine," she testi­fied, "there are about 60,000 scientists and engineers, including 1971 graduates at all degree levels, who are literally unemployed. Using the generally accepted ratio of seven technicians for each 10 scientists, an additional 40,000 technicians may be jobless. There are perhaps half as many as who are employed part-time, temporarily or permanently, at some activity totally unre­lated to their scientific training. The major­ity of these do not seek other fields, or would be seeking such employment if they thought there was any chance of finding it. A third group of unknown magnitude are under-employed, in the sense that they are performing their job in some way related to their training, but which could be done by per­sons with lesser training."

Mr. Vetter concluded that the groups she had described had almost doubled in a year and there seems little indication that we have yet reached the peak unemployment level in this population at all."

SCORECARD ON JOB PROGRAM

Last spring, President Nixon called a press conference at San Clemente to announce that the Department of Labor was establishing a $42-million Technical Mobilization and Re-employment Program (TRMP) to assist unemployed scientists and engineers. What has happened since then? Not much. As of November 26, a total of 24,013 persons had registered with the program. Of these, 2,713 last found employment, presumably without the aid of the economic research grants," providing a maximum of $600 each, have been given to 1,870 persons, and "search grants," up to $1200 each, have been given to 438.

Little is now heard of the once-touted computerized "Job Bank," in Sacramento, Calif, which was intended to match up the jobless with clear and jobs. As of September 10, the Bank had registered 12,500 applicants and had notifications of 2,000 job openings. Referrals to Jobs totaled 7900. Placements: 22.

POW'S AND MIA'S IN SOUTHEAST ASIA

Mr. ALLOTT. Mr. President, I have just received a moving and intelligent letter from Miss Ann E. Dickenson, of Colorado Springs, a student at Mitchell High School there.

She speaks from the heart, and she speaks for all Americans on the subject of the interest of our men—POW's and MIA's in Southeast Asia. Now those who read this letter can fall to be persuaded by Miss Dickenson's conviction. In addition, no one who reads this letter can fail to feel a surge of pride and confidence in the rising generation of American citizens.

Mr. President, I ask unanimous con­sent that the letter be printed in the Record.
THE VIRGINIA OUTDOOR PLAN

Mr. BYRD of Virginia. Mr. President, as Congress considers a number of pieces of legislation dealing with open spaces, historic preservation, and land-use planning, I commend one of the programs being engaged in by the Commonwealth of Virginia.

In an article published in the Richmond Times-Dispatch, of March 12, 1972, Mr. and Mrs. Marshall Sales, Chairmen of the Committee on the scenic and historic environment of Virginia, without the expenditure of Government funds.

The scenic easement program has much to commend itself to every Member of the Senate.

I ask unanimous consent that Miss Sales' article be printed in the RECORD.

Without cost to the public for acquisition, protection or maintenance the Commonwealth of Virginia is laying up land treasures for the future through an environmental protection law known as the "open space easement."

The adoption of the Virginia Outdoors Plan in 1966, the Virginia General Assembly officially recognized change as big business, where land use was concerned. Every year change was known to be eating away at a Organized interest, without the expenditure of Government funds.

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

SCENIC EASEMENT ACT PRESERVES VISTAS, LANDMARKS FOR FUTURE

(By Marian Marsh)

The advocates for the outdoor plan, which has been in operation in the Commonwealth of Virginia, have been described in a number of articles recently published in the Richmond Times-Dispatch.

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preserving the natural beauty of the land along the shores of the Potomac, below the Potomac Bridge. This area has given open space easements to 13 separate tracks in Fairfax County. The easements, given by the Virginia Historic Landmarks Park Authority last year after four years of negotiating, provided a 258-acre scenic defense for the area.

Last year, through easements by the owners, the Virginia Historic Landmarks Commission became custodian to two historic structures in Henrico County. In a 79.94-acre natural setting on the bank of the Ware River, the Isiah Rogers-designed Blue Ridge Parkway. None was employed, however, to protect historic structures or ways, trails and rivers. Properties under easements vary from hundreds of acres, to a 104-acre tract of land left in a 104-acre tract of land left in.

Presumably, open space easements can be no longer be "developed," the Virginia law requires that the owner's association be bound to "the fair market value of his land." The tax benefits go further. The gift of an open space easement to the Commission of Outdoor Recreation, the Virginia Historic Landmarks Commission or—it when it is funded—the Virginia Outdoors Foundation will add a "charitable deduction for federal and state income tax purposes." The value of the gift is measured by the drop in the estimated fair market value of the property before and after the gift of the easement. Finally, open space easements can effect substantial decreases in federal estate taxes.

Proof of landowner imagination gets easier to find as the concept spreads. Intent on

BILINGUAL EDUCATION

Mr. MONTOYA. Mr. President, on February 28, 1972, the distinguished Senator from California (Mr.csszial (Mr. Kennemor, Assistant Secretary of Health, Education, and Welfare, under the Higher Education Act. Joining me as co-sponsors of the amendment were Senators TAYLOR, WILLIAM, and KENNEDY. I am glad to say that the amendment was accepted unanimously by the Senate. Among other things, the amendment gave increased status to the bilingual education program in order to preserve its high priority in the legislation. The principle of bilingual education is enshrined in the United States Constitution. The Civil Rights Act of 1964 has taught us that bilingual-bicultural education must have a higher priority not only in the Southwest but across the nation. The legislation needs increased visibility rather than subversion under the education renewal program that the Office of Education recently has undertaken.
As I stated in the RECORD our concern is that there is apprehension that funds allocated by Congress for bilingual-bicultural education are not being used for the purpose and in the manner they were designed. The amendment attempts to guarantee that no diversion of these funds is made.

On the day before the Senate adopted the amendment unanimously, the distinguished Senator from California (Mr. Tunney) addressed the opening general session of the 1972 Convention of Teachers of English to Speakers of Other Languages and generously consented that his timely remarks be printed in the RECORD.

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

**REMARKS OF SENATOR JOHN V. TUNNEY**

I am pleased to be with you this evening. When I see so many educators who are dedicated—as I know you are—I have a renewed sense of hope. America is beginning to care about the very special problems of its non-English speaking citizens.

For years, those seeking bilingual-bicultural education were among the most neglected people in this country.

As of 1968, English and Spanish speaking signers of the California constitution originally provided that California was to be a bilingual state, the second constitution was changed to make English the only official language. It was not until the 90th Congress that our country, as a whole, recognized and accepted its responsibility of providing bilingual education.

In 1968, when the Senate and the House passed the Bilingual Education Act, we began to move forward. Since then community support and involvement have grown tremendously. Expertise in methods and quality of materials has significantly improved. And your efforts have contributed to this improvement.

In short, the concept has been accepted and it is now time we expand and develop its scope.

As teachers of English to speakers of other languages, you are a vital and key part of our commitment to non-English speaking Americans. And the converse is true which has, and will continue to contribute to equality of educational opportunity in America. With your help and knowledge, our educational system will become more fair and responsive to this country's diverse educational needs.

With the overwhelming crisis today facing the quality of American education, no other endeavor by our Government is voiced with more rhetoric—nor challenged with more concern—than Federal aid to education. But let us examine carefully our performance. Does that performance and commitment correspond to the pledges and promises we have often been hearing being made to compensatory education? Especially those promises and pledges associated with the Head Start programs and the cultural pluralists to see what they want in Title VII, we must keep in mind that ESL is not bilingual education as such, therefore, we must be careful not to confuse the two.

In the past, Chicano's dropped out of school speaking some Spanish... now they will be dropped out of school, but speaking some English.

Thus, it must be made clear that ESL is a supplement to the overall educational system and it is not bilingual education as such. Bilingual education also means that programs are designed to impart to students a knowledge of the history and culture associated with their language.

The ideal bilingual education program would include instruction in all subjects and is conducted both in English, and in the mother tongue—whether it is Japanese, Spanish, French, Chinese, or Navajo. Since an important objective of the program is to raise the child's self-esteem and cultural pride, study of the history and culture associated with his language should become an integral part of the program.

On a more general level, American schools need to incorporate the rich cultural heritage of our citizens. We must end the traditional monochromatic attitude that sometimes prevents objective, unbiased IQ testing.

When I found out that Chicano children in California, largely as a result of the inability to speak English, were being assigned to classes for the educationally retarded, or EMR classes, I realized that the experience my wife and I had with the nursery and elementary schools in Washington, D.C., was not confined to the East coast.

I had recently been elected to the House of Representatives and was pleased to move from California to Washington, when
March 20, 1972

CONGRESSIONAL RECORD—SOUTH

my wife, Mieke, and I attempted to enroll my son, Teddy, in a nursery school. We took Teddy to a school for a series of IQ and other admission tests.

But I failed the test.

I don’t think I’ll ever forget the afternoon when Mieke told me. The teacher had tried to be kind, but what she had to say could not be denied. She said that he was afraid that he wasn’t up to our standards.” she said. “He’s weak in vocabulary, and he’s slow to respond to anything.”

My son? I was shocked, incredulous. This is the kind of news no father can accept easily. But I knew that it was true. I knew that my son was not a slow or weak child. I knew that that was not true. I knew this bright and happy little boy. And I knew he was not slow.

Then why weren’t his IQ test results better? I tried to analyze the problem as he and I walked around Washington that afternoon, but wasn’t getting anywhere. Then, abruptly, Teddy solved the puzzle for me.

He suddenly grabbed my hand and said, “Papa, I’m speaking Dutch.” “Daddy, look! The bridge!” This was not surprising. Mieke is Dutch, and she had recently taken Teddy on a six-month trip to Europe to meet his grandparents.

For a long while before the trip, to prepare her, she had spoken Dutch with him.

Now I began to see what the problem was. Mieke and I had assumed he was learning English as well as Dutch: learning it from me, of course. But in our family, our friends, his playmates, his teachers—none of these people were speaking Dutch.

His three-year-old brain was apparently doing much or most of its thinking in Dutch. And it was none too early to recognize the potential of his native language.

As language scholars, you have told us language is one of the most important aspects of human personality. Therefore, when the school rejects a child’s mother tongue, the consequences are profound. It cuts off the child from his parents, his home, his way of life, and his self may all be tragically affected.

I believe that one of the primary responsibilities of our schools is to deal with the problems of the Chicanos and the American Indian. For as we know, no one can pretend that this country without a working knowledge of English. Bilingual education offers a resolution of those problems, and the existence of such a reserve stands only to gain through his knowledge of his English and his native language.

For example, that children who are equally educated in both languages are superior in both languages and more effective in monolingual children.

The bilingual do have a special gift.

This language is only one problem that confronts non-English speaking student. He is also plagued by a confusion about his own identity—the traditions of his family and his friends contrast glaringly with the Anglo culture that surrounds him.

He feels tied to a foreign country, but because the heritage of Chicanos, Boricuas, and Indians has often been denigrated, the child may also wish to reject his non-Anglo aspects. He has not yet accepted him as an equal human being, it is inevitable that a child begins to doubt eventually himself.

The schools are faced with a formidable job. Teaching a child a foreign language is not as difficult provided there are the educational expertise and a sincere commitment on the part of the staff. But changing attitudes and building positive self-images is a far less simple matter. This is the goal of bilingual education to fulfill both of these needs of the Chicoano student. First to stop the trend of our children from English speaking younger self-respect, it must also teach his Anglo contemporaries to accept and appreciate non-English speaking people.

I have faith in the ability of America’s schools to accomplish these goals. I look at all of these as grand and frightening change. We are changing. We can undo the wrongs that have in the past been perpetuated by the educational system.

With your help, this country can change. We are changing. We can undo the wrongs that have in the past been perpetuated by the educational system.

For in a wholly emotional and transparently political television address, the President sought to identify himself with the thousands of Americans who are frustrated by the changes accompanying an end to school segregation in this land.

He chose neither to educate nor to encourage them; he chose, instead, to exploit their fears.

It is that aspect of the speech beyond all others which represents a belittling of the Presidency.

And there is little in the specific proposals which would address the fact that addresses—whether the listener was one who opposes busing or one who wants to see more money pumped into inner city schools and who one expects the Supreme Court to void every decision since Brown against Board of Education, then the proposals offered by the President cannot have the effect. For in their ultimate form, these proposals would only serve to perpetuate the segregated educational systems where they may continue to exist and to permit to those districts who have tried to de-segregate the forealon trend. They might return to the separate but equal
system of the past—a system, which while separate, had never been equal.

The President, despite the rhetorical nod to equality of educational opportunity for all children, was unable to conceal the evident fact that he either did not know what already is being done to accomplish that goal.

In a real sense, he duped the American public. Most viewers thought the President was proposing to add $2½ billion in new money to the funds now being spent to improve the education of disadvantaged children. But he said:

The act I propose would concentrate Federal school aid funds on the areas of greatest educational need. That means directing over two and a half billion dollars in the next year mainly toward improving the education from poor facilities.

This proposal deals directly with the problem that has been too often overlooked. We all know that within the central cities of our nation there are schools so inferior that it is hypocrisy even to suggest that the poor children who go there are getting a decent education, let alone an education comparable to that of children who go to school in the suburbs.

But when he sent his message to the Congress on the very next day, it became obvious he was shucking the disadvantage of the neediest children. The $2½ billion turned out to be $1½ billion already being spent to add disadvantaged students under title I of the Elementary and Secondary Education Act and another billion dollars that will be contained within a bill that already has passed both the Senate and the House and is now in conference.

In the repeat, the President is requesting money the Congress already has given him. Congress appropriated $1.56 billion in fiscal year 1972 for title I. I also should mention that we have authorized close to $6 billion for that same program but the President never has requested more than a small portion of that sum. And also, he has vetoed two education legislation bills that contained more than his requests.

Thus, the President was not recommending the expenditure of one thin dime more than the Congress already has appropriated to spend.

If the President truly were convinced that sliding ghetto schools would provide equal education, then he should have been talking in terms of massive new Federal funding each year, and he should have outlined his plans to end housing discrimination which continues to deny the poor and the black the opportunity to live near decent neighborhood schools.

But surely, it is very close to President's assertion that Congress would be setting the goal of equality of educational opportunity for the first time. If there is one purpose apparent in the President's proposed legislation, it is neither to insure equal educational opportunity nor to end segregated schools.

But it is largely restated in the Supreme Court of the United States.

The President's proposal conflicts with his own past praise of the role of the Supreme Court. He said on announcing the names of his new Supreme Court nominees last year:

We have had many historic, and even sometimes violent, debates throughout our history about the role of the Supreme Court in our Government. But let us never forget that respect for the Court, as the final interpreter of the Constitution, is required if America is to remain a free society.

Yet now he has precipitated a potentially serious challenge to the authority of the Supreme Court. He has carefully crafted legislation that, if passed, would require a school board to choose a severe limitation on its authority to endorse the 14th amendment or of declaring a law unconstitutional in the face of a highly emotional electorate.

The challenge to the Court's authority is contained in both bills presented by the President.

First, he proposed that Congress legislate a moratorium on all new busing orders for up to 15 months. This means regardless how flagrant the act of discrimination, or how clear the effort to pursue a policy of segregation, the Court could not issue an order to desist such activities, if it meant a single student would be bused. Presumably, even if a school district had been busing to maintain a segregated system, an order of the Court would be prohibited from acting to remedy that evil if it required any busing at all. This means the Court, in deciding whether a district's order represents merely further delays to an end to segregation in the North.

Second, a corollary piece of legislation would establish a 5-year time period on desegregation Court orders that now exist if they require busing. Once again, if the Court has determined that a district has unconstitutionally denied equality of education, if the Court determines the decision will be automatically voided 5 years from now if it includes busing.

At the least, it would mean a wholesale renewal of litigation in communities which finally had accepted the judgment that dual school systems violated the Constitution of the United States.

Third, these districts, most of whom are in the South, would be offered still another fragile hope that they might go back on the plans they have agreed to by seeking a reopening of their cases. Thus, a district that is required to desegregate in terms with its responsibilities and slowly is trying to understand the complexity of providing quality education to both black and white students or Anglo and Chicano students, now will be rocked with anxiety again. The extremists could point to the Presidential edict and to his legislation and demand that local districts break promises they have been forced to make.

They could point to the busing of a single sixth grader as a reason why they should reopen their cases and seek through litigation to once more delay the compelling mandate of the Constitution to abolish segregation root and branch.

Clearly, these are the gifts the President is bearing to the South. First, the President has thrown on the argument that hope that they might go back on the plans they have agreed to by seeking a reopening of their cases. Thus, a district that is required to desegregate in terms with its responsibilities and slowly is trying to understand the complexity of providing quality education to both black and white students or Anglo and Chicano students, now will be rocked with anxiety again. The extremists could point to the Presidential edict and to his legislation and demand that local districts break promises they have been forced to make.

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March 20, 1972

CONGRESSIONAL RECORD—SENATE 9039

BERKELEY, Calif., where men and women decided that it would take patient efforts by parents, teachers, students, school administrators, and community organizations—none of them to the constitutional requirement for equal educational opportunity. And they have set their goal as quality integrated education for all students.

Now in these cities in both the North and the South, all of that heart rending and difficult work by conscientious men and women could unravel into the hysteria of the past, because of this latest action by the President.

As I indicated at the outset, in no sense can it be said that I am in favor of massive or indiscriminate busing that risks the health of children or signifies the courts to end segregation, from the very beginning.

But I also recognize that in many situations, busing has been, and still is, the only possible device to end outright segregation and discrimination in the public schools of certain communities.

I reject entirely the President's suggestion that, because some busing is excessive, the answer to the problem is to end all busing. In effect, the President has given up on the issue of busing, but his remedy would kill the patient.

It is clear to me that Congress has a legitimate role to play in the present controversy, Congress has its own responsibility, but Congress must act responsibly. The Supreme Court has already attempted to distinguish the legitimate busing that may be required by the courts to end segregation and discrimination in the public schools.

I object entirely to the President's suggestion that, because some busing is excessive, the answer to the problem is to end all busing. In effect, the President has given up on the issue of busing, but his remedy would kill the patient.

PROPOSED EXTENSION OF THE WEST FRONT OF THE CAPITOL

MR. PROXMIRE. Mr. President, I am greatly concerned about the unfortunate decision of Congress for the extension of the Capitol to begin planning extension of the west front. Not only does it set a bad precedent, but this difference in the wishes of Congress, but, more important, it represents a great waste of the taxpayers' money.

On December 15, 1969, Congress passed a legislative extension provision providing $2,375,000 for planning an extension of the west front but prohibiting the expenditure of these funds until a restoration study had been made. The bill provided that extension planning would then be undertaken unless certain conditions having to do with cost, permanence of repairs, and the like, were fulfilled.

Well, that study was performed. In the words of a letter accompanying the report of the study team:

Based upon a detailed investigation of the west front walls, we conclude that under conditions which would not otherwise prohibit the extension of the west central portion of the Capitol is feasible. Further, the restoration can be accomplished in accordance with the guidelines set forth by the American Institute of Architects, seems quite explicit.

These are the conclusions which Congress has set, and they have all been met. The Praeger study, after thorough examination of the Capitol building stated that:

The many cracks and surface flaws do not significantly impair the ability of the west central front to continue to support the structures imposed on it.

This conclusion, coupled with the recommendations of the American Institute of Architects, seems quite explicit.

Our Nation's Capitol is more than the seat of Government and more than a national monument. It represents the great heritage of our Nation. The indiscriminate alteration of its facade would be a violation of history. We are not creating another mammoth, nondescript, Federal office building; we are preserving an architectural masterpiece. Once the extension began, there would be no second chance for restoration. The great work of William Thornton, Benjamin Latrobe, and Frederick Law Olmstead would be lost forever.

Therefore, I submit this restoration report for study by Senators. I urge that hearings be held to consider its recommendations and to reconsider and reverse the Commission's decision in favor of extending the west front of the Capitol.

There being no objection, the report was ordered to be printed in the Rascals, as follows:

INTRODUCTION

A. BACKGROUND OF REPORT

The United States Capitol (Frontispiece and Figure 1) is the linchpin and strong and direct ties to the foundation of our Republic. Throughout its long history it has been the subject of continued interest and concern. It has been changed extensively and enlarged as new conditions and usages required. It has been the subject of numerous inspections, reports and discussions. No recent of the reports are those of Moran, Proctor, Mueser & Rutledge published in 1967, made in anticipation of "extension, reconstruction, and replacement of the central portion of the United States Capitol", and the Thompson & Lichtner report of 1964 which was an update by Lomax in 1966.

The Moran, Proctor, Mueser & Rutledge report was primarily a soils investigation, but included a detailed examination of the walls and an opinion on the lack of evidence of settlement. The Thompson & Lichtner report was a detailed examination of the West Central Front, including test cores of the walls, test pits and soil borings, as well as laboratory tests of materials. The Thompson & Lichtner report was a detailed examination of the "exterior walls of the west central portion of the Capitol are historically, and are threatened by the demand for action for safety and durability." The report recommended that the west central exterior
The Capitol is a vaulted masonry structure with each of the three sections forming the west central front having a different structural arrangement, as indicated in Figures 2 through 6. The West Wing (Second Floor) consists of barrel and groined brick vaults supported on brick and sandstone walls (Figure 7). The Central Wing consists almost entirely of groined vaults supported on brick pilasters, which are presumed to be bonded into rubble-and-sandstone walls (Figure 8). The second and third floor along this wing, which are of brick groined vaulting, were not constructed until 1902 when the Library of Congress was added to its own building. The South Wing (House Side) consists of vaulted construction only at the basement and first floor levels. The above stories, contiguous to Statuary Hall, are supported on steel beams, except at the corners where there is brick vaulting. A steel trussed arch is carried over Statuary Hall supporting the dome above, and springs from a location about 25 ft. inside the face of the west wall.

Wall be retained "as an interior wall of an existing building," which would provide it with lateral support. Shoring of the west portion of the groined vaults followed publication of that report.

As a result of the deliberations of the Congress concerning the extension of the central portion of the Capitol, an additional study and report was authorized under Public Law 91-145: "That after submission of such study and report, and after the recommendations of the Commission have been considered by the Congress, the Commission shall direct the preparation of final plans for extending such west central front in accordance with Plan 2 (said Commission has approved), unless such restoration study report establishes to the satisfaction of the Commission, that the only feasible means of preserving the interior vaulted construction along the west front wall involves vaulting, but since the thrust from a barrel vault is transmitted along the curve of the vault, not all adjacent walls are subjected to a lateral force. Along Wall 6 (1) the area not laterally loaded is because the structure is not continuous, there is the orientation and width of the barrel vaults which are adjacent to it, and which tend to keep interior vaults from reaching a dangerous state. This is also true of the two floors below the Portico on Wall 4. Wall 2 has no thrust applied to it at the upper stories where floors are supported by the base- ment and attic where barrel vaults are oriented normal to the wall. The pattern is not the same at each floor level, as can be seen by comparing the plans in Figures 2 to 6, where the directions and relative magnitudes of the maximum horizontal thrust forces are indicated. The critical points occur at the corners.

The foundations are rubble masonry walls with no internal reinforcement, in some cases they have been given a degree of continuity through the use of inverted arches. To a sig- nificant extent, the interior foundation walls adjoining and normal to the exterior walls, participate with the exterior walls in carrying loads, and sections of Walls 2, 6, and 7, and sections of Walls 3 and 5, have been underpinned in the past.

2. Physical condition

A survey record of the major cracks and deformation of the Old United States Capitol Front is presented in Figures 12 through 17. Similar surveys by others, made in 1957 and 1959, are given and on pages 2 and 3 are generally confirmed. All indicate the same cracking pattern with minor changes since 1957. A review of records over the years indicates that evidence of deterioration was observed early in the life of the structure. The walls were painted in 1817 to arrest weathering. A report of dropped keystones was made in 1826, and reference to settlement, fractures and displacements was made in both the Mudd Report (1849) and Megg’s Report (1856).

Exterior wall cracks occur typically within a vertical swatch roughly located between the floor band course and the window jambs. The preponderance of the open cracks is vertical, most of the horizontal cracks being hairline fractures in the spalls of the sandstone. Portions of the entablature, balustrade and second floor band course are spalled or eroded.

There are records of the presently screened wall sections at the two old terraces. These walls are a nonstructural veneer over the rubble foundation wall that would otherwise be exposed. Elements of the portico entablature have failed structurally and are presently shored.

Many of the keystones over first floor windows have dropped, a condition which tends to grow over the years because of thermal expansion combined with wedging action.

Elements of the portico entablature have failed structurally and are presently shored.

Under the terms "loads" all external forces and environmental influences on the behavior and safety of the structure are considered. The loads into which the dead load of the structure itself and the relatively stationary applied load, as well as dynamic loads such as wind, earthquakes, earth quake and sonic boom. Environmental loads include temperature effects that cause relative movements of structural elements which, if restrained, produce stresses. Environmental loads also include the effects of volume and temperature changes, as well as the consequences of foundation settlements.

(a) Static (Live plus Dead)—Critical loads have been analyzed to determine the stresses resulting from both dead and live loads through the full height of the building. The results indicate that the walls, as originally constructed, are capable of participating with the exterior walls in carrying loads, such as an exterior wall. Horizontal and vertical shear stresses are in the 10 pounds per square inch range. The maximum horizontal thrust of the stone does not occur. The lime mortar has a compressive strength varying from 100 pounds per square inch to 2000 pounds per square inch and is therefore the critical material. Under the maximum stress indicated it is possible that there has been local failure of the mortar bond, resulting in a redistribution of stress to the stronger materials.

A reasonable criterion for the design of masonry construction is that the section be designed so that the resultant of the loads remains within the kern of the section so that tensile stresses do not occur. As can be seen in the analysis, the analysis for the resultant is within the kern, but in some cases is close to the boundary.

(b) Wind—The Uniform Building Code 'proscribes a design wind pressure of 15 pounds per square foot for the height zone from 0 to 30 feet above ground, 20 pounds per square foot for the zone 30 to 50 feet above ground, and 25 pounds per square foot above 50 feet. The Building Officials Conference of America Basic Building Code "proscribes 15 pounds per square foot for the height zone from 0 to 50 feet above ground and 20 pounds per square foot above 50 feet. These are generally accepted building codes, and the Uniform Building Code criterion, which is slightly more severe, was adopted as the basis for analysis.

The wind analysis indicates that stresses in the walls are negligible, generally less than 1 pound per square inch.

The Earthquake History of the United States, Part I, prepared by the U.S. Coast and Geodetic Survey (1958), shows no major earthquakes in the Washington area, but records minor shocks on: February 4, 1928, March 9, 1928, April 28, 1928, August 31, 1851, January 2, 1859, and April 8, 1918. The only record of a shock in the Washington area was measured as 55M.M. in 1918. The Earthquake History summarizes the seismic record as follows: "Although no earthquakes are listed as definitely occurring within the District of Columbia, several shocks of uncertain origin have been recorded." For the analysis of earthquake effects on buildings in areas where seismographic records are not complete, the lateral forces producing the effects are based on the recommendations of the Structural Engineers Association of California (1949). These factors are based on the recommendations of the Structural Engineers Association of California (1949). The lateral forces are applied as the consequences of foundation settlements.

Footnotes at end of article.
2. Foundations analysis

Consideration has been given to the possibility that the observed cracking and displacement of the walls of the west front of the Capitol might be due to some foundation inadequacy.

(a) For the building: Total lateral force at the base is 1.25 W, where W is the weight of the wall element. (b) For the west front bearing wall the lateral force is 5.0 Wp, where Wp is the primary consolidation of the clay soil is too low to produce this effect.

Clearly, the wall has stood for the past 150 years. The computed factors of safety indicate that, barring some grossly changed condition, there is no danger of a bearing failure.

(b) Settlement Failure of Soil.—For the soil conditions which occur in the foundations of the walls of the west front, settlement would occur in three stages. The first stage is due to an excessive settlement of the sand and gravel strata, followed by a somewhat longer-term (about 20 years), slow, progressive consolidation of the clay strata, conventionally known as primary consolidation. This would be followed by a longer term consolidation of the clay strata, known as secondary consolidation.

An empirical estimate of the compression of the sand and gravel, based upon the clay's foundations and the heterogeneity of the soil, is in the order of one to two inches. Except for minor additional displacements due to construction operations, which have added more load, this displacement took place over one hundred fifty years ago. The primary consolidation of the clay strata has been calculated and provided by laboratory tests. These computations indicate a total settlement of about one-half inch, which occurred over one hundred years ago. Secondary consolidation continues today at a very slow rate and is of limited magnitude. Calculations indicate that a total of about one-half inch has occurred in the past, and that a somewhat smaller amount will occur over the next one hundred years.

It is estimated that the total settlement of the walls of the west front of the Capitol has been about 3 to 4 inches. These settlements are on the high side of normal but they are not unreasonable or alarming. Future movements due to settlement will be very minor.

(c) Field Observations.—Because of the complexities of the construction of the Capitol's foundations and the heterogeneity of the soil profile, the application of the theoretical analysis described above has been checked against field conditions, with the following results:

(1) There is no indication that a bearing capacity failure has occurred. This is confirmed by the fact that there is a substantial margin of safety against such a failure.

(2) No cracks are observed in the walls of the West front are not due to excessive settlement. Evaluation confirms the report by Moran, Proctor, Musser & Hutledge, dated May 1957, Volume I, page 81, which indicates that a thorough inspection of the walls of the west front led to the conclusion that cracking did not relate to foundation settlement. The pattern of cracking and the general conditions and deformations observed do not indicate a foundation problem. This confirms the computations, which indicate that the existing walls should not have suffered seriously from settlement due to foundation.

(3) Prior to this study a level survey was made which indicated that about 1/4-inch of settlement occurred between 1957 and 1972. This is inconsistent with the calculations, which indicate that whatever settlement of the foundation continues to occur is less than 1/4-inch. The independent check of the level points utilized by the previous survey was made. This most recent survey indicates that there has been no detectable settlement over the past two years.

3. Causes of damage

(a) Environmental Changes.—The structural integrity of a building may be affected
each time there is a change in the original structural arrangement or an environmental condition change. The extent to which past changes and modern changes in the condition of the masonry safety of the structure must be evaluated. Table 4 is a list of such events which deserve special attention. 1

The history of the Capitol is one of continuous change. Before it was occupied, footing that was part of the foundation had to be repaired by Dr. William Thornton, the designer of the Capitol. Parts of the North Wing foundations were torn down and rebuilt under Latrobe's direction.

As soon as the South Wing was completed, the North Wing was practically dismantled and remade. Some foundation failures were reported in the history of the Capitol's construction, and in each case repairs were made. In this history, other arches might be on the verge of failure. This study indicates that such fears are unfounded.

The Capitol in its present form is over 100 years old and most of the vaulting is over 150 years old. During that period the building has been subjected to high winds, shocks of seismic origin, an explosion, and numerous structural incursions to accommodate new facilities. Where it can be seen, the brick vaulting is solid and firm with good mortar bond. There are many extant buildings in evidence which have been cut and remains firm. Bricks exposed at the edge of openings in vaulting made for air-conditioning ducts, are supported solely by adjacent masonry and are not removed. (Plate 3). Observed arches and vaulting have adjusted to change or were properly repaired after the latter was done under the Exploratory Work conducted to make room for construction of heating furnaces. Underpinning may have resulted in some loss of vertical support with accompanying strain in materials which produces cracks.

The floor of Statuary Hall was once used as a mixing chamber for a hot air heating system, which caused volumetric expansion and contraction. However, as the air heating was replaced by steam, gas was installed, followed by electricity and, finally, the building was air-conditioned. In 1874 the first elevator was installed. Each change required new cuts into the structure and consequent readjustment of structural elements; see Plate 1.

In 1851 there was a fire in the Library of Congress, which had been moved from the North Wing to the Central Wing, and in 1808 another fire occurred, following a gas explosion in the North Wing.

The Library of Congress moved into its own building, two new floors were installed in that Central Wing. About the same time, the timber Lantern Domes over both wings were removed and replaced by steel construction.

The sequence of construction is a significant factor in the differential settlement of the Central Wing. Since the Central Wing was abutted to the South Wing, some 20 years after the latter was built, the cracks may be the result of an imperfectly bonded joint. Some plans of the building in this area suggest that there are fissures in the walls and these could be responsible for the damage.

In Room S231 the concentration of expansion and contraction activity which is typical at the corners of a building is evidenced by vertical cracks on the interior surface. Cores of the upper walls show voided areas which may have resulted from the reported protruding mortar bond and are not easily removed. Pieces of mortar bond and are not easily removed. Pieces of the sandstone and the Central Wing. Some foundation failures were repaired in the South Wing, some 20 years after the latter was built, and the cracks may be the result of an imperfectly bonded joint. Some plans of the building in this area suggest that there are fissures in the walls and these could be responsible for the damage.

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Of the upper wall varies from 5% to 10%

It is suspected that a serious error in construction occurred because masonry at the time did not cut and lay exterior sandstone with careful observance to the orientation of the bedding plans of the stone. Sandstone, though porous, will weather well if permitted to dry out because it will not be cracked by temperature changes are depicted in Figure 18, which demonstrates the fundamental action of expansion and contraction. With a rise in temperature, the wall lengths. When the temperature drops, it tends to shorten. Because masonry is weak in tension, it is subjected to stress when it is subjected to high winds. If there is any restraint to this shortening, instead, it falls at the section where the least amount of material is available—at door and window openings. Some cracks are linked by a third wall, the movements just described tend to distort the linking wall and crack it vertically, as well as horizontally, the actual pattern is complex, but cracks tend to form vertical.

Generally, this effect would not be large enough to cause cracks, but it is continually reversible and becomes a determining factor when the masonry reaches the previous described forces. Once the stone has cracked, the wall does not return to its original position and a natural process of growth occurs. If the crack is filled with dirt, or patching mortar, or if a dropped keystone closes the gap, the wall becomes still longer upon expansion and the crack opens again when contraction occurs.

The existence of a void behind the sandstone suggests that the sandstone may have some behavior inde­pendent of its bond, and its bearing capacity is consistent with this possibility since many stones are in good condition. Full confirmation of the above cannot be obtained unless the entire surfaces of the walls are cleaned of paint and the sandstone is examined.

Painting of masonry is a reasonable method of preventing the intrusion of water, but there is a danger that it can become a cause of deterioration by permitting the intrusion of water at some points and causing entrapment at others. Painting records are not available, but this aspect of building maintenance apparently was neglected between the years 1830 and 1850, according to Mudd, 9 who states his understanding that the Capitol had not been painted for 17 years.

Painting can have other deleterious effects. Components of the paint may penetrate the masonry and it has been shown that the surface which has been painted has weathered better than much of the nearby marble which is not so protected.

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cracks will develop, as indicated in Figure 19(a), and the size of opening increases as it levels up the wall in vertical cracks or joints.

(2) More commonly, one portion of the wall droops downward while the other portion of the wall remains at rest. The openings occur in horizontal joints (Figure 19(b)).

Close inspection discloses relatively few cracks that could be related to foundation problems. By themselves cracks are not evidence of settlement, and in the case of the rest it should be possible by weathering and temperature phenomena.

4. Exploratory Program

As part of this study, plans and specifications were prepared for "Exploratory Work In and Adjacent to the West Central Portion of the United States Capitol", and a contract to carry out the work was awarded to Layne-New York Co., Inc. The purpose of the work was to determine the practicality and limitations of some of the restoration methods under consideration, to obtain cost estimates for the work, and as well as confirmation of data developed in earlier studies and reports. Determinations were made with respect to the following specific items:

(a) Drilling and Grouting—The primary purpose of the exploratory program was to determine the practicality and efficiency of the methods of grouting different types of materials. Underlying this work was the unknown degree to which the walls actually contained voids, and if so, to what extent they could determined the void ratio as well as the degree to which voids can be filled.

(b) Soils and Settlement—Three soil borings were performed, and penetration tests were performed on three undisturbed samples. In addition, three unconsolidated, undrained, and three sets of liquid and plastic limit determinations were made by Woodward-Moorhouse & Associates, Inc. Laboratory results are given in Appendix B, and a general discussion is included in Part B2 of this report.

(c) Paint and Paint Removal—Efforts to remove paint from the front wall (see Appendix A, Section 5) has a thickness of 90 to 115 mms, from the surface of the west central front wall were not encouraging. The methylene chloride base remover specified for use on vertical stone surfaces which were tried, but none succeeded. The jet treatment was too harsh for use on carved stone. On flat areas, it would be effective but for the cost of using it. Mechanical removal using hand labor and chemical remover. Suggested techniques include flame, hydro-silica jet followed by sand blast using blast shells, and mechanical removal using pneumatic tools.

Paint removal resulting in a perfectly clean expose of the underlying material is practical. Removal to permit inspection of sandstone and effective use of stone preservatives is more difficult. The concept of a protective coating for a latex binder paint should be considered. Laboratory tests of sample paints indicate that latex binder paints were used on the west front wall (see Appendix A, Section 5).

(d) Stone Preservative—The existing stone is soft and porous. Its life could be extended by using suitable and/or waterproofed. Two commercially available products were applied to test por-

Footnotes at end of article.
tions of the wall and smaller specimens which were sent to the National Bureau of Standards for testing. The report is found as Section 3 of Appendix A. Complete protection of the stone surfaces should combine caulking of cracks and joints, removal of loose material, and application of stone preservative and two coats of paint.

(e) Source of Sandstone-A study and adjunct to exploratory work, two field trips were made to the Aquia Creek area in Stafford County, Virginia, from which the original sandstone was obtained. One of these trips is documented by Mr. Thomas W. Fluhr, Engineering Geologist, in Appendix B.

If the wall voids were filled, exterior cracks should be preceded by a structural analysis of adjacent walls. If the wall were cracked, the volume cut was relatively small and the quality apparently ran out.

C. Conclusions

The many cracks and surface flaws do not signify that the ability of the west front central wall to continue to support the loads imposed on it. There are voids in the walls which do affect its strength. Materials are of a quality and strength in excess of that required for safety, with the exception of the lime mortar cementing agent which ranges from fair to poor. The poor material is generally in the central core of the wall, which can be assumed 90% efficient without causing overestimates in the remaining portions of the wall.

Because there have been so many environments in the existence of the Old Capitol, there is no way of being certain that the building has all the characteristics of the original. Their respective influence is found by the computed structural analysis. Therefore a structural restoration program is required. Also, maintenance policy should be revised and a structural analysis of affected elements should be made.

If the wall voids were filled, exterior cracking would be inhibited by transfer of stress to interior portions of the wall. Generally, however, cracking will continue to occur as the wall adjusts to temperature change. A series of control joints must be provided to interrupt these cracks or occur at these points. Control joints must be caulked with plastic materials, which will stop the intrusion of moisture. Experience shows that exterior cracking will continue to occur at a much reduced rate.

The following are specific conclusions and the majority procedures which apply to the different parts of the building, considered from the standpoint first of structural restoration, and then of architectural restoration and preservation.

1. Structural

(a) Soils—Laboratory tests of soils beneath cast iron beams indicate these loads are carried safely with a very small amount of anticipated future settlement.

Footnotes at end of article.

In the past, settlement has occurred and from the three wings of the Old Capitol were reported to be there at different times. It was undoubtedly was differential settlement. The cracked vertical joints at the intersections of the walls and floor levels are the result of this effect. Present settlement is negligible.

Neither underpinning of foundation walls nor chemical injection of soils is necessary. However, the walls were reportedly not laid in regular courses but filled with mortar dropped on the stones. Drilling conducted in the walls revealed that the mortar condition might exist locally rather than generally.

It is desirable to solidify the interior of the foundation walls to remove discontinuities and provide a relatively monolithic condition. The walls are less pene Transparent and can be repaired. Mortar and lime mortar bedding of varying strength in the walls should be replaced. The interiors of foundation walls were not laid in regular courses but filled with mortar dropped on the stones. Drilling conducted in the walls revealed that the mortar condition might exist locally rather than generally.

Experience in the exploratory program indicates that for foundation walls a first stage of stone preservation would be required to stabilize the area.

(b) Foundation Walls—Foundation wall masonry is laid in lime mortar bedding of varying strength in the walls. The interiors of foundation walls were not laid in regular courses but filled with mortar dropped on the stones. Drilling conducted in the walls revealed that the mortar condition might exist locally rather than generally.

It is desirable to solidify the interior of the foundation walls to remove discontinuities and provide a relatively monolithic condition. The walls are less penetrable and can be repaired. Mortar and lime mortar bedding of varying strength in the walls should be replaced. The interiors of foundation walls were not laid in regular courses but filled with mortar dropped on the stones. Drilling conducted in the walls revealed that the mortar condition might exist locally rather than generally.

Experience in the exploratory program indicates that for foundation walls a first stage of stone preservation would be required to stabilize the area.

(c) Screen Walls—The screen walls at the lower old terrace are out of use and at some points points could buckle despite present shoring. Although this veneer is non-structural it is important to protect the weathering for the rubble foundation wall behind it. Because this protection is important, and because the wall is unsightly, the screen wall should be rebuilt.

Earlier investigations showed that the veneer is generally six inches thick, with a three to four inch air space behind it. Burst remains of ties were found, indicating that some attempt to bond the veneer to the wall behind it had been made. To restore the screen wall it should be removed and the stones cleaned and trimmed. Broken or decayed stones should be replaced, and new stones should be fitted.

Before replacing the screen wall, the rubble wall should be grouted (see Figure 20). If using the same mortar, the new mortar should then be placed and true and bond with bonding ties located at each course and doweled into the rubble wall and the space between the veneer and foundation. The column heads may be tied with cement mortar as each course is laid. The wall should be treated with preservative and painted, in consonance with the main walls.

(d) Terrace Walls—The old terrace walls, located about 20 feet forward of the screen walls, are gravity retaining walls founded on stone bases about two feet below the adjacent ground. Cracks in the terrace floor slab indicate that these walls have moved an inch or two forward of their original position.

To restore the walls, they should be demolished and rebuilt on a concrete footing founded below the front line. The stones should be repaired, cleaned and treated with preservative.

(e) Upper Wall Repairs—Cracks in the walls are generally due to thermal effects. This has been aggravated by the freezing of intruded water and other environmental effects.

Unless expansion joints are provided, cracks in the walls cannot be stopped. In the case of the present expansion joint detail, it did not succeed in eliminating the possibility that difficulties would arise and they have. However, cracks can be minimized and progressive growth can be inhibited by solidifying the walls with grout and providing caulked central joints between window heads and sills as indicated on Figure 21, at the top of the page.

To strengthen the wall it should be grouted. This should be done in two stages; first, injection of epoxy grout through 2 inch diameter horizontal holes to fill the largest voids, followed by 1 1/2 inch diameter inclined holes. Holes would be spaced at about 3 feet, on a grid, but would be located after paint removal to arrange, to the extent possible, that they occur in stones scheduled for repair.

To tie the wall together and to add strength, 1 1/2 inch diameter inclined holes should be inserted in grout holes immediately upon completion of the grouting operation in each stone. When the grout hardens, the wall should be treated with epoxy grout followed by epoxy. Use of epoxy grout would provide cohesive strength to existing mortar.

Experience in the exploratory program indicates that for foundation walls a first stage of stone preservation would be required to stabilize the area.

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Experience in the exploratory program indicates that for foundation walls a first stage of stone preservation would be required to stabilize the area.

(g) Window Lintel Repairs—Broken lintels should be removed, repaired using post-tensioning methods, cleaned, treated with preservative and replaced with new reinforced concrete backup wall (Figure 21).

Columns and their bases can be replaced by sister elements from the East Face stone. East Face members are monolithic and are in better condition than the West Portico columns which are made up of varying length drums. East Face column bases are also in better condition and should replace those in the West Portico.

(h) Window Keystone Repairs—Many window keystone have dropped. Old mortar repair material at the top of the stone should be removed by saw cutting and chipping. Adjacent stones should be removed to the extent necessary to gain access to the sides of the keystone (Figure 21). Then the keystone should be jacked into its original position and supported there on steel stubs inserted in the sides. Access holes would then be closed with new stones.
2. Architectural

"Restoration, used architecturally, means putting back as nearly as possible into the form and condition in which it had been held at a particular date or period in time." 19

The initial construction of the North Wing was completed by 1814. The South Wing was in 1808 and both had an exposed sandstone finish until the structure was damaged by a fire in 1814. During repairs subsequent to the fire in 1814, the entire west central front has remained painted ever since and has been repainted many times. There may be some question whether true restoration in this case should result in an exposed sandstone finish or a painted surface. Both approaches are treated in the following discussion and are included in the cost estimate as Scheme 1a—painted sandstone, and exposed sandstone, respectively.

As a practical matter, Scheme 1 seems most attractive. The use of stone which were uncovered during the exploratory work proved to be badly stained and a good portion of the exposed surface would have to be replaced.

There is the possibility that a greater portion of stone will need replacement than survey of the painted surfaces available in the case of East Face. In case of East Face stone could be insuffieient. Scheme 1 is preferable for these reasons and because, in this case, the stone members to be modified would fully accepted standards for restoration.

(a) Scheme 1—Painted Sandstone—If a painted stone surface finish were elected, the color quality of stone used for repairs would not be important. Repair methods would be similar to those below for exposed stone finish, but replacement stone would not have to be Aquia Creek sandstone. 20

A detailed inspection would then determine what stones are visually and structurally unacceptable. These would be removed by sawing, line drilling, and chipping to a depth of about 6 inches. A "new" stone would then be cut to precise dimensions and inserted in the space on an epoxy mortar base and anchored with ties into the back-up wall against epoxy mortar backing. The process would be repeated on a limited scale.

When all faulty stone was replaced, joints would be struck flush and treated with plastic sealant. The entire surface would then be treated with preservative, a treatment which would require to be repeated at about ten-year intervals for standard maintenance.

The stored stone from the East Face (Plate 2) is generally 12" to 24" in depth. Its back portions could, therefore, be made to face for repair. The stone could be cut to depth to avoid the removal of adjacent stones at the same time, or a quantity that would permit a constant flow of new stone.

When all faulty stone was replaced, joints would be struck flush and treated with plastic sealant. The entire surface would then be treated with preservative, a treatment which would have to be repeated at about ten-year intervals for standard maintenance.

The surface of the entablature would be replaced as shown in Figure 20, and the entire surface would be treated with the paint that is used on the Senate and House Buildings.

It is not suggested that stone elements, such as cornice members or column caps, should be replaced simply because a leading edge or some of the decorative carving has become old and unusual. The decision should give an impression of venerable age, not a crisp newness that denies its historical background.

Effective grouting will require relatively close spacing of drill holes vertically and horizontally, and this would w[1]y many times. Effective grouting is insuffieient. Effective grouting should be repeated in part by doweling in new parts.

(b) Scheme 2—Exposed Sandstone—Paint would be removed from the existing surfaces by the method described above.

A detailed inspection would then determine what stones are visually and structurally unacceptable. These would be removed by sawing, line drilling, and chipping to a depth of about 6 inches. A "new" stone would then be cut to precise dimensions and inserted in the space on an epoxy mortar base and anchored with ties into the back-up wall against epoxy mortar backing. The process would be repeated on a limited scale.

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3. Other restoration methods

Other approaches to restoring the West Wall were considered and abandoned upon further discussions. The following should serve mention:

(a) Marble Face Stone—This Thomas W. Walter, Architect of the Capitol, proposed to increase the need for the replacement stone required to obtain an unflawed surface, possibly in the East Face storage piles. For Scheme 2 this would mean either some proportion of artificial replacement stone, or tolerance of a peck-marked appearance on a fairly regular grid. Under Scheme 1 this would be of no concern, since patch marks would be painted over.

(b) Scheme 3—Marble Veneer—To reduce the cost of architectural restoration work, a careful examination was made of the stonework elements could be inserted, leaving the carved work. That supply would, therefore, have to be repeated in part by doweling in new parts.

(c) Scheme 4—Marble Veneer—To reduce the cost of architectural restoration work, a careful examination was made of the stonework elements could be inserted, leaving the carved work. That supply would, therefore, have to be repeated in part by doweling in new parts.

(d) Scheme 5—Marble Veneer—To reduce the cost of architectural restoration work, a careful examination was made of the stonework elements could be inserted, leaving the carved work. That supply would, therefore, have to be repeated in part by doweling in new parts.

4. Work scheduling

Concurrent with structural repair operation a careful inspection must be conducted to establish the extent of necessary restoration and the proper sequence of operations. This would be followed by the preparation of drawings and models and would be made when stuc­

tural repairs were finished the stonework operation would be completed.

The experience gained by the test removal of paint, performed as part of this study, would be used to develop procedures to remove the paint and paint stain completely and without damage to the stone. The use of a sandblasting machine is unacceptable because its use disqualifies restoration. 21

It is probable that a degree of removal which results in an acceptable surface can be accomplished. Restoration Scheme 2 could be adopted. Contractual agreements for the work could be written to permit a change to Scheme 2 in the judgment of the responsible authori­ties the results of cleaning provide an ac­
ceptable finish.

5. Conclusion

It is estimated that, with proper timing and phasing, the work can be accomplished in about three years with no single wall section being scaffolded for more than one year. The Projected Work Schedule, Table 2, indicates the general sequence and timing for the various operations.

The schedule shows only one of many possible variations. Separate work operations can proceed concurrently and more than one wall can be operated upon at one time. This would be a matter of judgement and coordination; the final contract should include a network schedule. The schedule shown is presented as a reasonable approach.

If structural repairs are made, they should be carried out as a continuous operation proceeding from Wall 1 to Wall 7 as in Table 2. Walls 1 and 2 would be completed before proceeding to Wall 3, etc., so that the architectural restoration work could follow as soon as repairs were accomplished, and a regular sequence of progress maintained. Walls 1 and 2 are chosen for initial work because fewer offices are in the South Wing adjacent to the west front wall. This would permit practical methods and procedures to be developed by the contractors and would achieve a smooth running operation before the proceeds to the basement.

It is not anticipated that any rooms would have to be vacated, unless it was decided to adopt the poured slab technique for corner repair. The cost of this approach is unacceptable because its use disqualifies restoration. Economy and certain structurally desirable characteristics accrue to the poured slab method of tying in the cornetis, but a structurally adequate alterna­tive is available.

Working access to the walls would be via temporary ramps and bridges from a work and storage area in the southwest Capitol Creek standstone. 20

All dimensions necessary for shop drawings were finished during the exploratory work. For Scheme 2 these would be marble, and replacement would be marble and replacement would be entire. This would be accomplished by using a checkerboard pattern of removal and replacement stone by stone. Upon completion, the building would look exactly like the existing building, except that it would have a marble surface and would look new. Details would be similar to those in Figure 20.

The cost of the preceding scheme an extremely placed marble veneer was evaluated. This concept would be used to the existing surface of the wall following re­moval of projecting elements. Dimensional problems are produced which violate the principles of restoration, and the additional weight of 5,000 lbs. per foot of wall creates foundation problems. This procedure is judged a poor bargain at a high cost.

(c) Buttress Wall—In this concept a new wall would be constructed in front of and bonded to the existing wall to reinforce it. It would rest on its own foundation and is constructed of reinforced concrete faced with sandstone or marble to replace the wall behind it.

The technique was set aside because it imposes excessive architectural elevations which would not be simple to conceal, because it is neither "restoration" in the truest sense of the word, nor an his­torical monument, and because structurally, an adequate, less expensive solution is available.

(d) Replacement Wall—The existing wall could be dismantled and replaced by a new wall incorporating reinforced concrete construction. The new wall would be made to fit the exact dimensions of the existing building. Again, this would mean the obliteration of the historic proportions and the elimination by a replies. It would also necessitate aban­donment of offices along the wall for an ex­tended period of time.
Table 3 is a tabulation of estimated quantities for Schemes 1 and 2, summarized as follows:

Scheme 1—Painted Sandstone $1,500,000.
Scheme 2—Painted Sandstone $1,500,000.

Included are amounts for replacement of all windows, repair of existing roof slabs and old terraces, bird proofing, and repairs for emergencies and, a contingency of 15%. Unit costs include an escalation factor. A liberal amount is included to cover full-sized equipment rentals which will be necessary to establish the best procedures during the early stages of the work, as well as to cover sandstone experts and experts to measure and model materials for special carving and repair work.

The Commission condition stipulates that "restoration can be so described or specified as to form the basis for performance of the restoration work by competitive, lump sum, fixed price construction bid or bids." A cost plus contract with an "upset price" seems more realistic and could be obtained on a competitive basis.

Footnotes
1 Figures are not reproduced in Reprint.
2 1967 Ed., Sec. 7146.
3 By Mr. Glenn Brown, Mr. Merrall Scale, is a measure of ground shaking, a value of 5 representing a shock felt by most people, with breakage of dishes, windows and plaster.
4 Ibid., Sec. 2014.
7 See Footnotes pages 43-48.
8 Mudd Report, (1849), "Documentary His­
7ory of the Capitol."
9 See Appendix C for field reports, and data developed from this work.
10 A ruble foundation wall. See Appendix A, Section 6 for contract plans which show exact locations of gout holes and test cores.
11 Ibid., Section 1.
12 Including the fact that one of the face stones was a "sandstone".
14 Water: Cement, by volume.
16 See Appendix A for computations and role's data.

Dated areas are shown on Figs. 12-15, and more details are shown on Figs. 20-21.
14 In this case, removal of upper elements will not endanger vaulting below.
18 The use of East Face stone is not pre­
19 vented, although the fact that a painted finish is used. Its limited supply is simply removed as a factor.
20 Painting restores the surface to a con­
21 dition it enjoyed for 150 years as did the White House, recently restored in similar fashion.
22 This material can be cut from East Front stone presently stored at two sites: The Capitol Power Plant Yard and Rock Creek Park.
23 Documentary History of the Capitol.
24 For wall designations see Figures 2 to 5.
25 See page 1 of this report—Commission condition No. 2.

THE PRESIDENT’S ANTIBUSING PROPOSALS

Mr. SPONG. Mr. President, last Fri­
21 day I issued a statement regarding the antibusing proposals which the Presi­
22 dent announced on Thursday night and sent to Congress on Friday.

As I noted in that statement, I believe that the proposals contain some com­
23 mendable recommendations, but I regret that consolidation cases are not specifi­
24 cally included in the requested mora­
25 torium legislation, and I am not satis­
26 fied that the bills, as proposed, eliminate the hypocractic distinction between de facto and de jure segregation. Conse­
27 quently, I am not prepared to support the two parts of the recommendations as they are con­sidered in Congress.

In the meantime, I ask unanimous con­
28 sent that my statement of Friday, March 17, be printed in the Record.

There being no objection, the state­
29 ment was ordered to be printed in the Record, as follows:

STATEMENT OF SENATOR SPONG

I am pleased that the President has sent to Congress a message on the busing of pub­
30 lic school children. For almost two years, I have been calling upon all levels of the fed­
31 eral government to join together in an effort to clarify the exact confusion over busing—over what is and is not required by the Constitution. It would be safe to say that what is not required by the Constitution is not educationally sound. And, I have been call­
32 ing for a policy which will be applied uni­
33 formly, and will not endanger or remove the superficial distinction between de facto and de jure segregation and which will mean in Richmond and Chi­
34 cago that it means in Richmond or Norfolk or Charlotte or Atlanta.

The legislation sent to Con­
35 gress today did not specifically include a moratorium on implementation of consolidation cases. I am aware that the "Student Transfer Program Form," dated April 1970, which the Administration proposed, can be interpreted as precluding consolidation orders. However, I fear that it could result in postponing the provision that it carries. It is, however, significant that the legislation adopted by the Senate earlier this month contains provisions staying consolidation cases. If the conference report on that legislation does not include provi­
36 sion for staying consolidation cases, I will offer such a provision as an amendment to the proposals made by the President.

This morning, I attended a briefing con­
37 ducted by the Secretary of Health, Education, and Welfare. I appreciate the thrust of much of what he was proposing and the fact that he was proposing and the fact that there is immediate relief for the sellers of soap suds?

There is not this proposed legislation would, in fact, mean the
38 thing in Boston and New York, Detroit, and Chicago as are placed upon Richmond and Norfolk and other cities in my State and throughout the South. And, until the same requirements are placed upon all, I believe that dual segregation policies con­tinue to discriminate against one section of our nation, that they continue to place upon the shoulders of the Negro the extra burden and inconvenience that are not placed upon citizens in other sections, where there is more racial isolation. Furthermore, I believe that the dual segregation policies approach a denial of the equal protection of the laws for the residents of that section of the coun­
39 try, whether they be black or white, rich or poor, advantaged or disadvantaged. And, un­
40 til there is legislation to rectify that situa­
41 tion, there is no final resolution to this pre­
42 senting domastic issue. There are, in my view, serious questions as to whether or not this proposed legislation would, in fact, treat all sections of our country the same. I am confident this matter will be pursued in Senate hearings.

SCALPING THE FIRST AMENDMENT:

PART THREE “MONEY TALKS OR WHAT’S FAIR IS FAIR”

Mr. MOSS. Mr. President, why is it that whenever a breath of fresh air emerges from a regulatory agency the White House reacts instinctively as if it had been assaulted by a stink-bomb?

And why is it that the administration’s sole apparent concern with protecting the first amendment is its solicitude for the sellers of soap suds?

The Federal Trade Commission has proffered a modest and, in my judgment, sound proposal urging its sister agency, the FTC, to protect the broadcast media for counter-advertising, including some free time.

Let us be clear about what the FTC has and has not proposed. The FTC has not asked for an “equal time” right of consumer and environment groups to counter the express or implicit claims of all advertising. It has proposed a limited
Mr. President, I intend to offer an amendment at the appropriate time during Senate consideration of the Executive budget, to preclude the expenditure of funds for the institutionalization of White House super agencies which interfere with the functions of the independent regulatory agencies.

Independent regulatory agencies need independence. The Commissioners are appointed by the President. They are approved by the Senate. Congress supervises the functions of the agencies through oversight hearings. The judiciary reviews the decisions of the independent regulatory agencies.

A White House office meddling in the affairs of the FTC is tantamount to the destruction of our system of checks and balances.

Mr. President, I ask unanimous consent that several documents on the subject be printed in the Record.

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

[Before the Federal Communications Commission]

STATEMENT OF THE FEDERAL TRADE COMMISSION

In the Matter of The Handling of Public Issues Under the Fairness Doctrine and the Public Interest Standards of the Communications Act—Docket No. 12960.

(Part III: Access to the Broadcast Media as a Result of Carriage of Product Commercials.)

A. INTRODUCTION

The Federal Trade Commission submits this statement to the Federal Communications Commission as an expression of its views with regard to Part III of the FCC's Notice of Inquiry concerning the Fairness Doctrine, I.e., that part of the inquiry entitled "Access to the Broadcast Media as a Result of Carriage of Product Commercials".

As an agency with substantial responsibility for and experience with the regulation of advertising practices and the development of appropriate governmental responses to these aspects of advertising, the Commission expresses its views with regard to the economic nature and market impact of advertising, the nature and extent of legitimate self-regulation, and the appropriate governmental responses to these aspects of advertising.

The following comments express the Commission's support for the development of "consumer awareness", the right of access, in certain defined circumstances, to the broadcast media for the purpose of expressing views and positions on issues that are raised by such advertising. Although the Commission recognizes the potential complications and variations that might result from implementation and possible ultimate effects, the Commission is of the view that some form of self-regulation for commercial advertising would be in the public interest.

None of the comments contained in this statement should be construed to indicate the Commission's position with respect to any issue involved in any adjudicative matter. Indeed, this presentation is based on many of the considerations that would influence the Commission in any proceeding. The presentation is intended to acquaint the Commission with the viewpoint of the Federal Trade Commission as an expression of the views of the FTC on access to broadcast media.

B. MAGNITUDE OF THE PROBLEM

While much has been said in submissions by other parties concerning the social and cultural impact of broadcast advertising...
Finally, advertising today is largely a one-way street. Its usual technique is to provide only one carefully selected and presented aspect out of a multitude of relevant product characteristics. This may be the only important form of public discussion where there presently exists no nonconcomitant public discussion. The deception and distortion where the self-interest of sellers in disclosure does not coincide with the consumer's interest in information.

All of these elements of the modern-day advertising mechanism combine to endow broadcast advertising with an enormous power to affect consumer welfare.

C. THE ROLE OF THE FEDERAL TRADE COMMISSION IN ADVERTISING REGULATION

As a matter of first priority, the FTC is committed to a program designed to remedy the dissemination of false advertising. Ads that are false or misleading clearly possess the potential of conveying misinformation, distorting resource allocations, and causing competitive injury. The FTC is empowered to proceed against such advertising and constantly strives to do so, primarily by means of administrative litigation, seeking various remedies that will vitiate the effects of the challenged deception.

It is important, however, to recognize two limitations upon litigation as a technique for the regulation of broadcasting. First, litigation is generally a lengthy and very costly device for the resolution of conflicts and in many instances cannot be fully concluded until the damage has been done. Further, the Commission's resources are far too small to enable it to effectively combat case of deception coming to its attention, and we may select priorities that result in our neglect of some important instances of advertising abuse. In such instances it may be a relatively unsatisfactory mechanism for determination of the truth or accuracy of advertising claims. As suggested below, some advertising is based on "controversial" factual claims and opinions, and litigation may fail to resolve the controversies involved.

The FTC has recently undertaken to utilize a supplementary tool for the encouragement of truthfulness. This is the systematic use of information-gathering and public-reporting authority under Section 6 of the FTC Act. A program of voluntary submission, by all advertisers in selected major industries, of substantiation for advertising claims, for evaluation and use by the general public. While this is an invaluable tool for some of the shortcomings of litigation, it is nevertheless subject to two major limitations. First, it is not binding, and does not deal effectively with only those claims that purport or appear to be "objectively verifiable," i.e., claims which, if set forth carefully, must be based on and supported by laboratory tests, clinical studies, or other fully "adequate" evidence. This program is also limited by the extent of available resources. Even if the program succeeds in its expressed goal of seeking and then screening valid substantiation, a substantial number of different product lines each month, it will not reach most of the broadcasting advertising that appears.

In addition to being truthful, relevant, tasteful and—taken as a whole—a valuable and constructive element in this nation's free enterprise economy. On the other hand, it is widely asserted that advertising is capable of being utilized to exploit and mislead consumers, to raise barriers to entry and establish market power, and that there is a need for government intervention to prevent such abuse.

It is plain that television is particularly effective in developing brand loyalties and building barriers to entry. The modern technique of advertising permits producers to present a single aspect, the upward combination of visual and sound effects, special camera techniques, the creation of overall moods, and massive repetition can result in a major impact upon the views and moods, and massive repetition can result in providing animation to the radio voice; it has power to reach millions of consumers. Thus, television has contributed to advertising as simply providing animation to the radio voice; it has added a new dimension to the marketing process.

Footnotes at end of article.
lems, or that their companies are making special efforts to improve the environment generally. Similar efforts appear with respect to the promotion of automobile safety, and a host of other controversial issues of current public Importance. While these are all admirable goals, if not well devised, the most effective means of assuring full public awareness of opposing points of view is to have an open forum where it is certain that opposing views have a significant chance to persuade the public, is counter-advertising. Counter-advertising would permit the existence of Fairness Doctrine obligations to opposing viewpoints and contribute to general and economic problems of our times. For example, ads that encourage reliance upon drugs for the resolution of personal problems may be considered by some groups to be a contributing cause of the problem of drug misuse.

Counter-advertising would be an appropriate means of providing the public with access to full discussion of all of the issues raised by the above types of advertising, thus shedding light upon the perceived effects of advertising upon societal problems.6

3. Advertising claims that rest upon or rely upon scientific premises which are currently subject to controversy within the scientific community

Some products are advertised as being beneficial for the prevention or cure of various common personal problems for particular purposes because of special properties with regard to performance, safety and efficacy. Advertising material may be as effective in curing various problems and ailments. A food may be advertised as being a health food, a household cleanser may be advertised as being of value to various aspects of nutritional health or diet. A detergent or cleaning product may be advertised as being of value to various aspects of household cleanliness or other particular purposes because of special properties denying, or the companies are making some central themes associated by advertising. If ads that encourage reliance upon medical products are advertised as being beneficial for various aspects of health or nutrition, people might be counseled to seek the views of some people that consumption of some other food may be proper source of some food. The public could be informed of the views of people that competing drug products with equivalent efficacies and uses are available in the market at substantially lower prices.

This list of examples could go on indefinitely. For the existence of undisclosed negative aspects, or "trade-offs" of one sort or another, is inherent in all advertise products and thus in all advertising. Rather than forcing all advertisers to disclose all such aspects in all of their own ads, it is more effective to have a public body that can provide such disclosures, to the maximum extent possible, through counter-advertising.

E. IMPLEMENTATION OF THESE PROPOSALS

While adoption of these suggestions may involve some initial costs, the extent of such costs will largely depend on the mode of implementation. The FTC does not possess the expertise to speak definitively on this point, but it would appear that adoption of a variety of procedures and limitations could minimize the costs involved in these proposals, to a point where the countervailing public benefit far exceeds any loss.

For example, the Commission recognizes that it may be desirable to impose strict limits upon access rights within each category. In addition to limitations on the frequency of advertising in particular categories, it might be appropriate to prohibit replies to particular ads (as opposed to all advertising for certain product categories), at least for some types of advertising problems.

For example, with respect to the problems and issues raised by general ad themes, it might be appropriate to require replies to apply to all advertising involving the theme advertising for certain product categories, or aimed at one particular ad or one particular brand. Such a limitation, however, would be more appropriate if the complaint were directed to another category, such as "public issue" ads, that explicitly raise controversial issues of current public importance.

Further, it is not essential that counter-advertising be presented in the 30 or 60 second spot format so frequently utilized for commercial advertisements. In fact, that format is mandated by the cost of commercial advertising, thereby possibly raising barriers to entry into some product markets. In addition, the broadcast time devoted to disconnected spots, thereby increasing the proportion of advertising devoted to counter-advertising, might unacceptably increase either distribution or the purchasing time for anyone willing to pay the specified rates, regardless of whether the party seeking to buy the time wishes to advertise or "counter" advertise. Given the great importance of product information, product sellers should not possess monopolistic control by licensees over the dissemination of such information, and licensees should not be permitted to discriminate against counter-advertisers willing to pay, or to act on account of the content of their ideas.

3. Provision by licensees of a substantial amount of time, at no charge, for persons and groups that are interested to advertise like that described above but lack the funds to purchase available time slots. In addition, the desire is prevalent that licensees should not limit access, for discussions of issues raised by product commercials, to those capable of meeting a prior determined by the profitability of presenting one side of the issues involved. Providing such free access would greatly enhance the probability that advertising, a process largely made possible by licensees themselves, would fully and fairly contribute to a healthy American marketplace.

FOOTNOTES

1. Television is now "an intimate part of most people's lives and is a major factor in American culture. It is changing them. See Banfield v. F.C.C., 405 F.2d 1062 (D.C. Cir. 1968). The government denied, 399 F.2d 812 (D.C. Cir. 1969).

2. Written messages are not communicated under the guise of providing information, but are an affirmative act. Broadcast messages, in contrast, are "in the air." . . . It is difficult to measure the impact of this pervasive propaganda, which may manifest itself even if not listened to, but it may reasonably be regarded as an "intimate part of the written word." 405 F.2d at 1100-01. See also Capital Broadcasting Co. v. Mitch-
The average 30 second spot contains only one major selling point. Yet this time may be divided into many segments, each of which may be used in any number of ways. The advertisement stands alone, leaving no impression with its well-chosen words.

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no advertiser should be criticized, or commented upon, or discussed, or praised, for the honesty of its individual advertising chores, as such chores are the result of individual acts. For this, the accent must be on the advertiser, not on the advertisement.

As for the FCC's proposals, I think they are, to say the least, unconstitutional. The First Amendment makes clear that the government may not abridge the freedom of speech except in the interests of national security. The FCC's proposal, if implemented, would abridge the freedom of speech of advertisers by compelling them to run counter-advertisements. This is an infringement of the First Amendment rights of advertisers.

If, as proposed, the proposed FCC rules were to be implemented, advertisers would have to spend a substantial amount of their advertising budgets on running counter-advertisements. This would be a substantial burden on the advertisers. It is not clear, however, that the burden would be lessened by the fact that the counter-advertisements would be mandated by the government.

The proposed FCC rules would also infringe on the advertisers' right to choose their own advertising. The proposed FCC rules would require advertisers to run counter-advertisements. This would be a violation of the advertisers' right to choose their own advertising.

In conclusion, I do not believe that the proposed FCC rules are constitutional. The proposed FCC rules would infringe on the First Amendment rights of advertisers. The proposed FCC rules would also be a substantial burden on the advertisers. I do not believe that the proposed FCC rules are a wise use of the FCC's resources. I believe that the FCC should focus its efforts on promoting competition and fair dealing, rather than on mandating counter-advertisements.
poses of counter-advertising as of the kind of discussion that should surround the con-
sciousness of that proposal.

Thank you.

**FTC Statement on Counter-Advertising**

**Last June, the F.C.C. issued a general “Notice of Inquiry” concerning “The Hand-
ling of Public Issues Under the Fairness Doctrine and the Public Interest” in the context of
the Commission’s consideration of that proposal.**

The Commission recognized the importance of the issue and its potential impact on
the development of counter-advertising. The F.C.C. believed that it needed to address
the issue in order to ensure that the public interest was protected.

In August, the United States Court of Appeals for the District of Columbia handed
down a decision that had a significant impact on the issue involved in Part III of
the F.C.C.’s inquiry. In *Friends of the Earth v. F.C.C.*, the court reversed the F.C.C.’s
decision to allow counter-advertising. This decision had implications for the
Commission’s consideration of the issue.

The court ruled that the F.C.C. had not provided a sufficient basis for its decision to
allow counter-advertising. The court emphasized the importance of protecting the
public interest and ensuring that counter-advertising was not used as a way to
undermine the public interest.

The court’s decision reinforced the Commission’s need to reconsider its position on
the issue of counter-advertising.

**FTC Statement on Counter-Advertising**

**The Commission’s initial position on the issue was that counter-advertising would be
in the public interest.**

The Commission believed that counter-advertising could help to address important
issues and promote public awareness. However, the court’s decision cast doubt on
the Commission’s initial position.

The Commission recognized the need to reconsider its position on the issue and
addressed the court’s concerns.

**The Commission’s Final Position on Counter-Advertising**

**The Commission ultimately decided that counter-advertising would not be
interested in the public interest.**

The Commission recognized that counter-advertising could be used to undermine
the public interest and promote false advertising. The Commission believed that
counter-advertising should be regulated to ensure that it was used in a responsible
manner.

The Commission decided to allow counter-advertising only in cases where it was
necessary to address important issues and promote public awareness. The
Commission believed that counter-advertising should be regulated to ensure that it was
used in a responsible manner.

**Conclusion**

**The Commission’s decision on counter-advertising was based on a careful
consideration of the issue and its potential impact on the public interest.**

The Commission recognized the importance of ensuring that counter-advertising did not
undermine the public interest. The Commission believed that counter-advertising
should be regulated to ensure that it was used in a responsible manner.

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should be regulated to ensure that it was used in a responsible manner.
Monteau TVC's proposal for counter-advertising has come from the broadcast industry. This reflects the concerns of two major advertisers, Mr. Whitehead and the American Advertising Federation (AAFA), who have expressed their disagreements with the FTC's fairness doctrine.

Mr. Whitehead's view: "Of course, the trade commission would like to bring the FCC into the process and bypass the difficult job of making factual determinations concerning advertising deception. The FTC is constrained by all sorts of procedures which safeguard the rights of advertisers accused of deception. It is much easier to suspect the advertiser to a verbal stoning in the public square, but that is not the government agency to urge this type of approach. This administration thinks not."

Mr. Bell was also diffident. The FTC was not equipped to handle these responsibilities.

And Mark Smith, general manager of KLAS-TV Las Vegas, who filed a comment with the FTC, said that the approval of the FTC proposal could have a potential restraint on advertising—"it could encompass many advertising situations and in some cases, the court rulings on counteradvertisements could subject the companies to a form of advertising in a speech in Denver, which was attended by members of the state's congressional delegation, was elaborating on criticisms he had voiced of the FCC proposal as antiadvertising in intent. He charged that the FTC's fairness doctrine was polluting the competitive system of broad private-enterprise system of broadcasting system is polluting the consumer affairs, has suggested that an outright "equal time" plan might be in order. The test witnesses from 36 national voluntary organizations urged that free broadcast time be allotted to all broadcasting and advertising fraternities alike. But the administration does not believe that advertising and broadcasting should be done a disservice by the two industries concerned, with the administration itself, represented by Clay T. Whitehead of the Office of Telecommunications Policy.

"The informal group of representatives from the broadcast industry, has suggested that an out-plan might be in order. It was noted that one company had dropped its advertising plans when network commercials, but the report contained it was "not entirely unfair" to suggest that a time equal to that spent on paid commercials be set aside.

American consumers do not presently get "a fair deal" from the broadcast industry, the FTC, or the advertising industry, the group said.

[From Broadcasting, Feb. 21, 1972]

MOUNTING ATTACK ON COUNTERADVERTISING—FCC-TO- FTC: DON'T GO FOR TOO MUCH AT A TIME WITH INDUSTRY; A FOR-THE-ADMINISTRATION WHITHEAD PUBLICLY DENOUNCES FTC PLAN

The Federal Trade Commission's proposal for "counteradvertising" was under mounting attack last week from members of the advertising and broadcast industry. The sharpest and most significant attack came from neither group but from the Nixon administration, itself, represented by Clay T. Whitehead, administrator of the Office of Telecommunications Policy.

Mr. Whitehead, making it clear he was speaking for the administration, expressed concern that the proposal as an ill-conceived effort to solve a philosophical problem that advertising in general poses for consumer affairs. He went even further—to express the administration's support of the existing system of advertiser-supported broadcasting. "This administration does not believe that advertising is inherently evil," he said. "We do not believe that advertiser support of the commercial broadcasting system is polluting the minds of America."

"This administration believes in a strong and effective system of broadcasting for our country and in the effective but responsible government. We intend to work to keep it that way."

Mr. Whitehead spoke at the Colorado Broadcasters Association's legislative dinner in Denver, which was attended by members of the state's congressional delegation. He was elaborating on criticisms he had voiced of the FTC proposal at a congressional hearing two weeks ago (Broadcasting, Feb. 14).

The proposal, filed in the FCC's overall inquiry into the fairness doctrine, has been denounced by advertisers and their agencies, as well as by two major advertising associations—the American Association of Advertising Executives and the American Association of Advertising Agencies—"chilling" the agency's potential restraint on advertising—"it could encompass many advertising situations and in some cases, the court rulings on counteradvertisements could subject the companies to a form of advertising in a speech in Denver, which was attended by members of the state's congressional delegation, was elaborating on criticisms he had voiced of the FCC proposal as antiadvertising in intent. He charged that the FTC's fairness doctrine was polluting the competitive system of broad private-enterprise system is polluting the consumer affairs, has suggested that an outright "equal time" plan might be in order. The test witnesses from 36 national voluntary organizations urged that free broadcast time be allotted to all broadcasting and advertising fraternities alike. But the administration does not believe that advertising and broadcasting should be done a disservice by the two industries concerned, with the administration itself, represented by Clay T. Whitehead of the Office of Telecommunications Policy.

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FCC ASKS NBC TO GET MOVING ON FAIRNESS COMPLAINT

NBC has been requested to inform the FCC of the company's plans for balancing views contained in commercials for large-engine automobiles and leaded gasoline that are broadcast on NBC-owned WNBC-TV New York.

The order is one of the after-effects of the decision of the U.S. Court of Appeals which held that carriage of such commercials imposes a fairness-duty obligation on a broadcaster. The decision overturned a Commission order in a 1969 complaint against NBC.

There are a number of reasons why consumers ought to be concerned with the fairness obligation with respect to the POE's complaint. It says it will take four months to complete the study.

The commission last week said the one-year review, to which POE has agreed, is "reasonable." But it noted that the material giving rise to the complaint was being aired on NBC in mid-January. According to NBC, there is no reason why "consideration of the treatment now being given the issue" should have to wait until the completion of NBC's protracted study of the past.

CAUTION: TV MAY BE HAZARDOUS TO YOUR HEALTH
Remarks of Commissioner Nicholas Johnson, Federal Communications Commission, March 4, 1972

There are a number of reasons why consumer groups ought to be concerned with communications policy.

The Bell Telephone System takes from the consumer much as all the income taxes collected by all the 60 states combined. And yet most citizens are unaware of the heavy state income taxes, and state government's financing and expenditures, than they do those of the affluent middle class, goes to the heart of the problem of consumer manipulation. After necessities are met, do life philosophies based upon materialism and conspicuous consumption really contribute to human happiness? The obvious answer is no. But the reason our unnecessarily purchases have a number of advantages.

It's more economical. Or, stated otherwise, it gives you more bang for your buck. You spend on travel, cultural exposure, or other services and expanding experiences—or to put it another way, you get more for your money. It also affects your real estate values and interest rates. Often leasing or renting (whether an automobile, as sail boat or a summer cottage) can provide a comparable satisfaction at a much lower cost than owning.

It's less restraining. "Things" must be cared for: dusted, oiled, picked up and neatly arranged, taken in for repairs, stored, moved, painted, replaced when broken. To rent, or to lease, you give much more real freedom, and release from pressure an tension, than ownership of the thing you originally acquired to give you pleasure. For example, if you are good to know you're doing your bit to contribute to human compatibility with a whole society, of which you are a part, our common interest in saving the earth.

The United States, with 5 percent of the world's population, consumes 40 percent of the world's resources. In other words, you're about one-eighth that you're using now. "Consuming" less, you'll create less trash, and generate less pollution. You are the producer. You are the consumer, you are the manufacturer. You are the creator and you must produce products that are intelligent and economically as possible.

The best possible, of course, is to think of ourselves as a part of a movement for life, or for people, rather than for consumers. We've come to the point where you very quickly discover that the choice that may be the best serve your true interests is not to buy any product at all.

The sad fact, of course, is that all too many Americans are spared the burdens of judgment and project the blame on the scourge of poverty. We can disagree about the minimum levels of decency in housing, health, education, entertainment, and so forth and the income it takes to achieve them. Could you get by on $3,500 a year as a family of four in New York City? $4,000 in Los Angeles? $5,000 in Moscow? $1,000 a year on about one-tenth of the nation, or one-third, the fact is that many consumers cannot even afford to die of certain diseases. We have no way of estimating a year of "poverty" on the mass media. Now it's the China season. But the poor are still watching us, they're hooked on the materialistic life has passed you by. The concept of value is changing and the opportunity to squander a little income as foolishly as the rest of us, before they can be expected to understand that the threshold of opulence has a hollow, lonesome ring.

Fortunately, for those of you here, few of you are thinking about the sale of your automobile, it is fairly obvious that automobiles, beer, toothpaste, shampoo and various secdods cans its says are the path to personal happiness.

The question I pose to you, and others of the affluent middle class, goes to the heart of the problem of consumer manipulation. After necessities are met, do life philosophies based upon materialism and conspicuous consumption really contribute to human happiness? The obvious answer is no. But the reason our unnecessarily purchases have a number of advantages.

It's more economical. Or, stated otherwise, it gives you more bang for your buck. You spend on travel, cultural exposure, or other services and expanding experiences—or to put it another way, you get more for your money. It also affects your real estate values and interest rates. Often leasing or renting (whether an automobile, as sail boat or a summer cottage) can provide a comparable satisfaction at a much lower cost than owning.

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at all about your health. They care not at all about what you eat, what you drink, or the society we share. This realization makes the impact of television upon health both easier to understand and harder to remedy.

Doctor shows have, in recent years, virtually flooded our television screens. If we could find as many doctors in rural America as share what we have learned from those shows? We could find as many doctors in rural America as share.

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What have we learned from those shows? We could find as many doctors in rural America as share.

We have known that for quite a long time—since at least 1964 and the Surgeon General’s report—and had good reason to believe it. Yet television went right on selling cigarettes—and not just selling them, but equating them with other consumables and with life, health; the very elements smoking destroyed.

“Sure,” you say, “Look at all those wonderful anti-smoking public service announcements. Don’t people see that all cigarette commercials are no longer on the air.” How true, how true. But neither of those proclamations explains why we still have major struggles—the industry kicking and screaming all the way. It took John Sanshof and an anti-smoking group to get a significant number of countercurrents on the air, and the passage of sweeping legislation to get cigarette ads off. Even now, the industry has been given a stay of execution on the anti-smoking commercials on the theory that the absence of cigarette ads signals the end of its responsibility to inform the public, even though cigarettes and smoking had a 20 year monopoly on peoples’ minds through television. And in the courts, broadcasters are challenging the legislation prohibiting cigarette advertising on radio and television.

Finally, television delivers a less than enlightened approach to tension and anxiety. Recently, doctors have suggested that tension alone may be the single most important cause of heart attacks. When we are tense, our bodies and heads are trying to tell us something about our stress level. And television doesn’t treat heart disease or anxiety, it goes beyond that, beyond even the single most important cause of heart attacks. It goes beyond that, beyond even the single most important cause of heart attacks.

I hope that we can talk about it openly and let television be a benefit to the American people, since more people watched Dr. Kildare than any other show on television when it was killed; it was afraid of offending.

On another occasion, the producers wanted to do an episode entitled “Holiday Weekend,” based on a doctor’s statement that those were the worst times in hospitals because of the increase in automobile accidents. Again, the network killed it: what was after all, entertaining—or commercially encouraging—about auto crashes?

In one area of health, television has been most lax, not only failing to educate us, but affirmatively increasing the likelihood that we will become afflicted. That area is heart health.

Over 50 percent of the deaths of men over 40 are a result of heart attacks and other cardiovascular diseases, and that has doubled in percentage from 1900. The estimated incidence of coronary heart disease is 3.1 million Americans between 16 and 64 years of age, and the cost of heart disease with suspected heart disease. This constitutes 5 percent of the population. Last year alone, it was estimated that such diseases account for 25 percent of the average American woman’s income, or $20 billion. And, of course, there is no way to value the loss of human life. As a result of television, most scientists agree that there is a crisis in the field of preventive medicine. Over 50 percent of the deaths of men over 40 are a result of heart attacks and other cardiovascular diseases, and that has doubled in percentage from 1900. The estimated incidence of coronary heart disease is 3.1 million Americans between 16 and 64 years of age, and the cost of heart disease with suspected heart disease. This constitutes 5 percent of the population. Last year alone, it was estimated that such diseases account for 25 percent of the average American woman’s income, or $20 billion. And, of course, there is no way to value the loss of human life. As a result of television, most scientists agree that there is a crisis in the field of preventive medicine.

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I am reminded of the television producer who was told he had to remove the line, “Eat, darling, eat,” from a script, because it ran counter to the philosophy of consumption taught by the sponsors. How many of our television heroes can be seen walking or biking anyplace? How many cigarettes does Dean Martin smoke—and sell—weekly? How much cold and anxiety does television foster by doing its share to keep us in the rat race prompted by the middle class settings and conditions and encouraged by the superficially, although entertainingly, the network killed it; what, apparently doctors have suggested that television alone may be the single most important cause of heart attacks. When we are tense, our bodies and heads are trying to tell us something about our stress level. And television doesn’t treat heart disease or anxiety, it goes beyond that, beyond even the single most important cause of heart attacks.

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something because there is less than complete agreement about it. The obvious thing to do is a process should be to provide us with the information to help us make our own decisions about the public interest. This is what lies behind the disagreement. To the extent it fails to contribute to the debate or provide information, television has failed us. To the extent that it creates harmful and inaccurate information, tele-
vision is killing us.

Television's approach to heart problems and breast cancer is really typical of a broader problem. In every phase of modern social life—from problems of youth to problems of age, from sex discrimination to sex discrimination—television has abdicated its responsibility to contribute, in a meaningful way, to a broad, national debate. For a medium that is so powerful to abuse its power is sad. For a medium that is so statutorily required to operate in the public interest, television has failed us. To the extent that it fails to contribute to the debate or provide information, television has failed us. To the extent that it fails to contribute to the debate or provide information, television has failed us. To the extent that it fails to contribute to the debate or provide information, television has failed us. To the extent that it fails to contribute to the debate or provide information, television has failed us.

As much as I would wish it otherwise, it seems the administration is testing public reaction to the idea that the United States should sign a comprehen-
sive nuclear weapons test ban treaty, regardless of whether or not we have mastered the problem of verifica-
tion.

No longer is there the assertion that we are firmly committed to achieving a halt to all testing so long as the ban treaty can be adequately verified. Instead, the closest thing in the Atomic Energy Commission and in the Defense Department now suggest that a test ban treaty is "not necessarily desirable." Such a shift would mark a break not only with the policies of the past three Presidents but it also would reflect an ominous reversal in the policy of Presi-
dent Nixon.

AEC Chairman James Schlesinger's statement in an interview published Feb-
ruary 14, 1972, in the U.S. News & World Report, which I ask unanimous consent to print in the Record at the con-
clusion of my remarks, Secretary Laird indicated the Penta-
gon was not in favor of an under-
ground nuclear weapons test ban treaty at this time. He not only reiterated the timeworn refrain that verification tech-
niques were not yet adequate to justify abandoning the test ban treaty, but he also stated that he con-
cluded that the test ban treaty was in our interest, regar-
dless whether or not new nuclear frills could be discovered by further test-
ing. We had concluded that a test ban treaty was in the interest of the Nation with the only caveat being adequate veri-
fication. Now there is the question raised anew as to whether the test ban is de-
irable.

A similar shift appears even in the current statement of the U.S. represen-
tative to the Geneva Conference on the Committee on Disarmament less than 2 weeks ago. He said:

Further progress toward restraints on test-
ing, as tied to verification, is essential in avoiding and resolving the complex problem of veri-
fication.

That is far different from asserting that we will sign a comprehensive nu-
clear weapons test ban treaty if we are satisfied with the provisions for verifi-
cation. Taken alone, the statement of the
delegate to the disarmament conference would not be disturbing. But following upon the truly regressive comment of AEC Chairman Schlesinger, the commitment of this administration to our past treaty obligations appears to be waver ing.

In that regard, let me quote from the preamble to the limited test ban treaty to emphasize what must be our policy. The preamble reads that the signatories take to pursue negotiations in good faith on effective measures relating to cessation of nuclear weapons tests at the earliest possible date and, in any case, not later than 5 August 1973, and urging the nuclear powers to reach an agreement without delay on the elimination of all nuclear and thermonuclear tests.

And finally:

--The Governments of nuclear-weapon states to bring to a halt all nuclear weapons tests. The Nuclear Nonproliferation General Assembly has recommended this as the safest method of checking these wastes from atomic power plants now in operation.

Now the political will of the United States has been seriously called into question by the recent statements of Dr. Schlesinger. He came to the conference room of "U.S. News & World Report" for this interview on the nuclear future.

Q. Dr. Schlesinger, how do you assess public acceptance of the atom today as compared with 20 years ago when the atomic age was just getting under way?

A. I think that it is improving in some respects and that the public disenchantment with things in nuclear possibilities with little appreciation of the technical difficulties that would ultimately be encountered.

Now these difficulties are staring us in the face, and in the Kansas--and the impact on the environment would be much greater.

Q. Is the average citizen ready to accept that a number of nuclear technologies will be developed and that our way of life, the standard of living, would change our way of life. I don't think that this would be much of a test.

A. There have been a number of very small nuclear reactors in this country as "extraordinary." I personally would very much prefer to live in a world free of a threat of a nuclear accident. It is a dan gerous and tragic. The risk of an accident that would in any way threaten the safety of my family is exceedingely remote.

Q. Has the disposal of radioactive wastes from atomic power plants been solved?

A. There have been a number of very small leaks in some of the storage sites, but no catastrophic accident.

Q. Another concern frequently expressed is the possibility that radiation will escape from atomic power plants—

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230, which now has bipartisan support among its 12 cosponsors. Senate Resolution 230 calls on the President to announce on our testing as long as the Soviet Union abstains and recognizing the progress in the technology of verification urges him to undertake prompt new negotiations with the Soviet Union on this subject.

I ask unanimous consent to have Senate Resolution 230 reprinted at the conclusion of my remarks.

A similar resolution introduced by Senator Fisher of Alaska urges the President to propose the extension of the limited test ban treaty to include underground testing.

We have asked that hearings before the Foreign Relations Committee be conducted on these resolutions and hopefully a resolution on this subject will be reported out and adopted by the Senate before the President leaves for Moscow. There being no objection, the Hearsings adopted three resolutions only last December urging:

Q. Has there been a forthright declaration among the United Nations General Assembly spokesmen.

A. If we could have a forthright declaration asserting our commitment under past treaties and our continuing national policy of achieving a comprehensive test ban treaty. I would urge upon him the adoption of such a declaration with specific proposals for an underground test ban treaty.

Q. Does this revert center on material things?

A. It's really not limited to material things. There is a feeling that nothing is working: Government is bad. Industry is bad. The press is bad.

In the energy area, one hears slogans: "Let's stop building nuclear plants," and "Let's stop mining," and "Let's stop providing port facilities for tankers."

But that would lead quickly to something else. With the industrial sector, stop has gone the way of conditioning," and "Let's stop the dishwashers," and "Let's stop the dryers." I think that there are a number of people have missed that connection. But as far as members of the general public are concerned, they understand that cutting off sources of energy, which are the other this country's standard of living, would change our way of life.

Q. In the meantime, what is being done with radioactive wastes from atomic plants now in operation?

A. They are being stored underground in metal tanks. This is what other countries have developed nuclear reactors are doing with radioactive wastes, and they have been kept safely for many years.

Now the political will of the United States has been seriously called into question by the recent statements of Dr. Schlesinger. He came to the conference room of "U.S. News & World Report" for this interview on the nuclear future.

Q. Has there been any leakage from the waste tanks that are in the salt formations?

A. There have been a number of very small leaks in some of the storage sites, but no catastrophic accident.

Q. Another concern frequently expressed is the possibility that radiation will escape from atomic power plants—
A. That's an argument that I think is passe. The amount of ionizing radiation that you get the last time I calculated it is exceedingly small relative to the radiation you get from other sources.

Q. What is the Atomic Energy Commission supposed to do about the nuclear plants in the United States? There are now 905 nuclear reactors operating in the United States. Some of these are old, some of these are young, but almost all of them will eventually spend a fair amount of heat. A substantial body of water, such as Chesapeake Bay, will be heated up 4 or 5 degrees, and that could have some impact on the biological environment of the bay. The coastal plants, of course, will have a much more serious impact on their environment. It is extremely important that the AEC take very large steps to ensure that these reactors do not cause severe effects on fish and plankton and other aquatic life.

Q. Q. Are these new regulations delaying the construction of most plants?

A. The regulations themselves should not delay construction of most plants. I do not expect that there will be a very substantial proportion of existing fossil plants, or sometimes the ocean. When we look at the reactors that are being built today, we see that almost all of them are of the water-cooled design, which means that there is a lot of fresh water available to be used for cooling towers or other devices, the use of which would have severe effects on fish and plankton and other aquatic life.

Q. Q. What is thermal pollution? What would be the proposed remedies for it?

A. A nuclear generator, it is necessary to use cooling water which is taken from a river or sometimes the ocean. As the water flows through the plant it rises in temperature, and if put directly back into the body of water from which it was taken, it will increase the temperature of that water. This is called thermal pollution.

A. A substantial body of water, such as Chesapeake Bay, will be heated up 4 or 5 degrees, and that could have some impact on the biological environment of the bay. The coastal plants, of course, will have a much more serious impact on their environment. It is extremely important that the AEC take very large steps to ensure that these reactors do not cause severe effects on fish and plankton and other aquatic life.

Q. Why is there continuing complaints about the safety of atomic power plants?

A. One area of concern has been that the Commission requires every light-water reactor—which is the type now in general use—to have an emergency core-cooling system. Providing assurance that in the rare but unlikely event that the primary cooling system failed catastrophically, there would be enough cooling available to prevent meltdown of the core.

We have had more than a hundred light-water nuclear reactors 10 years. We have not had any major problems with them. Even so, there has been concerned expressed by environmental groups and others with respect to the adequacy of the emergency core-cooling system. But I fear that this may have diverted attention from other areas that I regard as more serious with respect to safety.

There are, for example, problems of quality assurance, codes and standards. We have had more than 20 sets of codes and standards. There is no immediate threat to the public that is serious.

Q. Q. What has held up development of the fast-breeder reactor until about 2000?

A. The problem of radon daughters could be solved. They are not the Atomic Energy Commission's concern. Some scientists were saying early in the 1960s that it would be available by the end of that decade.

Q. What is the difference between today's atomic generating plants and the fast-breeder reactor? A. It is a very different thing.

Q. When will fusion power—harnessing the H-Bomb process—come into use?

A. We believe that, in terms of technology, we will be able to react on frequent occasions, when we reach the ultimate goal, the U.S. will be first.

Q. How is the Atomic Energy Commission proceeding in the construction of a full-scale atomic breeder reactor that will produce electricity in the United States?

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MANKIND'S CHANCES IN ALL-OUT WAR

Q. Even with these more selective weapons, would an all-out war mean the end of life on the planet?
A. No, sir. Most of the world's population would be killed in untargeted areas. Even in the areas that are targeted, a very significant fraction would survive.

Q. How dangerous would radioactive fallout be in an all-out war?
A. That would require cleanup on the part of both targeted and untargeted countries. There would be a significant fallout on the ground and in the atmosphere for a period of time, and this would probably include a somewhat higher rate of cancer and leukemia and birth defects.

Q. Could the U.S. survive an all-out nuclear war if it developed a civil-defense program?
A. I think that the U.S. would survive, but not in the form that we know it today. The estimates are that something on the order of 90 or 110 million of our people would die in an all-out nuclear war, and it might go even higher than that. That is assuming the most frugally kind of civil-defense program.

Q. Does the U.S. have a plan for evacuation of major urban areas?
A. No.

Q. Should there be such a plan?
A. In my personal judgment, yes. You have been talking about the possibility of nuclear war, and we have to recognize full well the consequences to the U.S. and to the Soviet Union.

Q. What are the U.S. plans for the nuclear weapons when, according to some estimates, there are enough stockpiles to stockpile this country and the Soviet Union to destroy the world?
A. There is a premise in your question which I think is a very important premise. The objective of our weapon program is not to "destroy the world"; in large measure, it is to design weapons that will go after very discrete military targets and to avoid generalized destruction.

For example, antiaircraft weapons are designed to destroy an aircraft in flight. The antiballistic-missile system is a defensive weapon designed not to go after population centers but to intercept incoming nuclear warheads.

In addition, the United States Government pursuant to the Non-Proliferation Treaty in the development of nuclear-weapons technology in order to keep up with the changes in the potential opponent's force structure. At the present time, the Soviets are deploying missiles which must be assured that we can penetrate those defenses. We must be assured of the reliability of the over-all weapons systems. We must be assured that the weapons and the means of delivery will survive, and will be available at the place and time they may be needed.

For these reasons, we maintain a substantial stockpile of weapons—much larger than required to destroy cities. We have to compensate for the obvious tactical missile superiority, in a number of respects. The growth in the stockpile reflects the decision to develop MIRV—multiple, independent re-entry vehicles, which are, by and large, the trend has been to reduce the size and yield of weapons. We now have relatively modest numbers of warheads on board the Minuteman III and the Poseidon missiles, in contrast to the very-high-yield nuclear weapons on board of our B-52 bombers carried in the 1950s.

Q. Is this policy being followed by the Soviet Union?
A. We can only speculate on that at the present time. But you've read, I'm sure, reports about Soviet multiple re-entry vehicles. To the best of our knowledge, they are following in that direction, that would suggest that they are following a similar policy.
underground, and the Red Chinese have been exploding nuclear devices in the atmosphere. Do you see any end to this atomic arms race?

A. I think the major nuclear powers will continue to operate with a partial test-ban agreement—until such time as the benefits to themselves in terms of improved weapon technology no longer outweigh the costs that they are paying, financial and otherwise. At that point their interest testing will diminish.

Q. Do you have any idea when that might happen?

A. I would think that improvements in the future force postures of both sides, with particular reference to weaponry, are likely to go on into the ‘80s, in any event.

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Q. If, as you suggest, to test ban goes a proof test in a period of time in which nuclear technologies could be developed and made to pay, in the future, nuclear-powered merchant vessels, or other nuclear technologies may be in process of being deployed, to what extent do you think that our prevention achieving a comprehensive test ban, despite eighteen successive resolutions on the subject?

A. We usually use strontium 90 as our indicator of radioactivity in the atmosphere. When the partial test-ban treaty was signed in ‘68, something on the order of 20 million curies of strontium 90 had been released up to that point, of which 16 million curies were still in the atmosphere. Between ‘68 and ‘90 the number of curies in the atmosphere diminished from 16 million to 250,000. Since ‘88 it has stabilized.

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Q. What is the level that now exists pose any threat to human health?

A. We would prefer not to have it in the atmosphere. The real question is, given the changed nature of the opposed forces in this era of nuclear arms, whether it is desirable to cease testing nuclear weapons for all time has not so far produced the desired results.

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Q. Has the 1963 treaty between the U.S. and the Soviet Union continued to be in effect?

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humans and animals of the region where such tests are conducted,

Recognizing that there already exist sufficient nuclear, thermonuclear and other lethal weapons of mass destruction in the arsenals of the parties to the Treaty to make the world's population and possibly the earth uninhabitable,

1. Such tests are nuclear weapons to desist from carrying out further nuclear and thermonuclear tests, whether underground, under water or in the earth's atmosphere;

2. To consult with the United Nations will continue to raise its voice against nuclear and thermonuclear tests, and earnestly requests the nuclear Powers to not to deploy such weapons of mass destruction.

The General Assembly,

Recognizing the urgent need for the cessation of nuclear and thermonuclear weapons tests, including those carried out underground,

Recalling that this subject has been included in the agenda of the General Assembly ever since its first session,

Recalling in particular its resolutions 914 (X) of 16 December 1955, 782 (XVII) of 6 November 1962, 3024 (XX) of 3 December 1963, 2083 (XXI) of 19 December 1967, 26 (XXV) of December 1969 and 2663 (XXV) of 17 December 1970.

Expressing serious concern that the objectives of those resolutions have not been fulfilled,

Noting with regret that all States have not yet adhered to the Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and under Water, signed in Moscow on October 24, 1963, Add.1/Corr.1, and not especially to those States which have conducted nuclear weapons tests, or in any successor body, specific proposals for an underground test ban treaty;

3. Requests particularly Governments that have been conducting nuclear tests to take a leading role in actively helping in developing plans for a comprehensive nuclear test ban and in earnestly requests the nuclear Powers to not deploy such weapons of mass destruction.

NIXON TO REVIEW STANCE ON UNDERGROUND TESTS

(By George P. Wilson)

The Nixon administration, spurred by an initiative by Sen. Edward M. Kennedy (D-Mass.), is taking a new look at the idea of expanding the existing test ban to encompass underground blasts.

The Defense Department has put together an extensive package of proposals for a moratorium on testing, with Secretary R. Laird opposing a comprehensive ban.

"From our standpoint," Laird said in an interview yesterday, "the best scientific information is that we are not in the position to advocate such a program in the Department of Defense."

He said his opposition was based on the belief that detection of underground blasts is "impossible," adding that experience with detection over the past 10 years had established the need for on-site inspection to "clarify the nature of Soviet blasts." Laird also cited inaccuracy in detection "too small to identify positively," testing of the nuclear or non-nuclear nature of low-yield explosions; restoration international confidence in any case of earthquakes; and unconfirmed reports of underground blasts.

The Defense Department view collides with that of Kennedy and several other senators as well as with a statement made by Secretary of State Henry A. Kissinger yesterday that the Nixon administration has shifted the basis of its opposition from worries about Soviet cheating to a desire to continue U.S. testing of warheads.

Kennedy's strategy is to force Nixon to take a stand on a comprehensive test ban. He notes that Sen. George McGovern (D-S.D.), a declared presidential candidate, as well as Sen. Hubert H. Humphrey (D-Minn.) have advocated moving toward a comprehensive test ban.

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His resolution also calls for an "immedi- ate moratorium on all U.S. testing to remain in effect so long as the Soviet Union also abstains from testing."

Besides Kennedy and McGovern, Demo- cratic presidential candidates Edmund S. Muskie (ME), and Robert F. Kennedy (D-Minn.) have advocated moving toward a comprehensive test ban.

Muskie has said the preamble to the limited test ban treaty of 1963 and the non-proliferation treaty commits the United States not to test on all test explosions of nuclear weapons.

President Nixon on March 18, 1969, said the United States supports the conclusion of a comprehensive test ban treaty, "so to adhere without further delay to the Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and under Water, signed in Moscow on October 24, 1963, Add.1/Corr.1, and not especially to those States which have conducted nuclear weapons tests, or in any successor body, specific proposals for an underground test ban treaty;"

The Secretary-General of the United Nations, Mr. Kurt Waldheim, reported in the 1969 and 1970 sessions of the General Assembly, that his resolution and said that "the United States supports the conclusion of a comprehensive test ban treaty, "so to adhere without further delay to the Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and under Water, signed in Moscow on October 24, 1963, Add.1/Corr.1, and not especially to those States which have conducted nuclear weapons tests, or in any successor body, specific proposals for an underground test ban treaty;"


COMMUNIQUE OF THE MEETING

The Conference of the Committee on Dis- armament and the Eight plenary meeting in the Palais des Nations, Geneva, under the Chairmanship of Mr. Mohamed At Arbi, Representative of Morocco.

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ological and other limitations of underground nuclear tests, in order to facilitate the monitor- ing of a comprehensive test ban;"

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the opportunity to reaffirm my strong conviction of the fundamental importance of disarmament as a condition of world peace and stability and to underscore the need for positive developments in the field of disarmament.

It is to be regretted that the recent conference on disarmament, which was held in Geneva, did not make the progress that was expected. The purpose of the conference was to discuss a comprehensive nuclear test-ban treaty. However, the conference was unable to reach an agreement on this issue.

In my view, an indispensable step to halt the arms race and achieve a comprehensive test-ban treaty is to strengthen the foundations of a more rational and peaceful world. There is also a need for the establishment of detente and strengthening of detente in Europe. There is hope that this will accelerate the process towards a European security and force reductions. Indeed, the need for progress towards regional arms control and disarmament is urgent in Europe, which is still burdened with a most deadly concentration of modern weapons.

The disarmament scene also shows a number of encouraging signs. Despite the failure of the nuclear powers to stop nuclear tests, there have been some positive developments in the field of disarmament. The Conference of the Committee on Disarmament has made progress in its work on a comprehensive nuclear test-ban treaty. In addition, there have been some positive developments in the field of chemical and biological weapons.

Despite these important achievements, this is not the time to relax the pressure on the world community to make further progress in disarmament. The threat of nuclear arms remains a serious and urgent problem. It is essential that we continue to work towards a comprehensive nuclear test-ban treaty, and that we strengthen the foundations of a more rational and peaceful world.

In conclusion, I urge all nations to join together in the Search for Peace and the Elimination of Arms. Let us work together to achieve a world free from the threat of nuclear weapons.
The report underlined that the growing arms race not only puts human survival in jeopardy, but also makes it a matter of survival for many nations. While the report noted that progress in disarmament was being made, it also highlighted that the process was slow and that more could be done.

The Chairman of the Committee, Mr. Rogers, underscored the importance of the role of the President in advancing the cause of disarmament. He also emphasized the need for increased international cooperation and the importance of the United Nations in this regard.

The Resolution was agreed to by a show of hands, and a copy of the Resolution was ordered to be printed for the Information of the Members.
In President Nixon's attempt to create a new climate for civil rights, a second post-Reconstructionist era in which the pains of the past decades will be erased aside through the political eb and flow of the past three years, one would have to say Yes. The Administration has mounted its efforts to deal with existing statutes. "Watch what we do, not what we say" has been the official position, and in some instances the admonition has proven not without merit. Yet on the whole, little has been said and less done.

The Declaration of Independence held it to be a self-evident truth that all men are created equal. Richard Nixon is not our first national leader completely free of idealism or ideologically considerate. Some historians argue that Thomas Jefferson, for example, wanted the Declaration to censure George III for his "abdication of the sacred rights of life and liberty of a distant people, who never offended him, captivating and carrying them to slavery in another hemisphere." As Jefferson succinctly pointed out, however, this provision was not inserted because he might have feared that places "where people had very few slaves themselves, yet . . . had been pretty considerable carriers of them to others." Throughout the history of our quest for civil rights, progress has been blocked by the tacit agreement that only he who is without sin may cast a stone. During the Eisenhower era, when federal Reconstruction was imposed on the South; but in a decade it gave way to a general amnesty for civil rights, progress has been blocked by the tacit agreement that only he who is without sin may cast a stone. In 1961, President John F. Kennedy, the mainstream of the nation, had a "white problem" where he stood, President Kennedy left no doubt. Responding to the racial violence in Birmingham, Alabama, he said: "Let it be clear, in our own hearts and minds, that it is not merely a question of legal equality and political equality. It is a demand for economic justice-that this nation, with all its resources and-contrived opportunities, will treat its citizens fairly."

At the same time, America was increasingly realizing that it had a "white problem" too. Once the Bush Administration had mounted on Congress to enact needed changes. After 1968, a great part of the legislative leadership in the area of civil rights and social welfare came from a generally unnoticed source—the Democratic Study Group. Formed out of Minnesota Representative Eugene "McCarthy's Mavericks," this ad hoc body developed a broad social and economic platform, much of which became the law of the land—President Kennedy, Johnson, and Nixon. And over in the Senate a strong corps of Republicans and Democrats was working around key issues, leading in 1957 and 1960 to key parts of the modern civil rights bills. Their limitations notwithstanding, these measures helped create the self-image of the 60's. With John Kennedy's leadership on civil rights, America could no longer turn back. The old game of "kicking the issue into the next legislature" had permitted the legislative initiatives at first and sometimes was also compelled to straddle in order to ease its way through Congress. But when the crunch came and the nation had to know just where he stood, President Kennedy left no doubt. Responding to the racial violence in Birmingham, President Kennedy said: "It's clear, in our own hearts and minds, that it is not merely a question of legal equality and political equality. It is a demand for economic justice." That this nation, with all its resources and contrived opportunities, will treat its citizens fairly."

President Kennedy's death triggered the flood of civil rights and social legislation that the President sought during his term in office. But even his new economic course pays off. Washington, D.C., looked to the right, but he did not mean for his remarks to be so harsh. Unfortunately, these efforts seem to be headed nowhere. In his Aug. 1963 speech, the President subsequently produced his 8,000-word legal brief on school segregation, promising no busing, and his June 1961 message on equal housing. What has been truly revolutionary was the broadening of the Executive's social program to embrace other new civil rights. The new Civil Rights Act of 1964 and the 1968 Act. It has been truly revolutionary, because it has the power to link expansion of programs was extended to a massive mismanagement of the economy, the cause of economic and social justice suffered a sizable setback. Lyndon Johnson used to remind us that we have only one President at a time and that one President is only responsible in a short term context for civil rights. Richard Nixon, for all his failures, did try to achieve progress in economic and social justice. But in today's South economic and social programs— which cannot be answered by his words, the President's economic programs, the harsh reality became clear. The President's bungling of the economy for three years forced him to ask Congress "to amend my proposal to postpone the implementation of revenue sharing for three months and welfare reform for one year."

President Nixon's Southern strategy might have succeeded in the South of 10 years ago, when only 1.5 million black citizens were registered to vote. Now the number has reached 3.8 million, and the white community is turning its back on the past. In this new South, the Republican Governor of Virginia—as the key to the Southern "recruitment"—"respectfully" disagrees with the President and urges Virginians not to resist court-ordered busing! Indeed, the new South is increasingly facing the same problems as the rest of the country.

Should his new economic course pay off, Nixon will be still seeking the converts and more jobs, goals that eluded him during his first three years in office. Even if he does not achieve the goal of 10 million new jobs, he may well have made a little improvement of life for the poor—black, Spanish-speaking, Indian, or white.

What, then, must the Democrats do to get America back on the road to equal opportunity? One obvious social action program that can be implemented if our candidate gains the Presidency. 
March 20, 1972

CONGRESSIONAL RECORD—SENATE

First, we must pledge to enforce the legislation already on the books. As the U.S. Civil Rights Commission has conclusively demonstrated, there has been a massive breakdown in Federal execution of existing legislation that is continuing to get worse. Similarly, we must promise that affirmative compliance with existing civil rights laws by Federal, State, and local governments will be a routine condition for receiving all Federal financial assistance, including funds returned to the Federal Treasury.

Second, Democrats ought to promote the cause of equal opportunity by expanding Federal monetary and technical assistance to municipal entities, as an affirmative legisla­tive and, as well, to community self-help programs. Federal projects like “Model Cities,” Three Rivers, and Nixon Administration, must be strengthened. In addition, renewal and development plans for our metropolitan centers must be made to include lower- and moderate-income housing with good public facilities and services. Since housing opportunities and public transportation in suburban locations are lim­i­ted, jobs in these areas are effectively de­nied to underemployed and unemployed res­idents of the inner city. Principal HUD of­ficials have stressed that the larger of the two ports, Bahawalpur, would require a facility for ships of the line — a large than a destroyer and would require so in desperation, the Bangladesh Government has appealed for relief assistance have not been answered in any meaningful way by the United States or other nations. The Congress has appropriated $200 million for Bangladesh relief needs, yet we read dispatches from the field that tell us that relief programs of the United Nations have been canceled and stymied because of the lack of American contribution. And so in desperation, the Bangladesh Govern­ment is turning instead to the Soviet Union. They should be aware that the fact that the Russians are proving themselves to be more responsive and efficient in humanitarian assistance than the United States is an embarrassment to us.

It becomes clearer every day that America’s failure to recognize Bangladesh is standing in the way of America’s ability to respond to the human needs of the Bengali people. The Congress recognized these needs many years ago, and it has provided funds that this administra­tion must use now.

Mr. President, I ask unanimous con­­sent to have printed in the Record rec­­ords of the Bengali people. The Congress recognized these needs many years ago, but one would never guess this to be true from the President’s pronouncements today.

Mr. KENNEDY. Mr. President, after the President’s statement, I have a question that I would like to ask him. After waiting for more than two months for the West, acting through the United Nations, to clear vessels from the ports of Chittagong, the Congres­sional Record. Prime Minister Sheikh Mujibur Rahman gave the Russians permission to do the work. Thirty hours later, United Nations head­quarters in New York came through with the story that the shipments had been cleared by the U.N. and that three international relief agencies had offered to clear the ports. Mujib did not give an answer immediately. He returned to New York on March 6, in­quiring immediately whether the ports would be cleared by the U.N. But approval had come. He waited until March 9 before accepting the Soviet offer to do the salvage job.

[From the Baltimore Sun, Mar. 17, 1972]

FOOD CRISIS GROWS IN BANGLADESH

DACCA, BANGLADESH—The head of the United Nations relief program in Bangladesh said yesterday that the country is “heading for disaster” because of a food shortage and lack of response to a U.N. money appeal. He forecast food riots “at any moment.”

“No approval had come. He waited until March 9 before accepting the Soviet offer to do the salvage job.

DACCA.—The Soviet navy has taken a major step toward influence in the waters surrounding the Indian sub­continent, taking advantage of the inability of Western navies to meet the crisis in Bangladesh and America’s response to it.

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

[CLOSED SESSION]

CANCELLATION OF U.S. AID TO BANGLADESH

Mr. KENNEDY. Mr. President, after telling Congress and the American people that “all of us can be proud of the administration’s record” in committing $186 million in aid to the Bengali people, the President, in a speech delivered recently, greatly over stated the success of our efforts. It is now evident that $97 million of those commit­ments were canceled. These statistics confirm earlier findings of the Judiciary Subcommittee on Refugees.

President Nixon has made a sorry record in responding to human needs in Bangladesh. They have over­sold and overpromised their relief programs. A look at the record reveals a clear con­trast between rhetoric and performance.

Whether or not the Soviet Union gains a base, diplomatic sources of all persuasions say that overselling of a Soviet salvage operation is a significant step which will do little to further its political influence in Bangladesh.

The granting of the salvage job to the Soviet Union was a natural outgrowth of the delays characterizing Western relief opera­tions in Bangladesh, most of which are charac­terized through the United Nations Nations Relief Operations Dacca (UNROD).

In early January, UNROD informed head­quarters in New York that clearing the ports of vessels sunk during the December war was an item of the highest priority. Even in the best of times Bangladesh imports more than a million tons of rice and wheat, and with the ports blocked to normal shipping, a food shortage in the hinterland was bound to develop. A Singapore firm was asked to provide a cost estimate for the work and the figures came in high, which UNROD asked New York to supply.

Each day the food shortage upcountry be­came more severe. Prime Minister Mujib met in New York for an official visit, during which the Soviets offered to clear the ports. Mujib did not give an answer immediately.

[ Tiến nhà báo cơ sở]

Bottlenecks in Bangladesh ports receiving rice and wheat shipments from abroad are so great that the ships have virtually doubled in price. The distribution delay stems from congestion in port warehouses, according to U.N. officials.

United Nations officials report that 229,000 tons of food grain and other supplies are backed up in the ports, unable to move in­land because of disrupted communications and power failures. The United Nations would like to see the United Nations Relief be cleared by the U.N. and that three international relief agencies had offered to clear the ports. Mujib did not give an answer immediately.

Mr. Hagen has met: Prime Minister Mujibur

Prime Minister Sheikh Mujibur Rahman returned to Dacca on March 6, in­quiring immediately whether the ports would be cleared by the U.N. But approval had come. He waited until March 9 before accepting the Soviet offer to do the salvage job.

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Rahman twice this week to discuss the faltering program. A week ago, Mr. Hagen said the U.N. program had two-dozen voluntary relief organizations operating under its umbrella would pull out unless the government started using its capacity. More grain, he says, he has noted some improvement. But the prime minister's coordinator of food and relief, Ranjan Choudhury, criticized the relief agencies and charged that they were taking up too much time making surveys. The sources say the government has rejected a U.N. plan to spend $8 million clearing sunken ships from the harbor started in Chittagong and Chalna, and apparently agreed instead to accept a Soviet salvage proposal outside U.N. auspices. The ships were sunk instead to accept a Soviet salvage proposal. They expect readers either to page rapidly the articles on Bangla Desh or to have such a high threshold of resistance that very little will ever come of their reading.

Those who try to stay off the effects of that current version of "selective indignation," which overlooks Bangla Desh regularly ask: Why does one crisis reach a nation while others do not? The answer is not to be found in statistics. More Americans were roused to passionate support of one Lieutenant William Calley, declared by military courts to be a My-Lai murderer, to indignation over the hundreds of deaths at My-Lai—a fact demonstrable to any one who observed the reactions to Calley's acquittal announced. Nixon had obviously been reading the public opinion polls. That larger numbers of people are involved in a larger number of crises than in the past is no different. Similarly, distance is not the critical factor; Bangla Desh is not much farther away than Vietnam, but it was eventually brought into the scope of American concern.

"The world community does not seem to care," understanding why at least one part of that community, the United States, does not seem to care may not resolve the crisis, but it may provide the background for a larger reportage of events in Eastern Europe, for instance. The New York Times editorial, the events in East Pakistan are "crimes against humanity unparalleled since Hitler's time." It is hard to measure the accuracy of such a statement, but the editorial goes on to cite numerous new-waves tragedies, some of which at least were made possible by the new world order. Does the nation which this was put to, who the parties, who the personalities? What was the loss of life, who was the reason given, what was meant? Public recognition is close to zero.

A second cited "crime against humanity" was Stalin's postwar crimes. "Selective indignation," in his view, characterized the reaction to Soviet leadership. Now a New York Times editorial, the events in East Pakistan are "crimes against humanity unparalleled since Hitler's time." It is hard to measure the accuracy of such a statement, but the editorial goes on to cite numerous new-waves tragedies, some of which at least were made possible by the new world order. Does the nation which this was put to, who the parties, who the personalities? What was the loss of life, who was the reason given, what was meant? Public recognition is close to zero.

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The Red Scare provoked the nation to hostility following the Russian Revolution, with the American public mind having been shaped by nearly a century's promotion of the idea of Manifest Destiny and reenactment. The Spaniard stood in the way of an expanding Protestant empire, in the way of America's fulfillment of its divine mandate to world service. While the military details may have been meagerly presented, the nation's "spontaneously chosen goals" were being frustrated. The slogan enjoining remembering was "zones of relevance." The political theory argues that Roosevelt, a master politician, then, may differ so long as the new intransic relevances thus imposed into intransic relevances and events which are not connected with interests chosen by us, which do not consider the imposed "cold war enemy expansiveness," "fight them there or on the shores of California") tried to bring Vietnam from imposed to intrinsic relevance. Nothing like that has happened in the cold war, but the situation is now being brought to our attention, but, as editors and media managers know, the issues are "outside" the "cold war enemy expansiveness." The Schutzian framework can be tested on numerous events in American life and reveals that it is easier for us to see the harm of a thing because we have put up with this system as established. Thus, Americans have come to regard the racial crisis as established and thus have new responses within an intrinsically the middle of the eighteenth century began falling dominoes; eventually did come to be seen-by perhaps a slight majority of Americans-as an event which in this case fell so that the new incidents fit into the existing goal pattern. The three things which in the Mexican War of 1847 and the firing on Fort Sumter in 1861 are hardly comparable, yet both fit the intrinsic relevance scheme. In each war, leaders on both sides faced intranational opponents, foot-draggers and reluctant participants, but they were able to prosecute the war, believing that they had fulfilled certain expectations. Similarly, American Presidents know they can gain little for their foreign policy work if they can rouse the nation to "selective indignation" about economic patterns (e.g., inflation) which remind the people of the Great Depression. Colonial history teaches us that a bundle of memories and received traditions; they fear another depression and will find immoral and undemocratic plans perhaps related to avoiding such a development. In all of this, some analogy to the individual human organism is appropriate. A knife at my throat, for example, or an open prison gate will, to say the least, be perceived as immediate and relevant by me or by a spectator. One might compare a relatively trivial entity in our national history, the "Red Scare" following the Russian Revolution, with the "Red Scare" following the Sino-Soviet Revolution. The Red Scare provoked the nation to hostility toward communism, even though, as it happened, the United States were active agents of Soviet communism. Yet, after World War I, the nation was so uncertain of its power and purpose that it could not tolerate internal dissent. Some things were inevitably the same in the following World War II. Through that bitter time, many thoughtful citizens knew that "intransic relevances" were too small, but enough of their contemporaries believed that national survival was at stake, and McCarthyism became a matter of intense concern.

In the American Revolution, many of the slogans warned of a threat to survival, but came with an overblown flair for promise and opportunity. By any objective standard, the colonists were not oppressed or threatened in the eyes of the world, but there had been just enough taxation, non-representation and delay in the enlargement of liberties to permit leaders to rally the troops against England. The conflict had more to do with seizing the possibility of full self-government than with resisting tyranny. "Selective indignation" against relatively trivial events (the Boston Massacre) or selective support of ambiguous acts (the Boston Tea Party) came easily because they were positive reinforcements of "spontaneously chosen goals." Whether chosen goals were in the interest of resisting tyranny, reabsorbing or reenacting, or espousing they are popularly recognized as critical.

A number of other factors should at least be considered in an analysis of "situation of relevance" explanation. For example, it seems that scale and scope have something to do with response to crisis. "The death of one, a tragedy, the death of million people is a statistic" (Stalin). Americans cannot hear enough about the suffering of one ordinary person who has suffered, or one imprisoned bishop anywhere in "the Communist World." They may even be able to turn a blind eye to the deaths of millions. What is the psychological effect of turning a blind eye to the suffering of millions of the world, and even of turning a blind eye to the suffering of millions of our own countrymen? People make a distinction between their goals and the nation's "spontaneously chosen goals," which in this case included the interpretation of significant events. If one ignores them, then, may differ so long as the new incidents fit into the existing goal pattern. Scholars have written about the time when leadership of a community was on the verge of intervening in war and whether the future could be filled. Not so with a situation such as in the McCarthy era, where neither Desh, where neither the situation nor the past seemed to fit into the existing goal pattern.

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The DISTINCTION BETWEEN MODERN WARFARE AND GENOCIDE

Mr. PROXMIRE, Mr. President, in testifying before your Subcommittee on the Genocide Convention, Bruno V. Bitker, a Milwaukee lawyer and expert on the convention, clarified the treaty’s distinction between the modern phenomenon of genocide and the Arab-Israeli situation.

"Protestant Crusade"

The Arab-Israeli situation is seen as the Arab-Israeli situation itself, and it is only on this basis that the American public is convinced, but few slogans, songs, heroes or legends emerged to support this war. The government itself, and it is only on this basis that the American public is convinced, but few slogans, songs, heroes or legends emerged to support this war. The government is on the side of the West Pakistan, and there is little reason or provocation of misery.

"black"

Not until a further move is made, not until some Communist power makes gestures of apparent threat, will most Americans even know which side to choose.

"anarchist"

Throughout the nineteenth century, religious institutions are using their residual power to aid the Asian people. Pope John XXIII took unnamed, illiterate people and converted them to new religion. The difficulty task of the leaders of such groups is to keep the people from falling into no pattern.

"all good guys"

Under such national leadership it is difficult to picture the nation coming alive to the problems of India. Justice Kennedy brothers brought hitherto-buried issues to public life. A Martin Luther King speech in the intimate circles of home, school, church and conversation groups, a symbolic national leadership is necessary to shape even these exchanges. Without such national leadership it is difficult to picture the nation coming alive to the problems of India.

"Protestant Crusade"

In the hearings that were held last year before the Rural Development Committee of the Senate, many witnesses appeared before us on this measure. With the exception of the administration witnesses, no one favored the administration’s special rural community development revenue sharing proposal. S. 1612.

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"black"
grams and activities by turning them over to the States to do with as they wish. Included in these programs are the Cooperative Extension Service, the Rural Environmental Assistance program, the Economic Development Administration, the Appalachian Regional Commission, and others.

I believe it is fair to say that most members of the Committee on Agriculture and Forestry including myself are opposed to this legislation.

The House Committee on Agriculture recently rejected both this proposal and the administration's latest proposal relating to credit sharing involving the turning over of Farmers Home Administration loan funds to the States.

Mr. President, I am not only confident that the Senate Committee on Agriculture and Forestry will join the House Committee in voting against these proposals, but will report a rural development bill which will strengthen the rural development program efforts that the Administration now wants to weaken or eliminate.

As an example of the many communications I continue to receive in opposition to these proposals of the administration, I should like to submit the enclosed Resolution to the Senate, assuring them of the need for such legislation. I appreciate the assistance of the Senate, assuring them of the need for such legislation.

FLORIDA COUNCIL OF FARMER COOPERATIVES, JACK NELSON, President.

Mr. KENNEDY: Mr. President, I wish to express my concern about the implications of the arrival of Rhodesian chrome ore in an American port. For the first time since 1965, the United States will receive chrome ore from Rhodesia. This country banned trade with Rhodesia in 1965 when the United Nations Security Council imposed mandatory sanctions on trade with the Rhodesian Government. Last September, the Senate voted to violate our United Nations obligation by accepting an amendment offered by the senior Senator from Virginia, permitting the United States to ignore its United Nations agreement to the trade with the minority-rulled regime of Rhodesia.

South Africa and Portugal never indulged in the pretense of observing sanctions. Their interests, in one way or another, have been acknowledged and dealt with both by each other in national policies on race. Both of these governments maintain racist policies that impose the strictures of minority rule on masses of African citizens.

But the United States, on the one hand, has managed to support a public posture that claims abhorrence of the repressive and inhuman doctrines of minority rule, while on the other hand, support countries that officially maintain racist policies:

The Congress last year approved continuation of the bonus paid to South Africa's sugar growers. Thus, the United States joins Portugal and South Africa as the only nations officially breaking the Security Council ban on trade with the minority-rulled regime of Rhodesia.

Mr. President, I am concerned about the arrival of the shipment of Rhodesian chrome ore. Presumably, because of the United States access to a vital defense material. But what could be the possible strategic requirement for goose down—one of the newly acceptable Rhodesian chrome ore shipments. This country will probably process the incoming shipment into stainless steel for kitchen utensils and other consumer goods?

Many people have insisted that the sanction against Rhodesia has failed. They say that we have seen no United States trade with Rhodesia, while the United Nations sanctions have been, so far, a failure. I do not believe this to be true. I do not believe that the United States has any business in Rhodesia.

The Pearce commission went to Rhodesia with a view toward extracting expressions of compliance from black Rhodesians. One of the real reasons for Rhodesian chrome ore shipments is that proposal so blatantly violates the standards of human justice. The Pearce commission was met with violent disapproval of the ANC and the SNCC. The ANC and the SNCC have a right to be heard.

Rhodesian Africans face the degradation of living in a society controlled by a white minority, which is absolutely alien to them. The arrival of the shipment of Rhodesian chrome ore serves to symbolize this country's lack of concern for these policies.

The critical issue at this point simply
stated is that the United States has violated a United Nations sanction that we voted to accept more than 20 years ago. Moreover, our actions tend to indicate that the world’s industrial powers are still more interested in profits than in the right of African peoples to rule themselves.

When the United States broke the sanctions resolution we also undermined the potential for a successful solution to Britain’s problems with Rhodesia. Indeed, the Rhodesian government declared last October that the moves on Rhodesian matters in the U.S. Congress are “symptomatic—they show increasing sympathy for us.”

This move of the United States against the interests of black Africans not only erodes our credibility with other African nations but jeopardizes the validity of our 1 new millimeter commitments in other spheres of the world.

Bishop Abel Muzorewa, head of the Methodist Church in Rhodesia, told the Security Council that the United States should pressure before the World Court for violating the terms of the United Nations resolution.

I strenuously denounce the action that has allowed the United States to begin trad- ing the Potomac River for a few bushels of barley. I believe that our Government must make a thorough review of the plans permitting the Santos Vega to dock at a Louisi­ ana port. Moreover, I will support legislative ef­ forts to prohibit further shipments of goods from Rhodesia, until after that regime has clearly demonstrated its intentions to halt its inhuman policies.

CHILD HEALTH

Mr. MONDALE. Mr. President, the American Academy of Pediatrics states that the academy has signed a new contract with the Department of Health, Education, and Welfare which would greatly expand and coordinate the Head Start medical consultation services.

The contract, which extends the program through July 1973, contains two new provisions which I think are of major importance. The first one provides for both regional and Head Start medical consultation services. The contract will further enable consultants to obtain and use medical assistance funds; training in planning and budgeting guides, and train pro­ gram staff in self-evaluation techniques. The program budgeting and planning of training and consultation programs will be improved.

The Head Start contract features two new provision that were not included in the original program.

REGIONAL HEALTH SPECIALISTS

One provision will enable the Academy to hire and train twelve regional health special­ ists to development and coordinate health services training and technical assistance systems to serve the needs of local program personnel.

The regional health specialists will partic­ ipate in general policy making and program development with the regional Head Start consultants and the regional Office of Child Development.

They will assist local program personnel in obtaining and using medical assistance funds; technical assistance in planning and budgeting guides; and train pro­ gram staff in self-evaluation techniques, program budgeting and planning of training and consultation programs to improve the program’s operation.

SELF-EVALUATION

The other new provision calls for individ­ ual self-evaluation of Head Start programs at the community level. Through this mecha­ nism, the consultant will have more effectively. Thus the consultant will have the ability child health care.

These two new provisions in the Head Start contract will enable consultants to pinpoint and resolve administrative and other problems more quickly and effi­ ciently. In the community, it will have ad­ ditional time to provide extended medical services to Head Start children through a more economic and efficient overall program.

CONSULTANTS’ DUTIES

Under the provisions of the renewed con­ tract, the Head Start medical consultant will be able to more effectively: assist in the de­ velopment of applications submitted by the community; meet with local program com­ mittees to map out Head Start programs; maintain contact with program medical di­ rectors; follow-up and evaluate programs; and maintain liaison with other regional and na­ tional offices.

Consultants will work with the Office of Child Development representatives responsible for funding and evaluating Head Start health programs, helping them interpret the needs of the children and the resources of the community, and the success of Head Start programs. The consultant will supplement rather than replace the medical and admin­ istrative skills available in each community.

FURTHER INFORMATION AVAILABLE

Anyone wishing further information about the Head Start medical consultation service should contact: Mr. Edmund N. Epstein, ad­ ministrative director, Head Start Medical Consultation Service, American Academy of Pediatrics, P.O. Box 1034, Evanston, Ill. 60204.
March 20, 1972

CONGRESSIONAL RECORD—SENATE

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

BAYSIDE, N.Y.,
February 3, 1872.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR Senator KENNEDY: Last night on ABC-TV I saw a program about Willowbrook and Letchworth institutions for Retarded Children.

It led me to write "Willowbrook." I am enclosing a copy. I hope very much you will please kindly read it.

Senator Kennedy, could you Please do Something to help?

Sincerely,

MISSES CONSTANCE BESDON.

WILLOWBROOK
(By Constance Besdson)

I saw him there. The Child. Retarded. Huddled he was. And naked. On the bare floor he was. Hiding his face. From the World did he hide it.

O we must reach the Moon.
And the Stars.
I saw him there. The Child Retarded.
O where were the Arms to embrace him?
And kind words in his ear?
I see him there on the bare floor. Huddled, Neglected. Alone.
I hear him weeping.

The Moaning.
They say the smell is terrible.
And we must journey to the Moon. The cold barren land. At Willowbrook, New York. There is a child. Huddled. Hiding his face from the World. O where are the Arms to Embrace him? I hear the Wailing.

WILLIAM H. LAWRENCE—IN MEMORIAM

Mr. DOMINICK. Mr. President, all of us who knew him were saddened to learn of the death of William H. Lawrence on March 2. There is little one can add to what has been written and spoken about Bill Lawrence since his passing, but I want to express my sincere admiration for his intense dedication to a truly outstanding career in journalism which covered four decades. His endless pursuit of facts and close association with newspapermen in this country and abroad earned him a reputation as a most authoritative observer of the political scene. With his passing, we have lost an excellent reporter and a superb human being.

I extend my condolences to the members of the Lawrence family.

EVALUATION OF ORGANIZATION OF EXECUTIVE BRANCH

Mr. PEARSON. Mr. President, on the eighth of March, I introduced S. 3312, a bill to establish a commission to study and evaluate the organization of the executive branch of the Federal Government. I speak today to urge prompt consideration of that measure by the Government Operations Committee.

As I stated while introducing the bill, one of the most legitimate and serious criticisms of Americans is that their Government does not respond promptly and adequately to their needs. In the conduct of their personal business with Government agencies, individual Americans are often confronted with the multiplicity of accomplishing such simple objectives as obtaining social security benefits, applying for veteran's educational or disability payments. Small cities or small districts are inundated with letters if they should be so audacious as to request Federal assistance for a local program. The Federal agencies themselves often become hopelessly snarled in their own red tape if one of their number should be so bold as to have an original, imaginative idea.

Seventeen years have passed since the second Hoover Commission completed its comprehensive examination of our Federal Government. In those 17 years, the personnel and agencies of the Government have expanded dramatically and, unfortunately, uniformly. Each of us knows that there is too much red tape, mismanagement of money and human resources in our great bureaucracies. We know that too often they fail to carry out the programs under their jurisdiction. Unfortunately, we do not now have the information on hand to develop comprehensive proposals to reorganize the Government.

It has become regrettable apparent that the President's reorganization proposals will languish in committee due to partisan and substantive objections. We must search for other alternatives to accomplish this task. The proposals contained in S. 3312 provide that alternative.

The success of the Hoover Commissions is well known. Seventy-two percent of the recommendations of the first Hoover Commission were accepted as were 64 percent of the second. This is a time-tested method for undertaking a comprehensive evaluation of the Federal Government. It has been used in the past and it will work once again.

The need for Government reorganization is urgent. The Congress knows it. The American people know it best of all. The time to undertake the reorganization is now.

ADDRESS BY VERNON E. JORDAN, JR.

Mr. KENNEDY. Mr. President, I am pleased to bring to the attention of the Senate an excellent appraisal of the current plight of our Nation's urban residential communities and the need to reform our national approach to these problems.

Since he became executive director of the National Urban League, Mr. Vernon Jordan has consistently acted to reform the Nation's most pressing human problems.

The principal thrust of Mr. Jordan's message addresses the problems of housing, welfare, jobs, and the many other urban ills in our contemporary society. He presents a clear and exacting descrip-
tion of the need to revise most of the policies that directly affect America's poor. And he sadly laments the failures in current executive leadership that have denied the benefits of inadequate directives to the deprived public.

Mr. President, I ask unanimous consent to have printed in the Record the address by Vernon Jordan, executive director of the United Negro College Fund, delivered to the United Negro Colleges Annual Conference on March 2, 1972.

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

ADDRESS BY VERNON E. JORDAN, Jr.

The struggle to revitalize urban neighborhoods has been accompanied, as must any changes of substance, by all the grass-roots creativity, along with bureaucratic resistance and polarization. To a degree, the social, stresses and strains are everywhere.

"It is a struggle," said Frederick Douglass, "there is no progress." The problem of transforming urban neighborhoods is a central issue of our day, for the educational, social, and economic issues of our day, for the educational, social, and political in character, insofar as concerns the conditions for rational choices and of the political process.

And I must sadly suggest to you that there are every signs that this erosion of public confidence is taking place; that the white flag of surrender has been raised. The objections and compromises of this nation and its minorities so completely, then democracy itself must wither away. If they do not lose the support and faith of their constituents, they will also undermine the validity of a political process that depends upon clear-cut choices and philosophical opposition.

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The problems of transforming urban neighborhoods are the central issues of housing, criminal justice, and the moral backbone to create a pluralistic, open society in which equality is a bad substitute for equality, in which the Constitution is not to be trivialized as many have charged, but to offer liberal legislators the necessary framework for the Constitution.

The issue was clear cut, just as the old civil rights issues were. And just as in the past, the measure faced a filibuster. "Cease-and-desist!" was cut from the bill, the filibuster was defeated, and a weaker bill passed.

Now let us turn the clock back several years and to the passage of the same bill reached the Senate floor five or six weeks ago, and was defeated, and a weaker bill passed.

But in 1972, compromise was the order of the day and those to whom black people, those to whom the poor themselves, have been mustered to support that course would have been an enormous improvement upon the Commission's present policies, and a course would have been an enormous improvement upon the Commission's present policies, and a course would have been an enormous improvement upon the Commission's present policies.

If the supporters of civil rights would not face the challenge of the old civil rights issues were. And just as in the past, the measure faced a filibuster. "Cease-and-desist!" was cut from the bill, the filibuster was defeated, and a weaker bill passed.

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great civil rights issues of the 1960s, the very soul of the nation is at stake.

But the present issue is not simply a current issue that marks a retreat from the battle to create that pluralistic, open society for which we strive. The issue involved in the proposed public housing project in Forest Hills transcends the narrow issue of a single project in a single neighborhood. It is a very human struggle to revitalize all of our neighborhoods by providing access to decent housing for those who now share their slum dwellings with vermin and with fear. Here, again, an issue which should seem cut-clear becomes veiled in self-induced complexities and compromise.

Let us forget the will of the particular neighborhood in question. Living on a city block, we are all neighbors. The right of every citizen, mine who shall live on the next block. Enjoyment of decent housing does not give anyone the right to deprive others of the same. Some one shall have access to decent housing. I don't recall anyone becoming overly concerned with the feelings and opinions of black people who were "urban-renewed" out of their homes to make way for luxury housing and office buildings. I see no reason, then, to think our neighbors and our children should object to decent housing for the poor going up in their neighborhood.

And there are a great many other innocuous disagreements about the particulars of this specific project. I do not believe that it is concern for constitutional rights that are at stake, or that the long argument about how mar­shy the project's land is or how expensive the building costs will be. Nor do I find any virtue in the hidden conflicts between aesthetics on the part of neighborhood critics who cheerfully accept the bland, plastic highrises of low-income public housing, but at luxury prices in their neighborhoods.

The issue in Forest Hills is not whether the black people's and the white people's are too crowded. The issue is access to decent housing for poor people and black people. The issue is whether an urban neighborhood shall be open only to white people or to people who make higher incomes. The issue is whether poor people will be allowed to live in all neighborhoods of the city or whether they will be confined to slums or to ghetto-locked projects.

I have two possible elements of the project that might have been improved. I am aware of the very real and rational concern about crime, although concern about crime is also raised from improving slums and from the prejudged stigma that people, many of whom are fleeing crime-infested situations, are a menace in any improving neighborhood. That must be labelled a myth that is used to create fear and bigotry instead of the open debate and planning that can re­vitalize our urban life.

There should be no compromise on Forest Hills. I say this because the desperate housing needs of 460 families must be met. I say this because compromise on Forest Hills will result in compromise elsewhere, with the result that black people's and poor people's access will be further denied to new housing. I say this because there is abroad in the land a sense that the rights of black people and poor people, a sense of withdrawal and retreat from the dreams and commitments of the 1960s. I say this because we have entered, like the Pilgrims, a new era of hope, into a new era of hope, hope for a real land, this America, is sprinkled with our grain. When they said they will give us no freedom we will accept nothing less. We believe in the struggles of our forefathers, that freedom and that the faith and dreams of black people today, Black people today, the building costs will be. Nor do I recall anyone becoming overly con­cerned with the feelings and opinions of black people, many of whom who stood by us in the past, must continue to fight for the right and maintain the integrity of their convictions in the face of temptations to expediency and desertion.

Compromise on the basic issue affecting black people, poor people, and the deprived in our system is equivalent to traitorous re­treat in battle. Compromise does not mean accepting the inevitable; it means insuring that the worst will happen. It means encour­aging those who would build Great Walls of need, as they did in physical Great Walls that sepa­rate and divide and impede the normal flow of the democratic political process by depriving a substantial segment of the population of ac­cess to its system of voting and to other means to obtain their ends. And this compromise on issues like "cease-and-desist," welfare reform, busing and scattered-site planning, things that we have gained away, that the moral fervor of the 60s has given way to moral cowardice in the 70s, and that the faith and dreams of black people will be sabotaged once more.

And this will take place in the face of the fact that to the extent that there is among black citizens a feeling that their American ideals they are held by those who suffered most and benefited least. Black people today, who are fighting, who are fighting, who are fighting for black people too, or it will.

But this is not the land of today, but of tomorrow. We believe today as we once believed in the struggles, we believe today as we once believed in the struggles of Reconstruct­ion, we believe today as we held our faith through the dismal days of separation and segregation.

We believe because this is our land, too. And we must, in this year of doubt and con­fusion, remember what it is that this land is ours; that we have lived here since before the Pilgrims landed, and we are here to stay. I believe that the statesman who is familiar with this land, this America, is sprinkled with our grain. When they said they will give us no freedom we will accept nothing less. We believe in the struggles of our forefathers, that freedom and that the faith and dreams of black people today, Black people today, and this will take place in the face of the fact that to the extent that there is among black citizens a feeling that their American ideals they are held by those who suffered most and benefited least. Black people today, who are fighting, who are fighting, who are fighting for black people too, or it will.

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of a contempt for democratic procedures; and an increase in violence.

What do these disturbing trends portend? In part, the responsibility now lies with our major political parties, and the individuals within them who seek our highest offices. Will they raise the issue of treating with the seriousness, attention to fact, and recognition of complexity which they deserve.

If the coming election is to elevate and strengthen democratic procedures, the most important issues must be treated with the seriousness, attention to fact, and recognition of complexity which they deserve.

Regardless of how one evaluates past and present American foreign policies, we currently stand at an important cross-roads. For many of these decades, bipartisanship has supported, has assumed major international responsibilities on behalf of two overriding objectives: first, the creation of a balance of power, and stability, between the non-Communist and the Communist forces—this has applied especially to those regions where the power of any national order, namely, Europe and East Asia—the regions out of which World War II had emerged; second, a program of technical assistance, varying considerably in scope and content, to many late-developing countries, and regions of signal importance to any international order and development. Furthermore, the internal political policies of the Communist movement are said to be dramatically altered by events of the past two decades, thereby requiring new American approaches. Finally, internal developments necessitate major shifts in American priorities, with greatly increased attention being given to the needs born out of the greatest on-going revolution of the 20th Century—the American Revolution, and the advances of the world's first so-called "postmodern" society.

These assertions deserve serious, in-depth discussion. Most thoughtful individuals would agree that our problem of fitting political principles into the political and economic world we have created is contained within each of them. The critical questions are the extent and the implications of our need to negotiate a new balance-sheet should include those factors which counterweight, or limit, or even negate these broadly conventional themes. If American interests are to be well served, our future foreign policies, and priorities between foreign and domestic arenas, require realistic and comprehensive assessment of the total scene.

Our foreign policy debate, to date, falls far short of these facts. Such a debate is now hosted up before the American public. Some of them have powerful emotional appeal. But they falsely represent the current issues of foreign policy.

The most impressive fabricated straw-man recently has been that of the United States, after 1945, as the world's policeman. Its recent has been that of the non-Western world. To some, it indeed has been West Europe and East Asia. Long ago, we made it clear (unhappily, for many people) that the American experience had no commitment to East European self-determination. Our role in Africa has essentially been minor. Our commitments to the Middle East and to Latin America have been important, but limited, and special in character. Even without regions deemed important to our own national interests, this world leans to peace, our commitments have been partial—with an acceptance of the neutrality and hostility of certain states within the region. Not only have American policies always been legitimate, but it will not be forwarded by disavowing foreign so-called "truths.

Another frequently advanced assertion is that the United States has been guilty of an arrogance of power, with an uncorrectible urge to impose our own values and institutions, and to damn those who will not follow our political, social, or economic goals. This is a case of ethnocentrism in any society or individual. Undoubtedly, the United States has projected its own values on other states. Yet on balance, America's dilemma has not arisen from an arrogance of power, but from our great indecision as to how to use the, massive power at our disposal. Rarely in history has a nation dominant in power and wealth been so restrained in the use of that power on those objectives, so internationalist in its goals.

Have we really insisted that nations receiving American foreign aid are not to have their own values and institutions. And to damn those who will not follow our political, social, or economic goals? This is a case of ethnocentrism in any society or individual. Undoubtedly, the United States has projected its own values on other states. Yet on balance, America's dilemma has not arisen from an arrogance of power, but from our great indecision as to how to use the massive power at our disposal. Rarely in history has a nation dominant in power and wealth been so restrained in the use of that power on those objectives, so internationalist in its goals.

The recent debate concerning American foreign policy stems at least as much from the reactions to the failures of these endeavors. It is now argued that the nations of West Europe and Japan, at present important and prosperous, owe a large share of responsibility for international order and development. Furthermore, the internal political policies of the Communist movement are said to be dramatically altered by events of the past two decades, thereby requiring new American approaches. Finally, internal developments necessitate major shifts in American priorities, with greatly increased attention being given to the needs born out of the greatest on-going revolution of the 20th Century—the American Revolution, and the advances of the world's first so-called "postmodern" society.

These assertions deserve serious, in-depth discussion. Most thoughtful individuals would agree that our problem of fitting political principles into the political and economic world we have created is contained within each of them. The critical questions are the extent and the implications of our need to negotiate a new balance.

One final straw-man should be revealed. Recently, the thesis has been widely disseminated that the American foreign policy since 1946 has been continuously dominated by a "cold war paranoia," and hence, has rested upon fundamentally unilateral and extremist premises. One does not need to defend all American policies of the post-1945 era, or indeed, all of the use of which anti-Communism has been put, to label this assertion as both false and dangerous. Stalin existed. He was not invented by cold warriors. The document of Stalinism, insofar as defined by the policies of the immediate postwar era is now extensive. On balance, it conclusively negates the thesis that American policies were primarily directed against the threat of a new American-Soviet relations, the need for NATO, the concern over the type of aggression reflected in the Korean War, and subsequence in Hungary and Czechoslovakia.

Every American hopes that we are moving into a better era, one holding the prospect of a new international institution of cooperation for militancy. Who does not want major progress on disarmament? Who opposes a broad agreement among European states to reduce the threat of the great European and other regions to the great social and economic problems of the time? Progress in these directions, however, will not be advanced by veiling the reality of the weakening NATO, by mislabeling the name of détente, reduced defense spending, and domestic needs? Shall there be a substantial and unilateral American military withdrawal from Europe, and an abandonment of the major military commitments of the United States? Or shall we confront the political and military threats? The latter is the duty of the American people and their leaders, under democratic procedures. They are also the duty of the American statesmen and foreign policies, and the limits of the American choices. They are also the duty of the American statesmen and the limits of the American choices.
ment of the historic policy of seeking to maintain a political-military equilibrium there?

Those who advocate such a policy generally adhere to what can be called the Brandt-Gorbatchev approach. They insist that in the current climate of detente, the risks are limited. Are there not numerous signs that the Soviet Union wants an accommodation? The two statesmen now have the resources, and the political willingness to make greater mutual commitments to the defense of the West. Has the United States carried too great a share of the responsibility for too long, thereby blunting Western initiatives? On the surface, these arguments seem highly persuasive. When the total network is revealed, however, their merits become debatable.

Despite major internal gains noted earlier, the United States has lost control over broad international events than at any time in modern history, including events that impinge directly upon their security. While the United States is concerned about the defense of 250 million Europeans against 240 million Russians who have much to fear from 750 million Chinese.

Second, it is argued that if they regard their security as threatened, the West Europeans have the political instruments to bolster their defense. It is asserted, indeed, that an American withdrawal might abet European unity, so the willingness to make greater mutual commitments to the defense of the West. Has not the United States carried too great a share of the responsibility for two seated too much? Consequently, any major upheaval on the Eurasian continent is likely to create a series of crises from which the United States would not be able to remain aloof.

Nor does this complete the picture. The United States is seeking desperately to cling to the myth of a monolithic ideology, even while being forced to acknowledge reality. In these respects, moreover, there are some oft-stated, disturbing facts. First, of all the major states, the Soviet Union alone today is rapidly expanding its international commitments. Whether one looks to East Europe, the Middle East, Asia, or Africa, we can see the superpower or influence, this remains more true than ever. Let us not be too confident. The United States is not, of course, the only significant actor. In many respects, moreover, there are some oft-stated, disturbing facts. First, of all the major states, the Soviet Union alone today is rapidly expanding its international commitments. Whether one looks to East Europe, the Middle East, Asia, or Africa, we can see the superpower or influence, this remains more true than ever. Let us not be too confident. The United States is not, of course, the only significant actor. In many cases, moreover, there are some oft-stated, disturbing facts. First, of all the major states, the Soviet Union alone today is rapidly expanding its international commitments. Whether one looks to East Europe, the Middle East, Asia, or Africa, we can see the superpower or influence, this remains more true than ever. Let us not be too confident. The United States is not, of course, the only significant actor. In many cases, moreover, there are some oft-stated, disturbing facts. First, of all the major states, the Soviet Union alone today is rapidly expanding its international commitments. Whether one looks to East Europe, the Middle East, Asia, or Africa, we can see the superpower or influence, this remains more true than ever.

Consequently, any major upheaval on the Eurasian continent is likely to create a series of crises from which the United States would not be able to remain aloof.

Our candidates should speak to these basic and complex issues.

III—AMERICAN-SOVIET RELATIONS

Relations with the Soviet Union, being of such vital importance, deserve special attention. Here, it is crucial that we not substitute our wishes for the current realities. It is not, that the cold war is over, and in addition, that bipolarism has been replaced by the greater prominence of triangular or quadrilateral relations.

Once again, such statements are not without a significant element of truth, but the actual situation is considerably more complicated. We are in a period of major transition. The near-universal conflict between America and Russia characteristic of our early post-World War II era has passed. Yet, it is difficult to point out the circumstances it is we who have thus far made the bulk of the basic concessions leading to American-Soviet accord. For too long, we have been too much a product of the past, of an era when the United States was on the verge of being out-distanced by its own political forces. The United States has therefore been forced to acknowledge reality. In these respects, moreover, there are some oft-stated, disturbing facts. First, of all the major states, the Soviet Union alone today is rapidly expanding its international commitments. Whether one looks to East Europe, the Middle East, Asia, or Africa, we can see the superpower or influence, this remains more true than ever. Let us not be too confident. The United States is not, of course, the only significant actor. In many cases, moreover, there are some oft-stated, disturbing facts. First, of all the major states, the Soviet Union alone today is rapidly expanding its international commitments. Whether one looks to East Europe, the Middle East, Asia, or Africa, we can see the superpower or influence, this remains more true than ever.

The age ahead will almost certainly be an era of continuous, intense negotiations, with negotiations between ourselves and the Russians of central importance. Two broad trends are likely to dominate the horizon: "peaceful coexistence" and disarmament. While despised, approved by the superpower and quite possibly, the role of professional military men in her decision-making process. In the near future we will see more equality in security weapons with the Russians, have they accepted that principle? And what is the meaning of the very rapid expansion of conventional arms on the part of the Russians, an expansion that has brought some respect to Americans to assert that we are on the verge of being out-distanced by Soviet power? When to these facts one adds the further fact that most of the political negotiations—and all of the big ones—involving American-Soviet accommodations have come from the U.S., certain hard issues can no longer be avoided.
time, we shall be engaged in a step-by-step effort to re-establish this kind of control including, ultimately, research and development in the military field. These issues are of great global crisis, and American-Russian discussions are likely to be the determining factor.

Under what conditions are promising results to be expected? Voices are heard advocating that we commence the age of negotiations by making a withdrawal from Korea. It is proposed that the American defense budget be slashed drastically, that all American ground forces in Asia be removed from the continent, and that our nuclear power be reduced by one-half, that priorities be directed almost wholly toward our purely domestic concerns, with specialized, expert advice, and with international commitments cut drastically.

Is it conceivable that such a course of action would yield the results which its proponents claim? Would a weaker, withdrawing, neo-isolationist America be able to reach meaningful agreements with an expanding, militarily superior Soviet Union? The answers to questions such as this will determine whether the negotiations of the 1930's and war can once more be gained through the isolationist route, and that negotiating from weakness with a nation that can only be nonproductive. Our hopes, our very survival, ride with the successful outcome of the great negotiations that lie ahead. Proposals for a less American disarmament could become the unwitting progenitors of the next great crisis.

As Monsieur Blum remarks that warrant the most intensive discussion as our Presidential campaign gets under way.

TV. ASIA

Today, with all eyes focused upon the gradual withdrawal of American influence, it is difficult to look with the right sight of old ties of transcendent importance. Our relations with Japan are vital, whether measured in terms of economic, political or security concerns. It cannot be denied, however, that these relations have deteriorated in recent years, with distrust and recriminations growing. The serious фисures in American-Japanese relations that have lately developed can be attributed to errors on both sides. It is now clear that the United States were too slow to undertake trade and capital liberalization measures long overdue. On the other hand, Japan has damaged its credibility severely by refusing to take the Japanese government fully into its confidence in regard to the Far East Asia as a whole, and by the fact that some of its highest officials are prone to make anti-Japanese statements, in private, statements reaching the Japanese quickly.

Thus, a basic issue is posed. Is there any conceivable advantage to us in the breakdown of the American-Japanese alliance, and if not, how can that alliance be strengthened? Peking has made it clear that one of its goals is the breaking of the American-Japanese ties, and strangely, there are some Americans who appear to think that the time is ripe for Russo-Japanese cooperation. Between the US and Japan there exists a looser set of multilateral relations in the Pacific, involving the US and the People's Republic of China. If real critical issues must ultimately be handled multilaterally. It is entirely possible, indeed essential, that these ties be involved in a network of broader multilateral relations. At a time, however, when we are at odds with the Japanese, now is the time to consider the critical issue relating to the Asian-Pacific area, and when our interests and those of Japan are at odds, we must question the abandoning of the American-Japanese alliance for a will-o'-the-wisp.

Let us then set aside the recent past, and look to the future. At some point, if our Japanese-American relations are again factorially coordinated, should we not see the Japanese take the lead in establishing a complex of relations, not only in the more advanced Pacific-Asian states, so that issues relating to trade, investment, and fore, will be rigorously discussed and resolved, and that would be the result? It is to the pattern of ad-hoc "solutions," reached in the midst of crisis, are politically damaging and economically wasteful.

It is appropriate to expect Japan to take a larger role in the defense of her own territory, and to reach an understanding with the US that will bring about some reduction of American military strength in the area and, thus, help to stabilize Japan's relations with the People's Republic of China. It is also reasonable to assume that Japan will continue in providing technical assistance to select areas of the late developing world, especially in Asia. The economic and political health of such states has a direct bearing upon Japan's hopes for continued economic growth. Japan, however, should not be expected to play the American role in Asia. Only a greatly increased perception of threat from such a state as China, or the drastic decline in American credibility in neighboring nations, is likely to result in an American solution. We have the ability to cope with the alternative, the more likely product of current trends is the addition of modest political-military increments to a foreign policy devoting itself to political relations; or a more dangerous development, namely, a period of mounting confusion and unaccustomed economic dislocation.

On the other hand, among other allies, our time may be ripe for Russo-Japanese cooperation. Certainly, the apparent Japanese move down the same path as China, or the drastic decline in American credibility in neighboring nations, is likely to result in a more dangerous development, namely, a period of mounting confusion and unaccustomed economic dislocation.

Now, American policy toward Asia has been focused upon a new, That is, there are three fundamental issues: 1) the possible abandonment of the United States of the Asia, 2) the issue of nuclear power, and 3) the effort to set the stage for closer relations with the People's Republic of China.

1) In all probability, Japan will continue to be both powerful and crucial. If Peking continues her present rigorous policy, demanding that Japan concede the incorporation of Taiwan into China prior to any state-to-state negotiations, normalization of relations will be difficult. Perhaps Chinese terms will be softened with the advent of a new government capable of dealing with the United States. However, with China, Japan has only two cards in her hands of significance: the possibility of some rapprochement with the United States, and the capacity to review her current military commitments.

The time may be ripe for Russo-Japanese accord, limited but important, whereby political relations would be normalized, old territorial issues resolved, and new economic ties pertaining to Siberia created. Much will hinge upon Russian decisions, for the keys to such an accord are in their hands. However, the current Russian interest in the containment of China, however, such a development would not seem improbable.

2) Mean-...
undergo internal political changes which amounted to a tightening of central controls and a movement away from parliamentarism. One of the seldom appreciated aspects of a credible American role was the fact that the unenlightened small states to experiment with quas-openness even while they felt threatened, and to place risk-taking beyond the reach of some of the United States seems less reliable is infinitely more difficult.

While the commitments to the Republic of Korea will surely be one test of our credibility. To remove all American forces from South Korea without any international agreements guarantees that a war against the United States would be widely interpreted as an act of abandonment. It would have repercussions throughout the world, among the non-Communist states. The current evidence suggests that Kim Il-song intends to pursue the strategy of provocative acts, as the South, seeking to establish there a Communist movement, using such indigenous forces as can be garnered together with southern auxiliaries and the result of American intervention, to provide organizational, financial, and ultimately military aid from the North. Thus, the defense of South Korea will hinge upon both internal and external developments. At this point, however, an American presence is as psychologically important as the American presence to West Germany.

The situation with respect to Taiwan is more complicated. Our position is that the ultimate fate of Taiwan should be determined by the Chinese people themselves, but that this issue should not be permitted to be a distraction of the Nixon vision; we have a military defense agreement with the present government, the Republic of China, and we must be prepared if Peking will apply maximum pressure upon the United States in an effort to force us to acquiesce in the incorporation of Taiwan into the People's Republic of China--an act which will be necessary for the unification of China. As noted earlier, the pressure upon Japan in this respect is already intense.

But in any event, it is widely agreed that if the people on Taiwan could have a choice, they would opt overwhelmingly for independence. Few of them have strong ties to the mainland, and provide the past two decades, Taiwan has been moving away from, not toward the People's Republic of China. This will hinge upon both domestic and international commitments. For this reason, the United States may well be forced to make a difficult decision for the next two decades, Taiwan has been moving away from, not toward the People's Republic of China. This will hinge upon both domestic and international commitments. For this reason, the United States may well be forced to make a difficult decision for the American people, but also to the international community, if its Presidencies could address themselves to this major and supremely important task.

Perhaps the South Asia crisis is a convenient vehicle to raise another far-reaching issue difficult to resolve, and even more difficult to resolve. Throughout American history, it is probable that the differences among the great powers with respect to India, have stemmed less from cleavages over ideology or basic principles and more from a set of emotional commitments and antagonisms toward various countries derived from personal experience or perceptions. The battles between the Old China Hands and the Old Japan Hands at the State Department over China or Japan, for instance, are not necessarily all in the past. Similarly, India has had its American cousins of both Madras and Calcutta; and Pakistan has also had its American antagonists who have an emotional set against India. (In this case, it would not be the American people, defeated the military force of Pakistan. While the Indian invasion was overwhelmingly criticized by the UN, no effective action could be taken against the Indian force, which is the Indian position, and also because India had no intention of stopping short of military victory, once the action had been determined.

Whatever one's position, the South Asia crisis crystallizes deeper commitments to the International life today. We have no effective international peace-keeping mechanism. Despite the many useful functions which it performs, the Economic and Social Council of the United Nations, with the role it has assigned to itself in its present form, present a problem that role, at least in its present form. Hence, the prevention of conflict, or the containment, of directed conflict, is essentially dependent upon the type of deterrents involved in a military-political equilibrium that in the region, this is the most basic lesson from the civil conflict of 1971, and it is the lesson: to live with the realities of every American (and it is by every Russian and Chinese leader.

Thus, the Soviet-Indian alliance more than any other Soviet-American alliance under the circumstances that prevailed, even when the United States sought to take a certain posture in Pakistan, regarding Indian action as aggression irrespective of its rationale. As the Russians so carefully pointed out, the Chinese had neither the desire nor the capacity to raise a credible deterrent to Indian actions, nor did we. Consequently, a change in Soviet-Indian relations could not be expected even though the long-range results of that victory remain obscure.

The India-Pakistan war of 1971 was another limited war for limited objectives, with all of the parties involved directly or indirectly having little or no interest in seeing that war escalate into a broader conflict. Moreover, that war again raised all of the issues which will be crucial in the decades ahead if we are to maintain the peace. Once again, the necessity of defining the rules for peaceful coexistence, and seeking some means of enforcing these rules is underscored. What constitutes interference in the internal affairs of another state? What are the means by which respect for the sovereign and integrity of another state are to be judged?

Either we shall address ourselves to these issues in concert with other Pacific-Asian states, or we shall face the current crises, and bloodshed of the type which we recently have witnessed. It would be a great service to all of the American people, but also to the international community, if our Presidential candidates could address themselves to this major and supremely important task.
a correct assessment of the facts, and service
to our national interests. It is equally
difficult for the academian, the policy ad-
der, and the President—but an airing of the
issues is needed to avert the more certain
tense, multilateral negotiations on many
fronts would not be amiss. We cannot afford
to seek to obtain the maximum political ad-
antage out of the meeting for ourselves,
and at the expense, or the slighting,
other on their domestic constituency.
Misperceptions are fostered, as in the
Vienna Kennedy-Rushkobol meeting of 1961,
re-
quitting essentially a pay day.
Finally, such meetings may sow grave doubts
in the minds of other nations that secret
consultation. Thus, on balance, the case for
summity is a mixed one at best, and it
would be a fool hard task to cobble a
ance-sheet before the American people in
a dispassionate, rational manner.
Possibly, relatians with China will parallel
maximum pressure upon the United States
under the USSR. Initially, the areas of possible
agreement and accommodation will be small,
Japan in Asia, and the and non-Western world.
Gradually and in the course of a changing
world and domestic environment, more areas
of accommodation hopefully can be found.
This process will be slow, uneven, and possibly
unpredictability, nor will progress be
inevitable. Indeed, recurrent crises in relat-
ions might result, serious deteriora-
tions entirely possible.
To appreciate these likelihoods will make possible the firmness of the American
stance that is going to be essential in our relations
with the People's Republic of China. The
Chinese Communists have responded to
American overtures for a variety of reasons:
their deep antagonism and fear of the Soviet
Union, and the near-equal concern over Japan—and the Chinese; the
decision to abandon isolation and to partici-
pate in the international community so as
to have a voice in the world of
non-Western world; and, possibly, the belief
that advantage can be taken of "the crisis"
in American foreign policy, that by applying
pressure, and ls incapable of seeing the is-
sue fairly. Most Arab leaders, indeed, believe
placable foe of Arab nationalism and Arab
power, and they must be considered the im-
placable foe of Arab nationalism and Arab
interests.
The internal pressures that have operated
in this field, however, have not been wholly
the American administrations have sought friendship in the Arab
world, among moderate forces, those anxious
to establish firm bases for regional peace,
unpredictable from Soviet domination. In recent years, the role
of such moderates has been weakened by the
"leftist" and "anti-American" trend within the
Arab world, persuading "a balanced approach" to the Israeli-Arab issue,
which favors Arab interpretations. Since
the 1940's, furthermore, Arab administrations
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have sought friendship in the Arab
world, among moderate forces, those anxious
to establish firm bases for regional peace,
criticism and complicated. The present situation is such that some of the Arab leaders believe once again taking place—prevented only by the endemic weaknesses and divisions that mark their domestic political arena. The perception of the Arab leaders that they could not win a war at this point. Even so, as recent events have shown, the current situation helps to build them up in confidence. The atmosphere in the Arab world might continue indefinitely. Yet an explosion could take place at any point, one involving not only the Arabs, but also the United States and the Soviet Union.

Up to date, our policy essentially has been one of seeking peace, but the final Israeli military sufficiency, so as to prevent an Arab attack, while at the same time, counseling Israel in a series of peace settlement that would look toward Arab recognition of the existence of Israel and international guarantees of Israeli security in exchange for the territories taken from the Arab countries. They oppose any negotiated settlement. This approach has been stoutly resisted both by Israel and by portions of the Arab world. The Israel government insists upon direct negotiations with the Arab states, and declines to rest its security upon international guarantees. The traditional Arab guerrilla movements would like to see a continuation of the Six Day War, the sanctity of the borders established; (4) a general arms limitation agreement for the area, involving guarantees by the major arms suppliers, namely, the United States and the Soviet Union, for a broadly gauged technical assistance program for the Arab States, through an international agency such as the U.S. Agency for International Development. It is not sufficient at this point to dismiss the Middle East in a few well-chosen sentences, blandly promising support in varying degrees for the state of Israel. This crisis will not go away of its own accord, and it could threaten the whole of US-USSR relations, deeply affecting the future of the Arab world, more than the Russians want a major confrontation over this issue. Our candidates owe it to the American people to discuss the specifics of an American position in this area.
mental and land use problems we face in the West. In order that Senators may know the details of this cooperative venture between Government and education, I ask unanimous consent that the Department of Agriculture announcement of this consortium be printed in the Record.

There being no objection, the announcement was ordered to be printed in the Record, as follows:

Forest Service, Universities Join Forces To Fight Environmental Problems

WASHINGTON, Feb. 28.—The Forest Service, U.S. Department of Agriculture, today announced it has established a cooperative forestry research program for the West designed to combine the activities of the agency and a number of Western educational institutions in solution of environmental problems.

Forest Service Chief Edward P. Cliff said the cooperative program will be called the Eisenhower Consortium for Western Environmental Forestry Research. It will involve the Forest Service’s Rocky Mountain Forest and Range Experiment Station, headquartered at Fort Collins, and Rocky Mountain, Montana, and Great Plains universities. They are: Northern Arizona University at Flagstaff, Arizona State University at Tempe, University of Wyoming, Colorado State University at Fort Collins, University of Colorado at Boulder, New Mexico State University at Las Cruces, University of New Mexico at Albuquerque, Texas Tech University at Lubbock, and University of Wyoming at Laramie.

A similar Forest Service program has been developed in the eastern United States at the Northeastern Forest Experiment Station. It is designated the Pinchot Institute of Environmental Forestry Research.

Dr. Robert E. Dils, Dean of Colorado State University’s College of Forestry and Natural Resources, has been named first president of the new Western Consortium.

Chief Cliff said the Consortium will combine and coordinate research efforts of the interested colleges and universities and the Forest Service “to solve the problems of man and his interactions with the environment.” He said these problems are most urgent in the central and southern Rocky Mountains and adjacent high plains.

Examples of planned research include:

- Determination of social, economic, and ecological consequences of industrialization, resource demand, and population-related activities in wild land environments.
- Development of methods for monitoring and controlling changes in environmental characteristics of forests and related lands that occur as a result of man’s activities.
- Evaluation of probable future demand for wildland-related recreation and associated activities, and development of appropriate management techniques.
- Development and implementation of methods of achieving broad public understanding of man’s relationships with and needs for products or experiences from forests and associated wild lands.

A part of the Consortium program will involve the Universities for studies selected by an executive committee made up of one Forest Service representative and four from the participating universities.

EQUAL RIGHTS FOR MEN AND WOMEN

The ACTING PRESIDENT pro tempore (Mr. HUGHES). Under the previous order, the Chair lays before the Senate the unfinished business which the clerk will state.

The legislative clerk reads as follows:

A joint resolution (H.J. Res. 206) proposing an amendment to the Constitution of the United States relative to equal rights for men and women. The ACTING PRESIDENT pro tempore. Who yields time? Mr. ERVIN. Mr. President, I yield myself such time as I may use out of the amount allotted to those who oppose this proposal.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. ERVIN. I think it would not be amiss for me to read to the Senate an editorial which appeared in the Winston-Salem Sentinel on August 19, 1970, a few days after the House of Representatives passed the amendment which its supporters call the Equal Rights amendment, and which one of its wise opponents has called the Unisex amendment.

The editorial reads as follows:

Sen. Sam Ervin wants to rescue the nation from "those women who believe in the so-called 'women's rights' amendment which the House of Representatives passed last week with precious little investigation and only superficial debate.

The amendment has powerful support in the Senate, and Ervin apparently is reconciled to its passage. Rather than try to defeat it, which in the name of common sense is what should be done, he is attempting to qualify it in a way that would prevent the invalidation of laws that discriminate in favor of women.

Every conceivable number of such laws on the books—laws pertaining, for example, to divorce proceedings and alimony payments—would become objectionable under this amendment. It would bring into question the federal prohibition against drafted women into the armed services.

There is no indication that the House did much probing into the nature of the existing statutes before acting on the amendment. But it is a fair guess that many such laws would, on the ratification of the amendment, become a matter for adjudication in the courts.

Why this proposal should have such overwhelming support may long remain one of the mysteries of the 91st Congress. This Congress has had so much foolish legislation, but not usually with so little thought for the consequences.

Sen. Ervin is an old-fashioned sentimentalist about many things—certainly about the Constitution and probably about women—but if he will stick to his guns maybe he can persuade the Senate to repair the damage wrought by the House.

Don’t bet on it, however. Earth knows no fury like a woman scorned—except a woman with the cry of “liberation” on her lips.

Mr. President, I have had a number of conversations with militants of the extreme wing of women’s lib. They have been unable to convince me that God made a mistake when He created two sexes instead of one, and that the most effective way to repair this mistake is for America to adopt a constitutional amendment under which the daughters of America could be drafted for compulsory military service or enlisted for combat service and sent into battle to have their fair share of bullets and bombs and shells of the enemy. That is precisely what this amendment, if submitted to the States and ratified by the States, would do, as I shall demonstrate, according to the very words of some of the most ardent advocates of the amendment.

Mr. President, I am somewhat at a loss to understand why there should be so much support for the equal rights, or unisex, amendment and that it is not created by the kind of threat which I received from a good lady in New Jersey in the form of a press release. She issued a press release to the effect that she had received a telegram in North Carolina and that if I failed to continue my opposition to this amendment, she would go down to North Carolina the next time I sought reelection to the office of Senator and defeat me.

She also stated in her press release that I was wasting my time, anyway, in opposing the amendment, because Senators—other than myself—did not dare to oppose the amendment or to support any amendments to the amendment.

I am sure that the good lady expressed a very low estimate of the moral and political courage of Senators and that it is not the reason why the amendment finds so much support in the Senate.

I must confess, however, that I cannot understand why Senator equivalently women who wish to deprive their sisters who perform labor of any kind in this country and their sisters who elect to become wives and mothers—and who unfortunately become widows—of the legal protections which the laws of 50 States throw around the persons of men. I ask the Senators—men and women—to understand why men are so unchivalrous as to join them in their effort to rob their sisters of these rights and these protections and these exemptions which the law of the nation and the law of the State have shown are necessary to promote the existence of mankind on this earth and the development of children who come into being as the most helpless state of any creatures.

I think I could demonstrate to anyone who would listen with an unbiased mind that this amendment would destroy the political stability on which America rests. Despite the strong support which the amendment enjoys, I remain adamant in my opposition to it. I was brought up on the King James version of the Bible. The King James version of the Bible states in one place that it enjoins parents to bring up a child in the way it shall go and states that when the child is old, it will depart from it. As my father used to say, the child will depart from it often until he becomes old.

But since I have acquired a certain amount of antiquity, I am reminded on this occasion of something that appears in the King James version of the Bible. I refer to verse 2 of chapter 23 of Exodus, where it states:

Thou shalt not follow a multitude to do evil.

For that reason, I cannot support the equal rights, or the unisex amendment, because I think it would have a most serious impact upon the social structure of America and for that reason, in my opinion, would constitute evil.
Mr. President, the Senate is asked to join the House in submitting to the States the proposed equal rights amendment, which specifies:

"No laws shall be made denying to any person within its jurisdiction the equal protection of the laws."

The profession of the amendment is a worthy one. It is to abolish unfair or unreasonable legal discriminations which the law makes against women.

No one believes more strongly than I that discriminations of this character ought to be abolished.

Any rational consideration of the proposed equal rights amendment raises these questions:

First. What unfair or unreasonable discriminations does the law make against women?

Second. Is it necessary to amend the Constitution to abolish these unfair or unreasonable legal discriminations?

Third. Is it desirable to add the equal rights amendment to the Constitution?

I will discuss these questions in their numerical order.

UNFAIR DISCRIMINATIONS

The accepted traditional customs and usages of society undoubtedly subject women to many discriminations.

If it should be added to the Constitution, the equal rights amendment would have no effect whatever upon discriminations of this character. Inasmuch as they are not based on sex but are derived from acts of legislation of letters of administration on a child's estate, or which impose weight lifting restrictions on working women, or which bar women from operating saloons, or acting as bartenders, or engaging in professional wrestling.

Legislatures would undoubtedly repeal statutes of this character if any demand were made upon them to do so. Moreover, statutes of this character would certainly be adjudged invalid by the courts under the unanimous decision handed down by the Supreme Court in Reed v. Reed, 404 U.S. 63, 92 S. Ct. 22, 1971. In that case, the Supreme Court held in express terms that State legislation violates the equal protection clause of the amendment if it treats differently men and women in similarly situated situations.

I respectfully submit that resorting to an amendment to the Constitution to nullify State laws of this character would be a waste of time, and the geologic disposal of an atomic bomb to exterminate a few mice.

If it should be added to the Constitution, the equal rights amendment would apply to the admission policies of public institutions of higher learning, but not to those of private institutions of that nature.

With the exception of a few State-supported military colleges, virtually all State institutions of higher learning are coeducational. Despite this, some military colleges which the amendment complain that State institutions of higher learning discriminate against women by denying them enrollment.

In the final analysis, this complaint rests upon decisions of Federal courts that the equal protection clause of the 14th amendment does not nullify a South Carolina law which prevents admission to the State military college known as The Citadel to men, and a Texas statute which restricts admission to one of the State's 16 institutions of higher learning only; that is, a military school known as Texas Agricultural and Mechanical College, to men.

It is extremely doubtful whether any substantial number of women believe that these State laws enslave them, or impair the educational opportunities in any unfair or unreasonable way, or justify adding the equal rights amendment to the Constitution to eliminate such decisions and destroy the reasonable protections the equal protection clause of the 14th amendment permits the States to accord to women.

I submit that it would be a far easier task for the militants who raise a hue and cry about these laws to persuade South Carolina and Texas to alter them to their liking than is going to be for them to induce South Carolina, Texas, and 36 other States to ratify a constitutional amendment, which is designed to convert men and women into identical legal beings, and to rob their sisters who become wives, mothers, and widows, of the reasonable protections which the fifth and the 14th amendments permit Congress and the States to give them.

From my study of the subject, I am convinced that to add the equal or unfair or unreasonable discriminations against women arise out of the different treatment given men and women in the employment sphere.

No one can gainsay the fact that women suffer many discriminations in this sphere, both in respect to the compensation they receive and the promotional opportunities available to them.

REMOVAL OF LEGAL DISCRIMINATIONS BY STATUTES

While many of these discriminations are based on the mores of society and can be removed only by changed attitudes of people, some of them arise out of law or an absence of law, and can be eliminated by acts of Congress and acts of State legislatures if such acts are enforced after they are enacted.

The overwhelming majority of the most profound lawyers in America advocate the removal of these legal discriminations against women by the statutory method. This method, they say, is wise because it will enable legislative bodies to proceed in an orderly way, and thus avoid the risks inherent in the adoption of the equal rights amendment which would visit upon the Nation.

Let me point out that Congress has done much in recent years to abolish discriminations of this character insofar as various Federal statutes are concerned. No one would be able to claim that the Federal Government has not made a determined effort in the protection of the rights and responsibilities of men and women. For this reason, no constitutional amendment is necessary.

The equal protection clause became a constitutional amendment to the Constitution to abolish these unfair or unreasonable legal discriminations which the law makes against women in employment in recent years.
The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KANOWITZ. The equal protection clause embodies a simple and sound principle. It requires a State to treat in like manner all persons similarly situated regardless of their sex or any other considerations. The clause does not require identity of treatment. It permits a State to make distinctions between persons subject to its jurisdiction if the distinctions are reasonable, not based on some fixed criteria altogether arbitrary or unreasonable laws.

The Supreme Court of the United States has held in *Boiling v. Sharp*, 347 U.S. 497, and other cases that the due process clause of the Fifth Amendment imposes the same obligations on the Federal Government that the equal protection clause imposes on the States.

As a consequence, I assert without fear of successful contradiction that the due process clause of the Fifth Amendment invalidates every State law which makes any distinction between the legal rights and the legal responsibilities of men and women unless that distinction is based upon fair or reasonable grounds.

The Supreme Court of the United States has held in *Boiling v. Sharp*, 347 U.S. 497, and other cases that the due process clause of the Fifth Amendment invalidates every State law which makes any discrimination based on the sex of the parties unless there is some substantial relation to the object of the legislation.

Mr. KANOWITZ. I have enjoyed my discussion with you on the intellectual plane and I don't think you made any change in your position after your recent expression here today. I now urge the ratification, whereas you opposed ratification before. I think your positions on the law as expressed here today and as expressed in these other writings is perfectly consistent. In other words, I think you have made it plain that you think, just like I believe, that the equal protection clause of the Fourteenth Amendment and the equal protection clause of the Fourteenth Amendment were properly interpreted they would outlaw every arbitrary and every invalid discrimination made by law against women in our society.”

Mr. KANOWITZ. That is correct, sir.

As will hereinafter appear, Mr. Kano­

witz entertains the opinion that virtually all of the legal distinctions made between the legal rights and responsibilities of men and women are based upon the functions they perform and not upon sex, and for that reason he feels that this amendment would have little effect on existing legal distinctions.

The decision in the Reed Case was presaged by the decision of the Supreme Court in *Hoyt v. Florida*, 399 U.S. 57 (1961), which declares;

We address ourselves first to appellant's challenge to the statute on its face.

Several observations are naturally made. We of course recognize that the Fourteenth Amendment reaches not only arbitrary distinctions based upon race or color, but also all other exclusions which “single out” any class of persons “for different treatment not based on some reasonable classification.”

To be sure, some militant advocates of the equal rights amendment condemn the decision in the Hoyt Case. In the ultimate analysis, they are displeased with it because the Florida statute, which the Court sustained, made it illegal for women to desert their housekeeping duties and mothers to forsake their children in order to serve on juries in State courts.

The Reed Case involved the validity under the equal protection clause of an Idaho statute which gave the father preference over the mother in the granting of letters of administration to administer upon the estate of a deceased child. By an unanimous decision, the Supreme Court adjudged that the Idaho statute violated the equal protection clause because it provided “dissimilar treatment for married women” who were “similarly situated.”

In reaching this sound conclusion, the Supreme Court declared:

In applying that clause, this Court has consistently recognized that the Fourteenth Amendment does not simply deny to States the power to treat different classes of persons in different ways. The Equal Protection Clause of the Fourteenth Amendment does not require States to treat the same class of persons in the same manner, but it does require that all laws either Federal or State which discriminate unfairly or unreasonably against that class be nullified.

The Senate from North Carolina finds itself in complete agreement with one of his former teachers, Dean Roscoe Pound, in the thought that this Nation does not need a constitutional amendment to protect women against irrational, unfair, and unreasonable laws constitutional.

The Senator from North Carolina finds himself in complete agreement with one of his former teachers, Dean Roscoe Pound, in the thought that this Nation does not need a constitutional amendment to protect women against irrational, unfair, and unreasonable laws constitutional.

Bernard Schwartz was in his recent Commentary on the Constitution of the United States:

That a law based on sexual classification will normally be deemed inherently unreasonable unless it is intended for the protection of the female sex.

Leo Kanowitz, author of the book “Women and the Law, and the Unfinished Revolution” who formerly opposed and now advocates the adoption of the Equal Rights Amendment on psychological rather than legal grounds, testified before the Senate Judiciary Committee on September 11, 1970. On that occasion, I put to him the following question, and received this following answer.

“Senator Erwin. Professor, I have enjoyed my discussion with you on the intellectual plane and I don't think you made any change in your position after your recent expression here today and as expressed in these other writings is perfectly consistent. In other words, I think you have made it plain that you think, just like I believe, that the equal protection clause of the Fourteenth Amendment and the equal protection clause of the Fourteenth Amendment were properly interpreted they would outlaw every arbitrary and every invalid discrimination made by law against women in our society.”

Mr. KANOWITZ. That is correct, sir.
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while undoubtedly the objective of most of the supporters of the equal rights amendment is merely to abolish unfair or unreasonable legal discriminations against women, this is not the objective of its most militant advocates.

Their objective is clearly revealed by an article which appeared in the Yale Law Journal for April 1971. This article was written by Prof. Thomas I. Emerson and David S. Trever of the Yale Law School, Barbara A. Brown, Gail Falk, and Ann E. Freedman.

I deem it appropriate to note at this time that several authors of this article are strong advocates of the equal rights amendment and are fully competent, from a professional standpoint, to inform the Senate of the United States exactly what the proposed amendment will do to our constitutional and legal and social structures.

The distinguished Congresswoman from Michigan (Mrs. Griffiths) and the distinguished Senator from Indiana (Senator Bayh) have heaped praise upon this article, which is hereinafter referred to by me as the Yale Law Journal. In sending a copy of the article to all Members of the House of Representatives, Congresswoman Griffiths states that:

It will help you understand the purposes and effects of the Equal Rights Amendment.

The way the ERA will work in most areas of the law.

Senator Bayh inserted a copy of the article in the Congressional Record, and commended its reading by Members of the Senate in a statement which declared it to be "a masterly piece of scholarship." Senator Bayh, Mr. President, will the Senator yield?

Mr. ERVIN. Yes; I yield.

Mr. BAYH. If the Senator will permit me one final interruption, I ask that he and any of our other colleagues who might be interested in the legislative history look at the Congressional Record, volume 117, part 27, pages 35040-35041.

I think everyone will see the legislation history to which the Senator from Indiana was referring.

Mr. ERVIN. I trust that my good friend and the good friend of Indiana, Mr. BAYH. I do not want to interrupt the thoughtful, scholarly, and noteworthy discussion of this issue by my friend from North Carolina. Just as I described his presentation as noteworthy and scholarly, I do not agree with all its aspects. If the Senator will read the full article at the time I introduced the discussion to which he refers, he will see that I said that I did not agree with all the aspects discussed, or all the points and positions taken in the article.

Mr. BAYH. Well, I will admit that my good friend did make a small disclaimer, but Mrs. Griffiths, the leader of the ERA in the House, made no such disclaimer at all, and I will read ex­

March 20, 1972

CONGRESSIONAL RECORD—SENATE 983
Inapposite the objective of the militants, we are confronted by the question whether there is any rational basis for reasonable distinction between men and women in any of the relationships or undertakings of life. We find in chapter 1, verse 27 of the book of Genesis this statement which all of us know to be true:

God created man in his own image, in the image of God created he him; male and female created he them.

For this reason, I share completely this recent observation of a legal scholar:

The basic principle of the Equal Rights Amendment is that sex is not a permissible factor in determining the legal rights of women, or of men. This means that the treatment of one sex over the other sex may not be based upon the circumstance that such person is of one sex or the other. (p. 889) ... the principle of the Amendment must be applied comprehensively and without exceptions. (p. 890)

The second, quoting another passage:

The equal rights or the unisex amendment is based upon the theory that the basis of that objective and that the basis of that objective must be founded in law the constitutional mandate must be absolute. (p. 892)

The third quotation is as follows:

Our legal structure will continue to support and command an inferior status for women if the Congress or the courts read in legal treatment on the basis of sex. (p. 873) ... Equality of rights means that sex is not a factor. (p. 892)

These quotes show the objective of the equal rights or the unisex amendment and that the theory of that amendment is to deny to Congress and to the legislatures of the 50 States the power to even recognize that men and women have physiological or functional differences, when they undertake to pass laws.

We often hear the old adage that justice is blind, as applied to courts of justice; but I say this means that all the legislatures of the United States, including Congress and the 50 State legislatures, must be totally blind and not see that there is any such thing on this earth as sex when they legislate, and that two men and two women even exactly alike even though the good Lord made them different in some respects.

This analysis of the objective of the militant proponents of the equal rights amendment is confirmed by their demand that the Senate pass the amendment without altering one jot or title of it and their threat to visit political retribution upon any Senators who dare vote for any amendment which would permit Congress to exempt women from compulsory military service or from service in combat units of the Armed Forces, or any amendment which would authorize Congress or State legislatures to extend economic or social protection to women in general or wives, mothers, or widows in particular, or any amendment which would permit Congress or State legislatures to safeguard the privacy of women or girls, or any amendment which would permit Congress and the States to continue in force laws punishing men for committing sex crimes on women or girls.

FUNCTIONAL DIFFERENCES BETWEEN MEN AND WOMEN

In appraising the objective of the militants, we are confronted by the question whether there is any rational basis for reasonable distinction between men and women in any of the relationships or undertakings of life.
reach the conclusion that the amendment is only concerned with sex per se, and has no application whatever to legal distinctions made between men and women on the basis of their respective functional roles in society, and understandings on which the existence and development of the race depend.

A learned student of the constitutional aspects of sex-based discrimination in American law, Prof. Leo Kanowitz, accepts this interpretation. He had this to say in his book on "Women and the Law, and the Unfinished Revolution":

"It is submitted that the adoption of the Equal Rights Amendment would cause the constitutional power to enact any such laws to be transferred from the legislatures of the States to the courts. The Scandinavian referendum of 1953, Roscoe Pound has long provided that no state shall deny to any person the equal protection of the laws, and thus it is that the provisions of the Equal Rights Amendment would not be applicable to the States. Every statutory and common law provision dealing with the manifold relations of women in society would be forced to yield to the constitutional standards. The range of such potential litigation is too great to be readily foreseen, but the Supreme Court of the United States is duty-bound to place upon the courts the specified constitutional standards. A more flexible construction of the word equality is a word so wide as to make any distinction between men and forever robs the Congress and the State legislatures of the power to enact any such laws at any time in the future."

This is the interpretation which I fear the Supreme Court may feel itself obliged to place on the House-passed Equal Rights amendment.

When he testified before the Senate Committee on the Judiciary in opposition to the equal rights amendment on September 10, 1970, Prof. Philip B. Kurland pointed out that the equal rights amendment merely provides that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." He stated that the language of the proposed amendment is too barren to elucidate its meaning; that he thought the difficulty of its construction did not arise out of the use of the word "equality"; that almost a century ago Sir James Fitzjames Stephen asserted in his book "Liberty, Equality, and Fraternity" that the word equality is a word so wide and vague as to be itself almost meaningless; and that nothing that has happened in the intervening years has done anything to make the word specific.

I am not alone in my fear that the Supreme Court may reach the conclusion that the equal rights amendment annuls every existing Federal and State law making any distinction between men and women, however fair or reasonable such distinction might be in particular cases, and forever robs the Congress and the legal Courts of the States of the constitutional power to enact any such laws at any time in the future.

When the equal rights amendment was under consideration in 1953, Roscoe Pound of the Harvard Law School; Albert J. Harno of the University of Illinois Law School; Charles Warren, noted constitutional lawyer and author of "The Supreme Court in U.S. History"; Leon Green of the University of Texas Law School; Dorothy Kenyon, distinguished lawyer and one-time judge of Municipal Court of New York City; Monte M. Le- man, noted constitutional lawyer; E. Blythe Stason of the University of Michigan Law School; Henry Shils of the Yale University School of Law; William H. Holly, U.S. district judge; Everett Frazer of the University of Minnesota Law School; Walter Gellhorn of the Columbia Law School; Thomas J. McCleary of the University of Missouri Law School; and Douglas B. Maggs of the Duke University Law School, joined one of America's greatest legal scholars, Justice Felix Frankfurter, who was then a member of the faculty of the Harvard Law School, made some remarks concerning it which merit the attention of the Senate. I quote his words:

"Miss Crystal Eastman challenges the gai-lantry of men by offering as a poser in con-"

jecture to the equal rights amendment on March 20, 1972

"...it involves a rejection of the rule of rigid
difference between men and the right of annulment of marriages, and the maximum hours of labor for women in protected industries.

"...fear that the Supreme Court may lack the floor of the amendment to be finally decided by the courts."

"...it has long provided that no state shall deny to any person the equal protection of the laws, and thus it is that the provisions of the Equal Rights Amendment would not be applicable to the States. Every statutory and common law provision dealing with the manifold relations of women in society would be forced to yield to the constitutional standards."

"...the range of such potential litigation is too great to be readily foreseen, but the Supreme Court of the United States is duty-bound to place upon the courts the specified constitutional standards."

"...the word equality is a word so wide as to make any distinction between men and forever robs the Congress and the State legislatures of the power to enact any such laws at any time in the future."

"...this devastating interaction might be placed upon it if it should be adopted. This statement made these indisputable observations:

"...if anything about this proposed amend-ment is to be transferred from the legisla-ture to the courts, it would be left highly uncertain in the face of future judicial review."

"...not only in the range of the amendment of indefinite extent, but, even more im-portant, the fate of all this varied legislation would be left highly uncertain in the face of future judicial review."

"...the Supreme Court could reach the conclu-sion that the equal rights amendment an-nulls every existing Federal and State law making any distinction between men and women, however reasonable such distinction might be in particular cases, and forever robs the Congress and the legal Courts of the States of the constitutional power to enact any such laws at any time in the future."

"...I am not alone in my fear that the Supreme Court may reach the conclusion that the equal rights amendment annuls every existing Federal and State law making any distinction between men and women, however fair or reasonable such distinction might be in particular cases, and forever robs the Congress and the legal Courts of the States of the constitutional power to enact any such laws at any time in the future."

"...the unjustifiable legal differentiations as to legal status of women in this country is highly prob-lema, that it would open up a period of extremes confusion in constitutional law is certainly likely."

"...if you were a woman...?” Her question assumes a position that the equal rights amendment would not be applicable to women, but rather to men just because he can only think within his own skin. Therefore, I can't tell you how I would feel about it."

"...the law must have regard for woman in her manifold relations as an individual, as a wage-earner, as a wife, as a mother, as a taxpayer, as an object of government protection, as a citizen, as a benefactor of law, or indifferent to it as a spectator..."

"...the legal position of woman cannot be stated in a single simple formula, especially under our constitutional system because her life cannot be expressed in a single simple relation. Woman's legal status necessarily involves complicated formulation, because a woman occupies many relations."

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which arise from the stern fact that male and female created He them. The Woman's Party cannot amend nature. But it can add considerably to the burdens already weighing too heavily upon the backs of women, the industrial workers, who are least able to bear them.

This was a wise statement. It is based on reality. Justice Frankfurter rightly said that most laws should treat men and women as persons having no sex and for that reason should operate upon them in like manner. He no, or, believe in many of the relations of life the only intelligent course to pursue is to recognize that mankind was created male and female and no law and no constitutional amendment can obviate that truth.

Today in relationships in life where in sex does matter, men and women should be treated by law in rational manner and in a reasonable manner, and in a different manner where nature and reality required different treatment. The DESTRUCTIVE POTENTIALITY OF THE EQUAL RIGHTS AMENDMENT

Time and space preclude me from an attempt to picture in detail the whole of the legal changes which would prevail in our country if the Supreme Court should find itself compelled to place upon the equal rights amendment the deviation by legal scholars, whose statements I have quoted at some length.

Frankly, I do not see how the Supreme Court can do otherwise. The equal rights amendment subject American girls to similar charge from the armed services of any single woman for pregnancy or childbearing, no matter how often she becomes pregnant or how many bastards she bears.

I am satisfied that the veterans who waded in the icy water in the trenches until their feet bled during the First World War; who endured the heat of North Africa and the Anzio beachhead and the cold of the Battle of the Bulge during the Second World War, and the veterans who fought in the Korean War and the guerrillas of Southeast Asia during the conflicts in Korea and Vietnam are implacably opposed to having the equal rights amendment subject American girls to similar circumstances as men; that these women will suffer the loss of their privacy and sometimes become pregnant and bear illegitimate children; and that the equal rights amendment will precipitate a discharge from the armed services of any single woman for pregnancy or childbearing, no matter how often she becomes pregnant or how many bastards she bears.

America faces a precarious world. Powerful nations indicate their desire to use the equal rights amendment to deprive Congress of the ability to protect the security of the women and children, to have carnal promises of marriage, to have carnal responsibilities of men and women in the areas covered by the nullified laws shall be absolutely coequal.

There are laws in many States which I am satisfied that the veterans who fought in the Korean War and the guerrillas of Southeast Asia during the conflicts in Korea and Vietnam are implacably opposed to having the equal rights amendment subject American girls to similar circumstances as men; that these veterans, who are the fathers and mothers of the daughters of America, agree with them.

At the present time Congress has the discretionary power to draft or refuse to draft women and the discretionary power to enlist or refuse to enlist women for combat service. Congress should retain this discretionary power.

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more practicable for them to engage in a profession, if they want to do it, and free women from the house and make it possible for them to have a life of their own. This is not seeking to interfere with eternity. I do not think any constitutional amendment would be able to do that.

Mr. ERVIN. The only reason why we cannot sit down and rationally discuss this matter and pass a measure which would insure absolute freedom to women without bringing about hardship to those women who need the protection is that extreme advocates of this measure refuse to have any other amendment considered.

As a matter of fact, I read an article in the New York Times Magazine section yesterday, written by a professor in the University of Michigan, which stated that his research convinced him that more than 9 percent of the women in the United States want this amendment passed. I shall put in the Record later the results of a poll by one of the foremost polling organizations in the United States, the Elmo Roper organization, which shows that the overwhelming majority of women in the United States are opposed to the amendment.

This amendment is advocated by a national organization of business and professional women. I belong to several national organizations, and I imagine that that organization is similar to the organizations I know of, that a hundred delegates to the American Bar Association programs which I knew the overwhelming majority of the members and lawyers in the American Bar Association were opposed to.

I stated in my opening remarks that I cannot understand why these business and professional women should demand the passage of this amendment, because the business and professional women who are on the top of the ladder of the teaching and managerial professions have complete freedom, under present law, to compete on an absolute equality with men in any of the undertakings of life. Why these women, who have such opportunities, want to rob their sisters of the protections which the law gives those whose work is not entirely intellectual in nature, or those who elect to become mothers and wives, or who unfortunately become widows, is something that is not intellectually comprehensible to me.

Mr. BAYH. Mr. President, will the Senator permit me to join in this colloquy?

Mr. ERVIN. Mr. President, I would hate to have my time exhausted by the Senator, but I shall yield to him provided he shows a disposition not to trespass upon eternity.

Mr. BAYH. The Senator from Indiana is not seeking to interfere with eternity. I do not think any constitutional amendment would be able to do that.

Mr. ERVIN. This amendment is intended to rob Congress and all of the States of their powers to protect women through their existing laws.

Mr. BAYH. I see that some women could come to the conclusion that we have been laboring in vain for an eternity in order to provide equality. I want to suggest that the well-taken questions directed at my friend from North Carolina are based on information that at least the Senator from Indiana feels may not be accurate.

Mr. ERVIN. I would have to say that the Senator from North Carolina bases most of the allegations he has made upon the article from the Yale Law Journal which the Senator from Indiana placed in the Record. I have to say that the Senators from North Carolina and other Senators to reach correct conclusions on this particular amendment.

Mr. BAYH. I would like to say that the Senator from North Carolina would have to rely on the Senator from Indiana on this issue, but, quite the contrary, he can come to conclusions on his own. This whole matter was discussed a short time ago on "The Advocates' program. There is always a call-in period of a week and then the popular opinion is reported the next week. That poll showed that 73.3 percent of the voters oppose the equal rights amendment. In the State of Louisiana in particular there was a large percentage in favor of the equal rights amendment.

Mr. ERVIN. I suggest that my dear friend from North Carolina is trying to distort the proven facts. Like the blind man trying to describe an elephant from the point of view of a small part of it, he is not conveying the total picture. But I do believe that what he is trying to convey here is his sincere belief.

The whole question of professional women having complete freedom is not borne out by the facts. A recent poll showed that a vast majority of teachers favor this amendment. Why is that? It is because a large majority of the teachers in this country are women. Yet, a shockingly small percentage of them obtain positions as principals. That is because they are denied equal access to the top of the ladder of the teaching and managerial professions.

Mr. ERVIN. I would say that all such a woman would have to do is bring a suit in court and show that she is equally qualified. The poll that my friend from North Carolina directed at my friend from North Carolina would have laboring in vain for an eternity in order to provide equality. I want to suggest that the well-taken questions directed at my friend from North Carolina are based on information that at least the Senator from Indiana feels may not be accurate.

Mr. BAYH. I was just trying to be helpful. It seemed to me that the Senator from Louisiana was asking questions of the wrong Senator.

Mr. ERVIN. I thought the Senator was going to ask some questions instead of undertaking to call in the Professor. I received so much enlightenment from the article that Senator put in the Congressional Record that I do not need any further enlightenment as to what this amendment would do.

Mr. BAYH. I was just trying to be helpful.
Elmo Roper poll. This Yale Law Review article said the amendment provides that women should be treated in all respects on equal terms with men. That question was submitted to the women by the Elmo Roper poll, and 83 percent of all the women polled voted against it.

They were also asked whether a divorced woman should pay alimony to her husband if she has money and he has none, and the question was submitted to the women by the Yale Law Review article said the amendment provides that women should be treated in all respects on equal terms with men. That question was submitted to the women by the Elmo Roper poll, and 83 percent of all the women polled voted against it.

I think the members of the organization which is backing this amendment, if they have husbands, must want to pay alimony. They would want to have their husbands pay alimony to them. I think that must be the substance of it.

Mr. BAYH. I do not want to interrupt the colloquy between the Senator from North Carolina and the Senator from Louisiana, but I think careful examination of the Elmo Roper poll would show that the question was asked about women's liberation. Women's liberation in the minds of many people has a much different connotation from equal rights. There have been some extremists who do think that women should be treated like men and that condition that offend both women and men, but we cannot help that.

Mr. ERVIN. Mr. President, I would have to take issue with my friend, because, I think, the question that the polls was asked about women's liberation, they were asked about the equal rights amendment.

I suggest it is a strange thing, in the light of the contention that women want to be treated like men, and equal, that the same poll would show that 84 percent of all the women thought that men should still hold doors open for women and give up their seats to women; and we are bound to have some members of women's liberation taking that position, because they must be stronger than 16 percent.

Mr. BAYH. If I may ask unanimous consent to put in the Record at this time—

Mr. ERVIN. No. I am not going to have the Senator's statements put in the Record at this time. He can put them in at this time.

Mr. BAYH. Very well. I thought perhaps the Senator might want to put in the Record the questions that were asked on the Elmo Roper poll.

Mr. ERVIN. I will let the Senator from Indiana put in the Record whatever he wants to on his time, and I am going to put in the Record the things that I want to, including the questions asked in the Yale Law Journal.

Mr. BAYH. The Senator from Indiana will be honored to have his comments placed in the Record, even on the time of the Senator from North Carolina.

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

Mr. ERVIN. I yield.

Mr. LONG. This section that says that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex," is that the same section we have been voting on for the last 20 years?

Mr. ERVIN. That proposal has been before Congress as long as I can remember, at least the last 50 years, and we have not found any people who were unintelligent enough to buy it.

Mr. LONG. Is that the same section I have been voting on for these many years?

Mr. ERVIN. No, we have been voting for the Hayden amendment, which protects and preserves the rights and benefits given by law to women.

Mr. LONG. Mr. Chairman—and I ask the Senator if this is true—we have had something of this same sort before us for more than 20 years. I have been here for 23 years, and I have been hearing about it. I think the same problem has been brought up time and again. Here is a myriad of laws passed to protect women, for their advantage as well as the. The Senate was in hard with them but to help them. That is the way it ought to be. We have a lot of such laws in Louisiana, some of which we inherited from the French with the Code Napoleon. All those laws prevent the placing in doubt or stricken down by this amendment.

Is this the same thing we have been talking about?

Mr. ERVIN. Yes; the Senator has been talking about it for 20 years, but Congress has been talking about it for 50 years. The Senator from Louisiana is a young man.

Mr. LONG. I have voted for the Hayden amendments when offered, and I have voted for the Ervin amendments, and I have never found even one-quarter of 1 percent of the women in my State who expressed any disappointment at my votes on such matters when I have had the opportunity to discuss it with them. Sometimes you do find someone in some corner of the State who was hard with the fact that you did not want to buy the things just exactly as they were proposed, but I have yet to find anyone—not anyone—who was angry about the concern of some of us to protect certain rights which women have, which I believe ought to be preserved. I, for one, do not want to have women made to pay alimony to the majority for the majorities of men do not favor it, and the majority of women do not favor it. Can the Senator tell me why, in the name of all that is sensible, under the nice attractive language here, I say we want our women to be required to pay alimony to men when the majority of men and the majority of women do not want it? Can the Senator tell me how that could come about?

Mr. ERVIN. It beats me. I say to the Senator, I cannot understand why any one would think the Lord God Almighty made a creation of sex, and he created two sexes instead of one, and that the most effective way to correct that mistake of the Lord God Almighty is to adopt an equal rights amendment which would compel the drafting of the daughters of America and sending them into battle, where their fair forms would be blasted into fragments by the bombs and shells of the enemy.

That is exactly what the advocates of this amendment say will happen if it is passed.

Mr. LONG. That brings up one more point. I think that we must have the right to draft women now, if we want to draft them?

Mr. ERVIN. Surely, right now. All the women who want to be drafted would have to do is persuade one legislative body, the Congress of the United States, to draft them. Under this amendment, there would be no need to persuade Congress and 50 legislatures that they ought to be drafted. But they could just have one.

Mr. LONG. Let me ask the Senator, as a member of the Armed Services Committee, is he of the opinion that we have a need for obtaining any more women for the armed services than we have been able to get by this amendment?

Mr. ERVIN. I do not think so. We have many women in the armed services in noncombatant units, but if this amendment were passed, they would have to go into combat and fight. I see no reason why shelter halves with the men, and would have to sacrifice their privacy.

Mr. BAYH. Mr. President, would the Senator please read the section of the amendment to which he refers? I do not see all those things.

Mr. ERVIN. Mr. President, the Senator does not have to read the amendment. He wrote a letter to the Department of Defense in which he asked them what the effect of this amendment would be, and the Defense Department told him that if this amendment were passed, women would have to be drafted and they would have to undergo combat service, and they told him further in response to that letter that while they might be able to protect some of the prints of women who would go into a permanent installation, when the women and the men went to the front together, there would be no way in the world to protect their privacy. If the Senator has the letter, he could copy it and make a few changes and the whole letter be printed in the Record at this point.

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

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

Mr. BAYH: This refers to your letter of February 2, 1972, with respect to H.J. Res. 208 "Proposing an amendment to the Constitution of the United States relative to equal rights for men and women."

With respect to your first question, Mr. BAYH, the Department of Defense, as the Department of Justice, believe that the President and this Committee on Armed Services, in which he asked them to determine whether or not this amendment would involve a need for additional women in the armed services, and they told him further in response to that letter that while they might be able to protect some of the prints of women who would go into a permanent installation, the women and the men went to the front together, there would be no way in the world to protect their privacy. If the Senator has the letter of February 2, 1972, he could print it in the Record at this point.

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

DEPARTMENT OF DEFENSE

Mr. BAYH: This refers to your letter of February 2, 1972, with respect to H.J. Res. 208 "Proposing an amendment to the Constitution of the United States relative to equal rights for men and women."

With respect to your second question, Mr. BAYH, the Department of Defense, as the Department of Justice, believe it is important that full consideration be given to the constitutional objections which might arise—(1) those related to a requirement for assigning women to all types of duty, including combat duty, and (2) those related to whether or not separate facilities would be allowable and, or, if feasible to protect the privacy of both men and women.

At the request of the House Subcommittee
March 20, 1972

Congressional Record—Senate

9089

Chairman, Mr. REHNQUIST sent a letter dated March 12, to the Senate Committee on Constitutional Amendment on several areas of law including the military draft. With respect to the draft, the letter stated:

"The question here is whether Congress would be required either to draft both men and women or to require men only. The related question is whether Congress must permit women to volunteer on an equal basis for all the duties of military service, including combat duty. We believe that the likely result of passage of the equal rights amendment is to require both of those results. As has been pointed out by many of the amendment's supporters, that would not require or permit women any more than men to undertake the duties for which they are physically unqualified under some generally applied standard.

As to what extent such integration of the services would extend to living conditions and training and working units is uncertain. Proponents have indicated that some segregated units would be contrary to prevailing American standards.

We appreciate the opportunity to share our concerns with you and state what the implications might be for the Department of Defense should the equal rights amendment be adopted.

Sincerely yours,

J. FRED BUSHARD

Mr. BAYH. Although the Senator from North Carolina is a member of the Armed Services Committee, he is also a very distinguished lawyer. I am sure he would be the last person to want to cast a doubt on the integrity of counsel. In a letter to me, general counsel at the Department of Defense, is not necessarily the final authority in this matter.

Mr. LONG. May I ask the Senator, if we do not want to draft women, why can we not amend this fool thing to say we will not draft women?

Mr. ERVIN. Because women who are above the draft age tell Senators they cannot vote to vote like that.

I had a group of them come to my office after I spoke on the Senate floor against this proposal; some members of their committee asked for an audience, which I granted, and they asked me why I said I would vote against this amendment.

I pointed out that women would be drafted and sent into combat, and these ladies, who were not quite as ancient as I am, thought some of them were appalled and proposed that the amendment have the exact opposite, that they wanted to be drafted, they wanted to serve in combat.

I said:

"Ladies, I have always tried to be a gallant gentleman. I have made a practice all my life never to refer to a lady's age. But looking at you ladies, I am compelled to conclude that, despite the fact that you are at least a month above the draft age. If you want to persuade me that women want to take their fair share and face the bullets of the enemy and to have their fair forms blasted into fragments by the enemy's bombs, you are going to have to persuade me that that would be a proper role for women within the draft age up here to persuade me on that point.

Yet, we have all these women who are above the draft age—some of them with a legal education, so far above the draft age that they have finished medical school. But business and professional women want their little sisters drafted. They know that they themselves are exempt.

Mr. LONG. Can we agree that this amendment would have the effect of either striking down the laws that require men to pay alimony or, in the alternative, that it would require that women pay alimony to men?

Mr. ERVIN. On exactly the same terms, the advocates of the amendment say so. In my opinion, this is premised on the theory that the Lord God Almighty made a mistake when he made two sexes and that the two sexes must intermarry, or require men to pay alimony or, in the alternative, that it would require that women pay alimony to men?

Mr. ERVIN. If women want to respect the will of the majority of our country—and why else we are here, I cannot figure out—we would amend this thing to say that this shall not be construed to require a woman to pay alimony to a man.

I am confident that the majority of men and women do not want that in Louisiana and that in North Carolina and that the majority do not want that in the United States. I would be surprised to find such a State in the Union, although there may be one where that is the case.

Mr. ERVIN. They have the absolute right.

Congress now has the power to draft women or to enlist women for combat service, without a constitutional amendment. All these good women who want to be drafted—if there are any, have to do is come to Congress and persuade Congress that they be drafted. I would vote against it.

Mr. LONG. Let us consider one additional matter—the matter of women paying alimony to men. If my understanding is correct, the legislation that has been drafted here does not have the power to require that women pay alimony to men as long as I have been on this planet, and so has every other State legislature. Is that correct?

Mr. ERVIN. They have had it ever since Louisiana became a member of the United States, and I believe they had it before that even under the Spaniards and French.
to people, defining their rights and responsibilities. Congress and the State legislatures must blindfold their members so that they cannot see that the Lord created the human race, male and female. I do not know why they do not go into that State and have them repeal that law. But they cite several laws like that. Some of the women who back this amendment who do intellectual work soly, they want to fix it so that their sisters who do intellectual work solely, they intellectual shall be allowed to work overtime. They want to require a mother who is drawn upon to serve on a jury, to forsake her children to serve on the jury, or when a woman is asked to serve on a jury who is a housewife they want her to forsake her home in order to be able to serve on the jury.

Mr. BAYH. May I have 5 minutes on my own time to say this at this point?

Mr. ERVIN. I know that this is on the time of the Senator from Indiana.

Mr. BAYH. Yes. I do not want to interrupt the steady flow of this enlightened colloquy.

Mr. ERVIN. Why do you do it then? (Laughter.)

Mr. BAYH. Because it has ceased to be steady.

Mr. ERVIN. The Senator from Indiana is opposed to our enlightened statements?

Mr. BAYH. I do not want to interrupt my good friend from North Carolina. I hope that the Senator will respect the facts as this thing is. I hope that he is sincere in his convictions, but he certainly is not qualified, despite his great expertise and his great intelligence, adequately to describe why the position that he takes this amendment differs from his own. I suppose that would also apply to the Senator from Indiana if he were asked to try to support the position of the Senator from North Carolina.

The facts are that those who support this amendment are not trying to do any of the things that have just been described, such as allowing a woman to work overtime, taking mothers away from young children for jury service, and encouraging lady wrestlers.

(Laughter.)

For heaven sake, that is a lightweight argument. What we are suggesting is that everyone should have an equal chance to serve or not serve on a jury. If she has done her work, she can go to a judge and explain the situation to him and be relieved of jury duty. She should have a chance to be treated equally.

Mr. ERVIN. The Senator from Indiana puts a different interpretation on the law.

Mr. BAYH. I want to say to my good friend, the Senator from North Carolina, and I yield myself 1 minute to say so, that

Mr. ERVIN. If the distinguished Senator from Indiana wants to make a speech, I will temporarily retire from the floor and let him make his speech; otherwise, we will resume my own.

Mr. BAYH. I do not wish to interrupt the Senator.

Mr. ERVIN. The Senator is interrupting me so much that I cannot make my speech.

Mr. BAYH. I have been sitting here patiently and will continue to sit here patiently.

Mr. ERVIN. I have not noticed much patience on the part of the Senator from Indiana.

Mr. BAYH. Considering the wisdom of the arguments of the Senator from North Carolina, the Senator from Indiana really has been very patient. The only reason I am interrupting is that my good friend from North Carolina to the questions of the Senator from Louisiana have been so far short of their mark that I hope he will address them later to the Senator. That is not too inconvenient to either Senator.

Mr. ERVIN. The Senator from North Carolina is in possession of 114 pages of the Yale Law Journal which appeared in 1971 which the Senator from Indiana put in the Record and commended to other Senators as a means for their enlightenment as to the meaning of this amendment; and all of the 114 pages, except one little point, are in complete agreement with the interpretation I have been placing on this amendment.

Mr. LONG. Mr. President, will the Senator from North Carolina yield for questions?

Mr. ERVIN. I yield.

Mr. LONG. In view of the fact that the Senate has for more than 30 years now been persistently discussing the fact that it found some danger in the amendment from which it wants to protect women; and that being the case, it insisted on amending the amendment to protect women. That being the case, I do not know why they do not go into that amendment to protect women. That being the case, how can anyone say it is not reasonable to argue that there are dangers inherent in this. This is more true in view of the fact that Congress and the Senate have been voting amendments implicit in which was the fact that the Senate recognized the danger that the Senator from North Carolina is discussing here. The Senate refused to amend the law, the statutes that protect women that would be placed in danger in construction of the laws that would be required, if this amendment becomes law or passing amendments some of which were sponsored by the Senator from North Carolina to protect women. That being the case, how can anyone argue that the Senate in 30 years has been recognizing it for 20 years, that it does exist?

Mr. ERVIN. That follows from the editorial I started to read which said that, "Tell hath no fury like a woman scorned except a woman with the cry of liberation on her lips."

The extreme advocates of women's lib demand two things: They demand that Congress in general, and the Senate in particular, take absolute orders from them, and that in considering this amendment they decline to vote for any amendment that they take the amendment as it is, as it stands, after the amendment is adopted, that the court will hold under the amendment that no legislative body in the United States can even take consideration and that Congress is as weak as two flies, or in the United States when it passes any kind of law covering alimony, divorce, support of a family, custody of children, and in other ways these women are with the cry of liberation on their lips.

Mr. LONG. I thank the Senator from North Carolina very much.

Mr. ERVIN. Thank the Lord that most
Mr. President, I think the Senator from North Carolina and I shall continue to vote to guarantee rights for women wherever I feel that a case can be made for these rights. I may say, as I have often said, I could help women in everything that seemed to be a problem, that I do not want to undo the things that have been done with their interest at heart. I feel free on something and in language that would say that is the effect of this amendment, I would be willing to vote for it; but I am not willing to vote for something that would say there is no wisdom in the States, legislatures of the entire United States, either now, or in the past, or in the future.

Mr. ERVIN. Mr. President, I would like to say that my amendment is not altogether perfect, but it is my recollection that when the ERA was before the Senate at a prior time, the Senator from Indiana said its effect would not be to draft women. He has now changed his opinion and said that it will require Congress to treat men and women equally with respect to the draft.

I come back to the only difference between the women as we have been expressing and the views expressed in the 114-page Yale Law Journal article which my good friend, the Senator from Indiana, has printed in the Record. Mr. BAYH. Mr. President, I did not hear the Senator from North Carolina.

Mr. ERVIN. Mr. President, I said that according to my recollection when I first heard the Senator from Indiana express his opinion on the amendment, he expressed the opinion that it would not necessarily require women to be drafted. Mr. BAYH. Mr. President, at the time I first discussed this a year or so ago, that was my opinion. However, after studying the matter and after studying the debate on the floor of the Senate and House, I came to the opposite conclusion. I think that the Senator from North Carolina literally eloquently expressed the fact that as far as he is concerned he hopes that he has more wisdom today than yesterday. I hope that is true as well in the amendment.

Mr. ERVIN. Mr. President, that reminds me of the story of the man or woman, one or the other.

Mr. BAYH. It does not make any difference.

Mr. ERVIN. It is a unisex amendment. It will not make a particle of difference. However, the story relates that a man applied for a job to teach geography in a school. There was an argument at that time as to whether the world was flat or round. The school board was divided on that proposition. The man came before the school board and was asked whether he could teach geography. He said, "I leave that up to the school board, I teach either theory."

My good friend, the Senator from Indiana, said on December 16, 1969, that the ERA would require that women could be drafted. Then my good friend, Senator BAYH, changed his mind on this amendment and on October 13, 1970, he wrote a letter to all Senators of the United States to the effect that the draft laws do not apply to the amendment. Now, this year, again Senator BAYH comes back, after having said that the world is flat and then round, and in March 1972, said the draft will apply to women.

That is the reason that I am hesitant to accept the interpretation put on the amendment by my good friend, because I have his interpretation of his own words and position and ambulate from one point of view to another point of view. Mine never changes.

Mr. BAYH. Would the Senator care to interpret the question of whether women would be drafted under this amendment or not?

Mr. ERVIN. Sure.

Mr. BAYH. I accept that.

Mr. ERVIN. She would not only be drafted, but this article says that she would lose her right to privacy under the amendment.

Mr. BAYH. The Senator from Indiana does not accept that. Nor does the letter from the Department of Defense say that. What does the Senator from Indiana suggest?

Mr. ERVIN. I would read into the Record the letter.

Mr. BAYH. Why does the Senator from North Carolina not put it in the Record now?

Mr. ERVIN. Because I want to finish this speech before I start another.

I will give the Senator a whole lot of information and I hope he will be willing—I know that he is able—to absorb it.

The Yale Law Journal disagrees with my analysis of the effects of the equal rights amendment in one particular only. It contends that the amendment will not nullify laws requiring segregated rest rooms for the sexes.

I submit there is no basis for this position. The amendment contains no exception or limitation, and is absolute in its terms. It is essential that constitutional amendments are interpreted according to the words in which they are couched, and not according to the assertions or wishes of their advocates.

My contention on this score is supported by a statement which wise women joined in submitting to the 91st Congress to express their opposition to the equal rights amendment. This statement expressly declares that the amendment will destroy "laws that require separate rest rooms and dressing rooms for women workers."

Mr. President, I ask unanimous consent that the entire statement presented to the 91st Congress by those wise women be printed in the Record after the conclusion of this speech. The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 5.)

Mr. ERVIN. Mr. President, moreover, my contention must be remembered in the letter which J. Fred Buzhardt, General Counsel of the Department of Defense, wrote to the Senator from Indiana (Mr. BAYH) on February 24, 1972. I have already had it printed in the Record. However, for the purpose of emphasizing this point, I would like to call attention to specific statements made by Mr. Buzhardt in response to an inquiry from my distinguished friend, the Senator from Indiana.

Manifestly the Department of Defense is much concerned about whether it will have to draft women or enlist women for any service. Mr. Buzhardt answered this in response to an inquiry from my good friend, the Senator from Indiana:

The question here is whether Congress would be required either to draft both men and women into the Army or to draft one. A closely related question is whether Congress must permit women to volunteer on an equal basis for the same sort of combat duty.

Mr. BAYH. The Department of Defense is opposed to the second. We believe that the likely result of passage of the equal rights amendment is to require both of those results. If that amendment allowed no discrimination on the basis of sex even for the sake of privacy, we believe that the resulting sharing of facilities and living quarters would be contrary to prevailing American standards.

If segregation of living quarters and facilities were allowed under the amendment, during combat duty in the field, as it is often, in effect, no facilities at all, and privacy for both sexes might be impossible to provide or enforce.

MISGUIDED FAITH

Its advocates profess implicit faith in the potency of the equal rights amendment. They assert that it will usher in a new heaven and a new earth for American women. They are doomed to disappointment.

If I may borrow the words of Omar Khayyam, I will say that the equal rights amendment will undoubtedly shatter to pieces all military plans and undoubtly its sadistic scheme for 'a huge conflagration of tenings entire,' but will not 're-mold it nearer to the heart's desire.'

The problems which life presents to women will remain and the effect of the amendment would be to diminish substantially the legislative power of the Congress and the legislatures of the 50 States to find solutions for such problems. I am informed that the National Organization of Business and Professional Women has adopted the submission and ratification of the equal rights amendment as its project. I suspect that this organization is the branch to which I belong in which a handful of delegates to conventions adopt projects for the organization with little or no consultation with the wishes of the membership of the organization as a whole.

Be this as it may, the equal rights amendment will not better a whit the position of the business and professional women who advocate its adoption. The reason for this is extremely simple.

The amendment will not remove any disabilities imposed upon women by the mores of society because these disabilities are not removed by the amendment but by changing the attitudes of the people. Insofar as the law itself is concerned, business and professional women now have complete legal freedom to compete on terms of equality with men in all occupations, relationships and undertakings of life.
The overwhelming majority of American women oppose the equal rights amendment. This is made manifest by national polls conducted by experienced national pollsters. As a result of choice or necessity, millions of women in both of these groups find their deepest satisfaction and their highest fulfillment in enacting the roles of wives and mothers.

These women undoubtedly understand my love for the poem entitled "The Bride," which was composed by a gifted North Carolina poet, John Charles McNeill, whose beautiful poetry has not yet found its way into anthologies of verse; and a poem entitled "John Anderson My Jo," which was brought to our注意 by the Scottish bard, Robert Burns, who had such an uncanny capacity to describe the simple things which enrich life.

"The Bride" pictures a bride and groom standing at the threshold of their married life, and "John Anderson My Jo" portrays a long-married husband and wife nearing the end of their joint journey. I deem it not amiss to quote these poems in full:

**The Bride**
(Based on the John Charles McNeill)

The little white bride is left alone
With her lord: the guests have gone;
The festal hall is dim.
No jesting now, nor answering mirth.
The dusky phase falls on the earth
And leaves her here with him.
Why should there be, O little white bride,
When the world has left you by his side,
Some old love-face that comes again.
Some old love-moment sweet with pain.

Does your heart yearn back with last regret
For the maiden meads of mignonette
And the fairy-haunted wood,
That you had not withheld from love.
A little while, the freedom of
Your happy maidenhood?
Or is it but a nameless fear,
A wordless joy, that calls the tear
In memory of the days of their love?
When, looking on him where he stands,
You yield up all into his hands,
Feeding into his eyes?
For days that laugh or nights that weep
You two sat close, the moon in the deep
With life's tide at the brim;
And all time's beauty, all love's grace
Belong to their love, to their face.

But now your brow is bled, John,
Your locks are like the snow,
But blessings on your frosty brow,
John Anderson my Jo!

**John Anderson My Jo**
(Based on Robert Burns)

John Anderson my Jo, John,
When we were first acquaint,
Your locks were like the raven,
Your bonk brow with a brem;

We clamb the hill theghter,
And monie a canteel day, John,
We've haed the time, John,
Now we maun totter down, John,
And hand in hand we'll go,
And sleep theghter at the foot,
John Anderson my Jo!

Mr. President, I think these two poems depict in a beautiful fashion the association between bride and groom which the good Lord intended to be, and it is certain to warm the heart far more than the notion that men and women shall be divided into contending groups, each insisting on his or her legal rights.

**CONCLUSION**

Congress and the States should amend the Constitution advisedly and soberly, and not emotionally. Constitutional amendments are for keeps. Unlike a statute, they cannot be easily repealed. Once adopted, they cannot be removed from the Constitution only by the amending process. Consequently, they are held by the Constitution, and either bless or curse the American people until the last lingering echo of Gabriel's horn trembles into ultimatum.

After reading the article in the Yale Law Journal, Dr. Jonathan H. Pincus, associate professor of neurology at the Yale University School of Medicine, posed the question which now confronts the Senate: Is the equal rights amendment to be the Tonkin Gulf resolution of the American social structure?

It is manifest that Dr. Pincus described the equal rights amendment correctly. Its probable effect is correctly summarized in a question I put to Prof. Philip B. Kurland and an answer he made to such question during the hearings of the Senate Committee on the Judiciary on the amendment. The question and answer are:

"Senator EDVIN. I take it from your statement that you are of the opinion that the most probable construction of the House-passed Equal Rights Amendment is that it would do these two things if ratified by the requisite number of States after submission by the Congress. First, it would nullify existing congressional and State laws which make distinctions between men and women which the legislative bodies considered to be reasonably justified by the physiological and functional differences between men and women, and second, it would alter the Constitution and the legislatures of the 50 States ever to pass any such laws in the future unless the Constitution was amended to eliminate the House-passed amendment from the Constitution."

"Professor KURLAND. I am afraid that is the way I read the meaning of the words that are set out as a House-passed Resolution."

"I treat Senators to take pause before they approve the "The Tonkin Gulf resolution of the American social structure.""

"I treat them to remember:"

The moving finger writes; and having writ, Moves on: nor all your piety nor wit Shall lure it back to cancel half a line,

Nor all your tears wash out a word of it,
has consistently ruled that, even though women are "persons" within the scope of the Equal-Protection Clause, the protection which it affords them is determined by the "manner in which the law is applied in the light of the disabilities imposed upon women at common law." Thus, as an example, until the recent decision of the New York Court of Appeals in 1962, it would have been considered a violation of the Equal- Protection Clause for the Board of Education of the City of New York to deny them the equality of educational opportunity accorded to men. It held that the refusal to admit a woman to the academy was based upon an inherently unequal position of women and that an education which is denied on the basis of sex is automatically invalid.

The purpose referred to (as was indicated in section 476) is that of protection of the female sex in areas where women are inconvenienced or subjected to governmental solicitude. Where the legislature acts to protect the weaker sex and there is a State employing a judicial examination to determine that such protection is necessary, there is no contravention of the Equal-Protection Clause. The state is, in effect, investing its discretion in an administrative tribunal, in upholding a law fixing minimum wages for women. "This familiar principle has repeatedly been applied to legislation which singles out the occupational classes of women, in the exercise of the state's protective power."

Women, said the court, cannot work at the high bench again, that "the protection of women is a legitimate end of the exercise of state power" and that "the law is not to be translated into which will make them attain such end. This means, of course, that, as already indicated, a sexual classification may be valid if its purpose is the protection of such women.

The most obvious type of law falling within the principle just stated is one which takes account of the weakness or relative physical weakness of the female sex: "However confident a great number of people may be that in many spheres of activity, including that of the admission to governmental employment, woman is not full equal of man, no one doubts that as regards bodily strength and endurance she stands in a particularly arduous or hazardous, such as mining. The validity of such laws (as by denying them the right to enroll in public educational institutions or to participate in a scheme of social security). Among the cases supporting the principle just stated is an important opinion of the Massachusetts court ruling invalid a statute prohibiting women from entering into legal or consensual sexual relations (as by denying them the right to hold public office), or comparable limitations upon their economic rights (as by laws prohibiting them from entering upon certain vocations, professions, and occupations), or their right to share in the services and benefits dispensed (as by denying them the right to enroll in public educational institutions or to participate in a scheme of social security) is the inherent value of the individual and not his personal worth without the intrusion of extraneous characteristics such as sex. So far as property and personal rights (including political rights) are concerned, a law which discriminates against women solely because of their sex must normally be deemed one that is based upon sex will be constitutionally invalid.

The judges may not as yet go entirely as far as to uphold a state law which provides for the protection of women in the police force. In addition to protective measures the state is justified in employing in the police force measures for the protection of the public interest and of the health of women. The police force is a "special constable employer" and the law is constitutional if it is to be preserved and if she is enjoined to act in a manner which is consistent with the view now prevailing both as a principle of governmental solicitude and as a principle of governmental discretion. Where the legislature acts to prevent the weaker sex from engaging in the occupation of the sex which has all the advantages which the female sex enjoys, a law which provides for the protection of women is a legitimate end of the exercise of state power and the law is not to be translated into which will make them attain such end. This means, of course, that, as already indicated, a sexual classification may be valid if its purpose is the protection of such women.

The principle just stated has been applied most frequently in laws relating to intoxicating liquors, with regard to which (we saw in section 382) there is a well-nigh plenary governmental power, because of the universality and importance that was attached to the public interest than the health of women and their protection from unsanitary and overcrowded conditions. The principle is that where governmental solicitude is necessary, there is no contravention of the Equal-Protection Clause. The state is, in effect, investing its discretion in an administrative tribunal, in upholding a law fixing minimum wages for women. "This familiar principle has repeatedly been applied to legislation which singles out the occupational classes of women, in the exercise of the state's protective power."

The court, however, said that, "what work or prohibit her from engaging in occupations deemed particularly arduous or hazardous, such as mining. The validity of such laws (as by denying them the right to enroll in public educational institutions or to participate in a scheme of social security) is the inherent value of the individual and not his personal worth without the intrusion of extraneous characteristics such as sex. So far as property and personal rights (including political rights) are concerned, a law which discriminates against women solely because of their sex must normally be deemed one that is based upon sex will be constitutionally invalid.

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The court, however, said that, "what work or prohibit her from engaging in occupations deemed particularly arduous or hazardous, such as mining. The validity of such laws (as by denying them the right to enroll in public educational institutions or to participate in a scheme of social security) is the inherent value of the individual and not his personal worth without the intrusion of extraneous characteristics such as sex. So far as property and personal rights (including political rights) are concerned, a law which discriminates against women solely because of their sex must normally be deemed one that is based upon sex will be constitutionally invalid.

The judges may not as yet go entirely as far as to uphold a state law which provides for the protection of women in the police force. In addition to protective measures the state is justified in employing in the police force measures for the protection of the public interest and of the health of women. The police force is a "special constable employer" and the law is constitutional if it is to be preserved and if she is enjoined to act in a manner which is consistent with the view now prevailing both as a principle of governmental solicitude and as a principle of governmental discretion. Where the legislature acts to prevent the weaker sex from engaging in the occupation of the sex which has all the advantages which the female sex enjoys, a law which provides for the protection of women is a legitimate end of the exercise of state power and the law is not to be translated into which will make them attain such end. This means, of course, that, as already indicated, a sexual classification may be valid if its purpose is the protection of such women.

The principle just stated has been applied most frequently in laws relating to intoxicating liquors, with regard to which (we saw in section 382) there is a well-nigh plenary governmental power, because of the universality and importance that was attached to the public interest than the health of women and their protection from unsanitary and overcrowded conditions. The principle is that where governmental solicitude is necessary, there is no contravention of the Equal-Protection Clause. The state is, in effect, investing its discretion in an administrative tribunal, in upholding a law fixing minimum wages for women. "This familiar principle has repeatedly been applied to legislation which singles out the occupational classes of women, in the exercise of the state's protective power."

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for the licensing of bartenders but forbade
the licensing of any female bartender unless
she be "the wife or daughter of the male
owner of the place of business." This law
was sustained on the ground that it
was based upon the legislative belief "that
the liquor traffic is a bar to a barmaid's
happiness or the honor of her husband"
where it was not in a position
to gain any such belief. The challenged
law, which on its face involved an extreme
discrimination, could not be justified
as a protection of the female sex.
Almost all of the cases concerning the
legis
dation involving the moral order
involve regulation of the liquor traffic.
Yet, as already intimated, there can be no
doubt that the same authority exists in all
laws seeking to accomplish a comparable
purpose by exempting women from duties im-
posed by the community upon members of
the male sex. The most common statute of
this type is that relating to jury service. The
relevant constitutional provision is the
Clause.
Though the view thus expressed will
doubtedly strike a responsive chord in
many minds, our present purpose is simply
to reject the very concept of personal worth upon which
the Equal-Protection Clause is grounded. Such an approach would really nullify all
that has been said thus far on equality and
sex, for it could be applied to bar women
(regardless of their personal capabilities)
from every line of endeavor.
At the same time, we must recognize that
there is a possible area of sexual classification in which the concept of equality
before the law is not applicable, and where the
court has declared that there is a "separate
and equal" basis for action. This is the
sale of women, particularly at an early age,
It cannot be gainsaid that there are certain
attitudes controlled by law in which sexual
classifications are made by government
where that may be necessary to protect one
sex in relation to all the broad social ends
that may be attained under the police power,
as well as to permit separation of the sexes
in appropriate public institutions, such as
teaches devoted to education. In addition, it
must be recognized that there are certain
state-supported military colleges, with
women participating in a program of
training and subject to military discipline.
In all that has been said till now on the
subject of sexual separation, we do not
assume that the law makes the error of those
referred to by de Tocqueville, "who, con-
forming together the different character-
sistics of the two sexes, and making
women into beings not only equal but alike.
They would give to both the same func-
ions, place them in the same occupations,
and they would mix them in all things—their
occupations, their pleasures, their business,
Indeed, in the New
York case dealt with at the end of section 489,
in which the absolute refusal on the
basis of sex to permit a policewoman to
serve as an express messenger was stricken
down, the court de-
clared that, while the absolute female barrier
was doubtless a discrimination, the sex
is permitted when the duties of the position
or nature of the work involves or requires
sex selection.
The principle stated by the New York court
may be made more specific by reference to
the provision of the civil service statute of
that state which empowers the head of the
agency to limit eligibility to civil service
positions "to one sex when the duties of the
position require the prompt attention of
men or other custody or care of persons of the same
sex, or visitation, inspection or work of any
kind the nature of which requires sex
selection.
Even if, on a strictly logical basis, it may
be difficult to justify such provision in the
light of the conception of sexual equality
promulgated by the modern conception of the
person, common sense itself tells us that it is
necessary to avoid an egregiously
prejudiced classification of human works of nature.
Certainly, if, as already indicated, there may be sexual separation in appropri-
ate public institutions, such as those devoted
to education, it is also necessary to exempt
women from jury service. The highest
judges, however, said the court, the state
system of higher education does not discrimi-
nate in its definition of men's and women's
work, but seeks to provide an ex-
emption from the law which has not been touched upon
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which, by their very nature, may legitimately involve sexual qualifications. While issues of the type involved may not be enough to lay down objective qualifications, which do not include sex, it may be necessary to provide that among the qualifications of the sort approved by statute sex may be eligible. For example, while women may not reasonably be wholly excluded from the legal profession, the legal profession may properly be the exclusive province of those who can command for the relevant authority to be given discretion to hire men to compose the bulk of its forces, since to do otherwise is true of the military field, where the command authorities must plainly be able to choose only men for most positions in the armed forces, especially in combat and particularly arduous duties.

The point just made must be applicable even in private employment; that is, affected by public authority, for example, through laws forbidding sexual discriminations in employment. In that area, the Bradley case, Justice Bradley declared: "The paramount destiny and mission of wom­an are to fulfill the noble and benign of­fice of wife and mother. This is the law of the Creator." A century later, the law of the Creator is differently construed. In fact, we are about to consider the explicit repudiation of the Bradley approach and to assert public power to ensure against sexual discriminations which, by their nature, require sex as a necessary condition of the normal operation of the enterprise.

The most important statute of the type referred to is the Civil Rights Act of 1964, which provides that it shall be unlawful for an employer to discriminate because of sex with respect to his compensation, terms, condi­tions, or privileges of employment, because of such individual's sex.

The general authority of the legislator to prescribe private discriminations based upon sex cannot, it is believed, as present; be doubted. Such authority at the federal level must be the same as is possessed of the state legislatures, as shall be apparent from the Idaho Supreme Court's opinion in the now notorious case of Sally Reed, filed a petition, which would be sustained upon the same basis as administratrix of her son's estate. Prior to the date set for a hearing on the mother's petition, appellee Cecil Reed died intestate. In making these design­ations, that section lists 11 classes of per­sons who are so entitled and provides, in substance, that the order in which those classes are listed in the section shall be de­terminative of the relative rights of competing applicants for letters of adminis­tration to women altogether. Indeed, the statute provides, in substance, that: 1. The children of the person dying intestate; 2. The father or mother; 3. The brothers or sisters; 4. Any of the kindred; 5. The husband or wife; 6. The ancestors; 7. The grandchildren; 8. The next of kin entitled to share in the distribution of the estate; 9. Any of the kindred; 10. The public administrator.

The point made by the Idaho Supreme Court in reinstating the original order naming the father administrator of the estate, even though the Idaho Supreme Court in the Bradley case, in the opinion of the Court, stated this conclusion, the probate judge noted that the challenged section violated the Equal Protection Clause of the Fourteenth Amendment, as we have interpreted it in this and the previous two sections, bars such discriminations by governmental agencies, in legisla­tion, in the operation of their functions, as the legislature. At that point the court reconsidered the competing applicants to perform the act which, by its nature, requires sex se­lection can scarcely be required by the consti­tutional command of equality. Use of the law, as well as the Equal Protection Clause of the Fourteenth Amendment, as we have interpreted it in this and the previous two sections, bars such discriminations by governmental agencies, in legisla­tion, in the operation of their functions, as the legislature. At that point the court reconsidered the competing applicants to perform the act which, by its nature, requires sex selection can scarcely be required by the constitutional command of equality.

93 Idaho 551. 465 U.S. 983. Having examined the record and considered the briefs and oral arguments of the parties, we conclude that the arbitrary preference established in favor of males by § 15-314 of the Idaho Code cannot stand. In the face of the Fourteenth Amend­ment's command that no State may deny the equal protection of the laws to any person within its jurisdiction.

In its issuing order, the probate court implied a preference to provide for the adminis­tration of the two applicants under § 15-312 and noted that neither of the applicants was unmarried. However, whether, however, that appellant, being a male, was to be preferred to the female appellant "by reason of Art. I, § 15-122 of the Idaho Code. In stating this conclusion, the probate court gave no indication that it had attempted to determine the relative capabilities of the competing applicants, or to give pre­ference incident to the administration of an estate. It seems clear the probate judge con­cluded himself bound by statute to give prefer­ence to the male candidate over the female, each being otherwise equally entitled."

This order was never carried out, however, for Cecil Reed took a further appeal to the Idaho Supreme Court, which reversed the District Court and reinstated the original order naming the father administrator of the estate. Under this section, then, appellant was better qualified to administer the estate.

In her petition, Sally Reed alleged that her son's estate, consisting of a few items of property and a small amount of money, had an aggregate value of less than $4,000. Section 15-312 provides for such administration to women altogether. Indeed, under § 15-312, a woman whose spouse dies intestate has a preference over a son, father, or brothers.

1In her petition, Sally Reed alleged that her son's estate, consisting of a few items of personal property and a small savings ac­count, had an aggregate value of less than $4,000.

2Section 15-312 provides as follows:

Administration of the estate of a person dying intestate shall be given to some one of the persons hereinafter mentioned, and they are respectively entitled thereto in the following order:

1. The surviving husband or wife or some competent person whom he or she may re­quest to have appointed.

3. The father or mother.

5. The brothers or sisters.

6. The grandchildren.

7. The next of kin entitled to share in the distribution of the estate.

8. Any of the kindred.

9. The public administrator.

10. The creditors of such person at the time of the death.

11. Any person legally competent.

If the decedent was a member of a part­nership at the time of his decease, the sur­viving partner must in no case be appointed administrator of his estate."

The court also held that the statute vi­olate Art. I, § 1 of the Idaho Constitution.

We note that § 15-312, set out in n. 2, supra, appears to give a superior entitlement to brothers of an intestate (class 4) than is given to sisters (class 5). The parties now before the Court have neither argued nor op­erated of § 15-312 in this respect, however, and appellant has made no challenge to that section.

We further note that on March 12, 1971, the Idaho Legislature adopted the Uniform Probate Code, effective July 1, 1972, CH. 111 (1971) Idaho Sessions Laws. Section 15-312 and 15-314 of the present code will, then, be effectively repealed, and there is in the present proceeding no preference for males over females as administrators of estates.
brother, or any other male relative of the decedent. Moreover, we can judicially notice that in this country, presumably due to the greater length of life, a large number of decedents, both intestate and under wills, are administered by surviving widows.

Section 15-314 is restricted in its operation to those situations where competing applications for letters of administration have been filed and the female members of the family of the decedent. Moreover, we can judicially notice to the courts to those situations where competing applications for letters of administration, both intestate and under wills were to eliminate one area of controversy that different treatment be accorded to per­son­s placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of the legislation. A classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a rational and substantial relation to the object of the legislation, so that all persons similarly circum­stanced shall be treated alike.

In applying that clause, this Court has consistently recognized that the Fourteenth Amendment does not deny to States the power to treat different classes of persons in different ways. Barber v. Connally, 113 U.S. 27 (1885); Lindsey v. Natural Carbonic Gas Co., 320 U.S. 61 (1944); Railway Express Agency, Inc. v. New York, 330 U.S. 106 (1949); Moore v. Ogden, 324 U.S. 155 (1945); Wyman v. Robert, 386 U.S. 1 (1967); Royster Guano Co. v. Virginia, 332 U.S. 435 (1948). The Equal Protec­tion Clause of that Amendment does, however, protect the power to classify and thereby present the probate court with the task of scrutinizing the equal­ity of the legislation. In applying that clause, this Court has generally held that different treatment be accorded to persons placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of the legislation. A classification must be reasonable, not arbitrary, and must rest upon a ground of difference having a rational and substantial relation to the object of the legislation, so that all persons similarly circum­stanced shall be treated alike.

In upholding the latter section, the Idaho Supreme Court concluded that its objective was to eliminate one area of controversy when two or more persons, equally entitled under § 15-312, seek letters of administration and thereby present the probate court with the issue of which one should be named. The court also concluded that where such persons are married to each other, administra­tion bears a national relationship to a state objective that is sought to be advanced by the operation of §§ 15-312 and 15-314.

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The crucial question, however, is whether § 15-314 advances that objective in a manner consistent with the command of the Equal Protection Clause. We hold that it does not. To give a mandatory preference to members of either sex over members of the other would imply the constitution­tion of hearings from which they are now barred. The assessment of females from consideration ‘‘is neither an illogical nor arbitrary method de­vised by the legislature to resolve an issue that would otherwise require a hearing in the rel­ative merits . . . of the two or more petition­ing relatives . . . .’’ Idaho, at 514, 469 P.2d, at 668.

Clearly the objective of reducing the work­load on probate courts by eliminating one class of contestants is not without some legiti­macy. The crucial question, however, is whether § 15-314 advances that objective in a manner consistent with the command of the Equal Protection Clause. We hold that it does not.

The proposed amendment to the Constitu­tion reads as follows:

‘‘Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.’’

We hold that this amendment to the Constitu­tion does not meet the test of the Equal Protec­tion Clause. The Congress has power to legis­late in equal­ity of rights under the law. The Equal Protec­tion Clause, however, requires that the language of any such legislation be adapted to the object sought to be attained.

The amendment asserts that certain rights and responsibilities of men and women are identical. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law. The amendment is not, however, an attempt to substitute a different equal­ity of rights under the law for the equal­ity of rights under the law of the Fourteenth Amendment. Such an amendment would not be the equal­ity of rights under the law.
and would constitute primary evidence of what they think the amendment will accomplish in American society and will constitute, because of Mrs. Griffiths' whole-hearted support of the article, primary legislative history of the ERA.

The standing orders do not quote Senator Sam Ervin's but are actual quotes from the Yale Law Journal article which has been approved and by the supporters of the ERA. In other words, the supporters of the ERA say the Amendment will have the following effect, in Professor Emerson's words, is "an important legislative history!"

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General interpretation of the amendment

"The basic principle of the Equal Rights Amendment is that sex is not a factor in determining the legal rights of women, or of men. This means that the treatment of any person by the law may not be based upon the circumstance that such person is of one sex or the other." (p. 889) "...the principle of the Amendment must be applied comprehensively and without exceptions." (p. 890)

2. "Only an unqualified ban against taking into account sex in determining new social relationships can achieve the objectives of the Amendment." (p. 892) "...prohibition against the use of sex as a basis for differential treatment" (p. 891) "...From this analysis it follows that the constitutional mandate must be absolute." (p. 892)

3. "Our legal structure will continue to support and command an inferior status for women so long as it permits any differentiation in legal treatment on the basis of sex." (p. 972) "...Equality of rights means that sex is not a factor." (p. 982)

1. "The Equal Rights Amendment will have a substantial and pervasive impact upon military practices and institutions. As now formulated, the Amendment contains no exceptions for the military." (p. 989)

2. "Women will serve in all kinds of units, and they will be eligible for combat duty. The double standard for treatment of sexual activity of men and women will be prohibited." (p. 978)

3. "The right to privacy nor any unique physical characteristic justifies different treatment of the sexes with respect to military treatment. "Women in pregnancy justifies only slight differences in conditions of service for women." (p. 969)

4. "Such obvious differential treatment for women has been eliminated by the elimination of the military to see women as it sees men." (p. 970)

5. "The Amendment will have the effect of requiring the military to see women in a different light." (p. 970)

6. "The Equal Rights Amendment will greatly increase the efforts of the military to see women as it sees men." (p. 970)

7. "The woman will register for the draft at the age of eighteen, as a man now does." (p. 971)

8. "Under the Equal Rights Amendment, all admissions to the Army (as well as the Air Force and Marine Corps) and to the service academies, and more restrictive standards for enlistment will have to be brought into conformity with the Amendment's basic prohibition of sex discrimination." (p. 985)

9. "These changes will require a radical restructuring of the military's views of women." (p. 969)

10. "The Equal Rights Amendment will greatly increase the efforts of the military to see women as it sees men." (p. 970)

11. "The height-weight correlations for the sexes will also have to be modified." (p. 972)
12. Deferment policy "could provide that a court in a given state would be deferred. For example, whichever parent was called first might be eligible for service; the remaining parent, male or female would be deferred." (p. 975)

13. "If the rules continue to require discharge of women with dependent children, then one or the other of the situations will also have to be discharged. . . . The nondiscriminatory alternative is to allow both men and women to remain in the service to take their dependents upon assignments in noncombat zones, as men are now permitted to do." (p. 975)

14. "The distinction between single and married women who become pregnant will be permissible only if the same distinction is made for single and married men. For example, if the father is a soldier in combat duty, such as piloting an aircraft, the rule would justify excluding him from combat zones to prevent women from doing these jobs in combat zones." (p. 977)

15. "Thus, if unmarried women are discharged for pregnancy, men shown to be fathers of children born out of wedlock would also be discharged. Even in this form such a rule would be suspect under the Amendment, because it would probably be enforced more frequently against women. A court will therefore be likely to strike down the rule both because of its sex-discriminatory purpose and because of its differential impact." (p. 975)

16. "Under the Equal Rights Amendment the WAC would be abolished." (p. 975)

17. "It would also be possible for men to perform many jobs classified as combat duty, such as piloting an airplane or engaging in combat, that prohibit women from being forced into jobs in combat zones." (p. 977)

18. "No court should suggest that . . . women who serve can avoid the possibility of physical harm and assault. But it is important to remember that all combat is dangerous, degrading and brutal." (p. 975)

19. "Male officers are provided a dependents' allowance based on their grade and the number of dependents in the family. The Equal Rights Amendment will recognize "the husband of a female officer . . . as a dependent." (p. 976)

20. "Athletic facilities will also have to be made available to women personnel." (p. 978)

Criminal Law

1. "Courts faced with criminal laws which do not apply equally to men and women would be likely to invalidate the laws rather than construing them to apply to women and men alike." (p. 966)

2. "Courts will most likely invalidate sodomy laws which criminalize consensual sex between persons of the same sex." (p. 966)

3. "Reduction laws, statutory rape laws, laws prohibiting obscene language in the presence of women, prostitution and "man-fest danger" laws . . . The Equal Rights Amendment would not permit such laws, which base their sex discriminatory classification on social stereotypes." (p. 966)

4. "The statutory rape laws, which punish men for having sexual intercourse with any woman under an age specified by law . . . would not be saved under the Equal Rights Amendment." (p. 957)

5. "To be sure, the singling out of women procreative power is not a constitutional reality . . . Likewise, in this society, the bad reputation and illegitimate child which can result from an impregnation by a married woman is much worse than the father's . . . The Equal Rights Amendment would not permit this result." (p. 962)

6. "In all states husbands are primarily liable for the support of their wives and children . . . the child support sections of the criminal nonsupport laws . . . could not be sustained where only the male is liable for support." (p. 944 and 945)

7. "The Equal Rights Amendment would bar a state from providing greater liability for support on a husband than on a wife merely because of his sex." (p. 945)

8. "Thus, were the United States to adopt the trend toward distribution of legal rights and responsibilities, the law would be changed under the Equal Rights Amendment." (p. 946)

9. "The Equal Rights Amendment would tend to negate the protection which the common law system . . . As both systems currently operate, they contain sex discriminatory assumptions and thus operate under the Equal Rights Amendment." (p. 946)

10. "Under the Equal Rights Amendment, laws which . . . favor the husband as manager of the property, regardless of the sex of the parties, would not be valid." (p. 947)

11. "All states except North Dakota and South Dakota have tried to require that share of her husband's estate, but a number of states fail to give the husband a corresponding legal claim in his wife's estate. . . . The discriminatory laws would either be invalidated or restored." (p. 948)

12. A court could invalidate (many) state laws and regulations which were designed to enforce an equal but as yet undetermined height for women. Such a provision is unlikely to have been passed by a state legislature merely because of its sex. (p. 948)

13. "The laws that grant a husband a divorce because at the time of marriage he did not know his wife was pregnant by another man would be subject to scrutiny under the Equal Rights Amendment." (p. 951)

14. "Thus, the extension of support laws permitting a man to obtain support, but not that only it be available equally to husbands and wives." (p. 952)

15. "The laws which require employers to impose leave on pregnant employees for a specified period before and after childbirth, without counting time lost from customary leave, are a burdensome discrimination. The Equal Rights Amendment would be likely to invalidate weightlifting statutes which apply only to women) would be changed under the Equal Rights Amendment." (p. 957)

16. "Like the duty of support during marriage and the obligation to pay alimony in the case of separation or divorce, nonsupport would have to be eliminated as a ground for divorce against husbands only . . . " (p. 951)

17. "The Equal Rights Amendment would not permit cases that have been published, but only that it be available equally to husbands and wives." (p. 952)

18. "The Equal Rights Amendment would not permit cases that have been published, but only that it be available equally to husbands and wives." (p. 952)

19. "The laws which permit a parent with custody of a young child who stays at home to care for that child so long as there was no legal presumption that the state shared the greater burden must be invalid." (p. 952)

20. "The Equal Rights Amendment would not permit cases that have been published, but only that it be available equally to husbands and wives." (p. 952)

21. "The laws which require employers to impose leave on pregnant employees for a specified period before and after childbirth, without counting time lost from customary leave, are a burdensome discrimination. The Equal Rights Amendment would be likely to invalidate weightlifting statutes which apply only to women) would be changed under the Equal Rights Amendment." (p. 957)

22. "The article cites an example which will be struck down in all states under the Equal Rights Amendment . . . is not required to maintain a household and the expected birth of her child." (p. 952)

23. "There is little reason to doubt, therefore, that courts will invalidate weightlifting regulations for women under the Equal Rights Amendment." (p. 958)

24. "This result (to invalidate maximum hours which apply only to women) would also be predicted from principles of statutory construction under the Equal Rights Amendment." (p. 958)

25. "the courts are likely to . . . equalize treatment under the Equal Rights Amendment by invalidating (a law protecting women from coerced overtime)." (p. 958)

26. "Laws which restrict or regulate working conditions would probably be invalidated." (p. 958)

Miscellaneous

1. "the government cannot rely upon the administrative technique of "protective labor legislation" to provide adequate protection of women where the classification is by sex . . . whatever the price in efficiency, the classification must be made on some other basis." (p. 958)

2. "It is obvious that the marginal relationship of the unique physical characteristics of pregnancy to the problem of absenteeism
would require invalidation . . . of a government regulation to reduce absenteeism by barring women from certain jobs.

3. The need for extensive leave for child-rearing because "if only women can get extensive leave for child-rearing it becomes economic nonsense to continue to stand them home to care for children while their wives work." (p. 897)

4. A rule allowing sick leave only to mothers when a member of their household is sick is a prohibited sex classification." (p. 898)

5. "a law might prohibit adults with primary responsibility for child care from working in managerial jobs, on the grounds that the children's caretakers are inconsistent with substantial occupational responsibility. Such a law or government regulation would constitute a serious evasion of the Equal Rights Amendment." (p. 898)

6. "Protection against indirect, covert or unconscious sex discrimination is essential to supplement the absolute ban on explicit sex classification of the Equal Rights Amendment." (p. 900)

7. "The courts have power to grant affirmative relief in framing decrees in particular cases. . . . Such decrees could provide remedies for past denial of equal rights which takes the form of inequitable sex classifications and give special treatment to the group discriminated against." (p. 904)

8. A prohibited sex classification may appear, paradoxically, to conflict with the absolute nature of the Equal Rights Amendment. But where damage has been done by a violator who acts on the basis of a forbidden characteristic, the enforcing authorities may also be compelled to take the same characteristic into account in order to undo what has been done. (p. 904)

9. "There is no doubt that the Equal Rights Amendment would give rise to considerable difference in the law on account of sex in the public schools and public university systems." (p. 906)

10. "It would seem clear that the basic principles of state action would, as a general proposition, require that the state eliminate male domination from the educational system. . . .

11. "states which grant jury service exemptions to women with children will either extend to the exemptions for children or abolish the exemption altogether." (p. 920)

EXHIBIT 5

THE "EQUAL RIGHTS" AMENDMENT: AN ATTRACTIVE SLOGAN BUT IS IT GOOD LAW? (Statement presented to the 91st Congress by groups of women opposing the Equal Rights Amendment.)

(What Does Equality Mean Under the Equal Rights Amendment: A few thoughtful questions.)

Question 1: Does the Equal Rights Amendment create new rights for women?

No, it does not. In fact, the Amendment—

Does not require equal pay for equal work.

Does not ensure the promotion of women to better or "decision-making" jobs.

Does not provide free 24-hour community centers for children's day care centers for working mothers.

Does not elect more women to public office.

Does not abolish abortion laws or make available safe birth control devices.

Does not convince men they should help with the household chores.

And, furthermore, does not put a woman astronaut into space!

Question 2. Could the Equal Rights Amendment destroy some important women's rights?

Yes, it could destroy rights and cause new problems for women by:

1. Creating new obligations for women to support their husbands and children.

2. Weakening men's duty to support their wives and children.

3. Wiping out laws fixing such benefits as maternity leave, paternity leave, and safety standards for women, simply because many of these laws don't apply to men.

4. Drafting women into military service.

5. Weakening the legal presumption that a woman should keep custody of her children and should receive financial support in the event of a divorce.

6. Endangering the tax-exempt status of non-profit "women only" institutions, such as the YWCA and juvenile courts.

7. Destroying laws that require separate rest rooms and dressing rooms for women workers.

Question 3. Is this Constitutional Amendment really needed to achieve women's rights?

No, because—

The Constitution already protects the rights of women, particularly under the 5th and 14th Amendments.

Unfair or discriminatory laws can be repealed by legislatures or challenged in the courts under these Amendments. That has already been done successfully in many cases.

New rights and freedoms for women will come from enactment of new laws and the effective enforcement of existing ones—not from a new Constitutional Amendment.

SOME REAL WORRIES

Nobody knows for sure what results the Equal Rights Amendment to the Constitution would bring. Here are some "real worries" you ought to think about:

Many existing laws enacted to prevent harmful industrial or commercial exploitation of working women are likely to go out the window—whether women want them to or not. The "equal rights" argument can be turned right around by powerful employer interests who don't want any of their workers protected by labor laws—either men or women. If the courts don't throw out the women's labor laws right away, the legislatures can be pressured into quick repeal.

Divorced, separated, and deserted wives struggling to support themselves and their children through whatever work they can get may find their claims to support from the father even harder to enforce than they do right now.

For many American women, particularly those in the lower income brackets, that's a heavy price to pay for a theory of equality.

Wives and mothers in the labor force—and they are a substantial majority—may find they can no longer choose to stay at home as full-time homemakers.

Under the Equal Rights Amendment, they may become obligated for furnishing half the family support. The right of choice for these women should be protected.

DON'T BUY A GOLD BRICK!

American women are increasingly expert consumers.

They've learned the hard way that you can't always trust the language on the label . . . or extravagant advertising claims.

That's true for legislation, too.

The Equal Rights Amendment to the Constitution, for instance, sounds great . . . like the end of sex discrimination.

Sounds easy . . . But most sex discrimination is a matter of private practice, not of public law, and will not be affected by the Amendment.

And laws that treat women differently are not necessarily "discriminatory" or unfair.

That's why many women's organizations, trade unions, women's groups, with long experience in human and industrial relations problems, urge rejection of the Equal Rights Amendment.

Let's keep the good laws we've won and see that they're enforced. Let's repeal or amend the bad laws . . . and go on from there to achieve real equality for every American.

EXHIBIT 6

[From the Congressional Record, Feb. 8, 1972]

ELMO ROPER POLLS SHOWS WOMEN AGAINST EQUAL RIGHTS AMENDMENT

Mr. Emmet, Mr. Chairman, and Mr. Emmons, I refer you to the recurring myths that surround the equal rights amendment, or unsex amendment, is the allegation that all women are going to be so strongly taxed to the amendment if their constituency were for it.

Elmo Roper, a well-known pollster, took a national poll this week of women's liberation. I think the results of this poll should be very interesting to Members of the Senate because legislators should fail to consider what the people want when they are constantly confronted by a highly vocal and publicity conscious pressure group, such as the National Organization of Women's organizations supporting the equal rights amendment for women.

The Roper poll shows that:

First, 60 percent of American women disagree that, "women are discriminated against and treated as second-class citizens.

Second, 38 percent of American women disagree that, "wife should be breadwinner if better wage earner than husband.

Third, 47 percent of American women disagree that, "a divorced woman should pay alimony if she has money and he has not.

Fourth, 77 percent of American women disagree that, "women should have equal treatment regarding the draft.

In interpreting these figures, it is important to note that the majorities of Americans do not want the very things the ERA proposes. The primary sponsors of the ERA, including Congresswoman Gurrrere, maintain that: A wife should have the legal responsibility for family support if she is the better wage earner; husband, and should apply equally to men and women with the result that a divorced woman should pay if she has the money; the draft laws should apply equally to men and women with the result that women will serve in combat.

So what we have with the equal rights amendment is a proposal that will destroy all legal distinctions between men and women and the majority of men do not want it and the majority of women do not want it.

I hope that every Senator will have a chance to review Elmo Roper's Poll which appeared in the September 26, 1971, issue of Parade magazine. I ask unanimous consent that it be printed in the Record.

A SPECIAL ROPER POLL ON WOMEN'S RIGHTS

The Women's Liberation movement is making headlines, but seven out of ten American women feel they are not being discriminated against. What's more—seven out of ten men agree with them.

These are the findings of a special Roper Poll to determine the "effects of Women's Liberation on the thinking of Americans.

Perhaps the most startling result uncovered by the poll is the close agreement of men and women on many key issues.

The survey put various questions to a large equal sampling of men and women with this introduction:

"lot has been said about the rights of women—In fact, there is a movement called 'Women's Liberation,' as you probably now. I'm going to read you several different state-

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Mr. ERVIN. Mr. President, I ask how much time still remains for those in opposition to the amendment.

Mr. ERVIN. Would the clerk translate that into hours and minutes?

Mr. ERVIN. Mr. President, I sent for the assistant legislative clerk to read the amendment as follows:

On page 2, line 3, strike out "two" and insert in lieu thereof "six".

Mr. ERVIN. Mr. President, I do not know whether the Senator from Indiana feels impelled to make a statement at this time, or to correct any misimpressions that the Senator from North Carolina may have expressed in respect to the proposed amendment.

Mr. President, I pointed out at the beginning of my remarks that the equal rights amendment is based on the theory that God made a serious mistake when he created two sexes instead of one, and I said that the most effective way to cure this mistake of God's is to adopt the equal rights amendment.

I also pointed out that, while the purpose of most of the advocates of the equal rights amendment is to get women into the military services, in the draft and enlistments in the Armed Forces, and the other services, there is another point in this amendment that is most significant, and that is the objective that is to deny Congress and the legislative bodies of the 50 States the power to take into consideration that there are physiological and functional differences between men and women when they enact legislation.

I also pointed out that, under the equal rights amendment, women would be subjected to the draft, and in addition to being subject to the draft and enlisted in the Armed Forces, the subject of voluntary enlistments in the combat units of the Armed Forces. I also stated as emphatically as the Senator from North Carolina can that the Senator from North Carolina knows that it is unnecessary and believes it is unreasonable, and arbitrary discriminations made against women by Federal or State laws, the most extreme advocates of the amendment have a different objective, and that objective is to deny Congress and the legislative bodies of the 50 States the power to take into consideration that there are physiological and functional differences between men and women when they enact legislation.

Some persons may have believed that the Senator from North Carolina was exaggerating these matters, notwithstanding the fact that the equal rights amendment merely declares, without exceptions or limitation, that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. These words are absolutely without meaning and without exceptions or limitations. They clearly undertake to convert men and women into identical legal beings, having identical legal rights and having identical legal responsibilities under all circumstances.

Since one of the obligations of our society imposes upon men to serve in the Armed Forces, even if one is unwilling to volunteer and to serve in combat, this amendment would require that men and women be drafted on exactly the same conditions and serve in combat units and other units of the Armed Forces under exactly the same conditions.

I have mentioned the fact that Professor Emerson, of Yale University, and three graduates of that institution joined in an article which was published in the Yale Law Journal for April, 1971. This article is entitled "The Equal Rights Amendment—the Constitutional Basis for Equal Rights for Women," and it explains the considered legal opinions of this distinguished professor and these three gifted women lawyers as to exactly what the consequences of the adoption of this amendment will be to our country.

The equal rights amendment provides that it is to take effect 2 years after its ratification. At another moment ago I offered a particular amendment on this point. I now withdraw that amendment, and offer another amendment in its stead, and ask that the amendment I now offer be adopted.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk reads the amendment as follows:

On page 2, line 3, strike out "two" and insert in lieu thereof "three".

Mr. ERVIN. Mr. President, the effect of this amendment would be to provide that the equal rights amendment, if adopted, shall take effect 3 years after its ratification, instead of 2 years after its ratification.

I offer this amendment because, after reading what the proponents of the equal rights amendment say it would do to the Armed Forces, Air Force, Navy, and National Guard, I do not believe 2 years is enough time for those units of the Armed Forces to adjust themselves to the changes which would be required by this amendment.

I wish to read to the Senate what the article in the Yale Law Journal has to say as to the effect which the equal rights amendment will have upon the Armed Forces of the United States. I start on page 967:

The Armed Forces have always been one of the most male-dominated institutions in our society. The army and navy to involuntary conscription. Various regulations of the Armed Forces restrict the access of women to the military, and indeed place an absolute limit on the number permitted to serve.

Women with dependent children may not enlist, while men in the same situation may do so. Certain grounds for discharge apply only to women. Numerous other forms of differential treatment pervade the military services.

It is not difficult to explain why the military is structured in this way. In the past, physical strength was a major attribute for the military services. Heavy, long marches on foot were frequent, and hand to hand fighting was common. Women were considered insufficiently robust to be kept in the military. Women were also handicapped by pregnancy. Lack of effective contraceptive methods also served to keep the number of women at a low level. Therefore, on the basis of both physical and psychological considerations, the Armed Forces of the United States have been female dominated.

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now permitted to total only two per cent of the full strength of the services.

While many people look upon such restrictions on women's military service as reflecting a desire to protect women from the evil, others feel that it would be advantageous for women to receive the training and benefits of military service in this country. No one can doubt that military service has tremendous disadvantages, chief among them the danger of loss of life and the requirement of learning to kill others. Yet there are also benefits afforded the individuals who serve. The Armed Forces furnish training, medical care, and benefits for dependents. Veterans receive educational scholarships, employment, pensions, insurance, and medical treatment.

More subtle factors involve the effect of military service on one's self-image and on the way he or she is viewed by others. For large segments of the population, it is taken to prove that an individual has sacrificed for his or her country. He or she deserves to be served seriously in return. As President Kennedy said in 1963:

"[W]hen women are excluded from the draft—the most serious and onerous duty of citizenship—is generally accepted, the social stereotypes about their inability to do so are perpetuated. When women are married and divorced, when women persim, in-service vocational and specialist training will be interested in participating in the military. Yet there are also benefits afforded the women's families. Women have to be willing to forego marriage and children in order to do so. They were therefore denied the exercise of leadership skills and were viewed as inferior, deserving the subordinate tasks to which the military's discriminatory rules consigned them. Women were also seen as less flexible and less valuable workers than men, incapable of serving in many positions. They were assigned to women's services, such as nurses, technicians. Many interested in training in fields such as photography were denied access to the programs.

This view of women has begun to change. But it is happening slowly in some services and not at all in others. The Equal Rights Amendment (a procedural amendment) will require the military to see women as it sees men—as a diverse group of individuals, married and unmarried, with and without children, possessing or desiring to acquire many different skills, and performing many kinds of jobs. The impact of the Amendment will have the effect—which in my judgment is undoubted—of invalidating the Selective Service Act, the country will be left for a time without any draft law, and will have to work out and implement the draft law so as to comply with the equal rights amendment.

The Secretary of Defense has the power to see the standards of physical and mental fitness are uniform for both sexes. A general intelligence test is used to determine mental qualification, and a physical examination is given to check the general state of health of the individual. Under the Equal Rights Amendment, all the standards approved to serve have to be neutral as between the sexes. Moreover, even after the mental and physical standards have been made uniform for both sexes, they will have to be modified, so that they are related to the appropriate jobs and functions and do not operate as to penalize one sex over the other. A result would raise the possibility that the test, though neutral on its face, was in fact discriminatory. Achieving this goal of uniform, nondiscriminatory standards will require some changes.

I digress from the reading to say that I think it is going to be a matter of great discrimination for the Army, the Navy, the Marine Corps, or the Air Force to make the physical standards for men and women uniform for both sexes. I do not think they have any more power to do that than the equal rights amendment has.

First height standards will have to be revised from the dual system which now exists. At present, men from 5'9" to 6'10" tall are permitted to serve as enlisted personnel in the Army and Air Force; the range in the Navy and Marine Corps is from 5'6" to 6'6". Women 4'10" to 6'4" are permitted in the service academies, the height is from 5'6" to 6'8" in all services except the Army, where the minimum is 5'2". The maximum for both sexes may be from 4'10" to 6'0" tall. Under the Equal Rights Amendment, the same minimum would also have to be applied to both sexes. Persons, male and female, up to 6'8" (or 6'6") would be accepted, if these remain the maximum limits. For women, a more difficult problem would be to determine current minimum for men of 5'8" as the uniform standard, or adopt the lower 4'10" minimum for both sexes. But if the Army retains its 5'8" minimum for officers, it would effectively exclude many women, and the minimum would therefore have to be shown to be closely job-related, in order to stand.

The weight-height correlations for the services will have to be revised as well. If there are height requirements, there is a large area of overlap between the normal weight for men and women. Between the normal weight for men and women, the service could retain their current minimum for men of 5'8" as the uniform standard, or adopt the lower 4'10" minimum for both sexes. But if the Army retains its 5'8" minimum for officers, it would effectively exclude many women, and the minimum would therefore have to be shown to be closely job-related, in order to stand.

The same principles will have to be applied to the intelligence test. At present men and women are given the same test; under the Amendment, both will take the same test. Similarly, the required minimum score will be the same for both sexes. If the current standards are for men administered to women, and it is shown that women on the whole score lower on it, it should be to be demonstrated that the ques-
tions do test general intelligence and are not taken solely from areas of factual knowledge with which most men and few women in the United States are familiar.

Most of the deferments and exemptions from military service could easily be adapted to the present situation. The remaining parent, male or female, may be deferred. It also states that the President may provide for the deferment of persons who have children, or wives and children, with whom they maintain a bona fide family relationship in their homes. This has been interpreted to mean that a married person with a child will generally be deferred.

There are several permissible alternatives to these deferment provisions under the Equal Rights Amendment. Deferral might be extended or stricken. The dependency determination now provides that "persons in a status with respect to persons (other than with respect to persons of the opposite sex) dependent upon them for support which renders their deferment advisable" may be deferred. It also states that the President may provide for the deferment of parents who have children, or wives and children, with whom they maintain a bona fide family relationship in their homes. This has been interpreted to mean that a married person with a child will generally be deferred.

I digress to observe that the authors of this article make the interesting observation that a husband and a wife can stay at home to look after the children, or that both parents will be deferred. A third possibility would be to grant a deferment to the individual in the couple who is responsible for child care. The couple could decide which one was going to perform this function, and the other member would be liable for service.

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

For the Record, I wish to say that I did not agree with the Senator from North Carolina when he said that I did not agree with what the amendment would provide. I do not think he wants to do that intentionally.

Mr. ERVIN. The Senator from Indiana may think there is nothing in the amendment which requires that, but the amendment requires that the lawmakers ignore the fact that men are fathers and that women are mothers. It requires them to be treated exactly alike, as if they both belonged to a unisex.

Mr. BAYH. I think that my good friend from Indiana is an intellectually honest man. When he puts an article in the Record and urges Senators to study it to find out what the amendment would do, I think he feels the article has great validity.

Mr. BAYH. I think the Senator has already been so kind to me that he has quoted in full what I said when I put it in the Record. I did not agree with everything he reads in the Bible, but I do not think he wants to do that intentionally.

Mr. ERVIN. I do not think the Senator from Indiana meant to deceive the Senator from North Carolina when he put this article in the Record and told the Senator from North Carolina and other Members of the Senate that they could find out from reading the article that it was a masterly presentation of what the amendment would provide. I do not think the Senator from Indiana attempted to deceive anyone. I think he wanted to give me some light.

Mr. BAYH. The Senator from Indiana did say that the Senator from North Carolina was very thoughtfully read the entire amendment to the Senate.

Mr. ERVIN. The Senator from Indiana is like the man who says he does not believe everything that was in the Bible, that he does not believe Jonah swallowed the whale. I am reading a part in the article what someone thinks it is, but I do respectfully submit that I would like to read the entire article that was in the Bible. I stand by what I said the Senator from North Carolina said I said.

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Mr. ERVIN. I would like to read to the Senate an article which the distinguished Congressmanwoman from Michigan (Mrs. Gar­

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horizons of the Senate as to what the amendment would do.

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Mr. BAYH. The Senator from North

Carolina calls the following and the part


Mr. BAYH. Mr. President, I hope that the Senator from Indiana, whom

knows which is fish and which is fowl.

Mr. ERVIN. As far as I am concerned, the amendment is foul.

Now the article itself shows that the

exemption are twofold.

Mr. BAYH. Mr. President, I hope that the amendment is pretty unwise

in the service of the country.

Mr. ERVIN. Mr. President, the second reason for the

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Mr. ERVIN. Mr. President, I hope that the Senate will read the whole of the 114 pages, pro-

vide a little infant child subject to induction. Thus the sole surviving child will be excused.

Mr. BAYH. Mr. President, I hope that the Senator will have time to read all of that because it is too enlightening to miss.

Mr. ERVIN. No. The entire article proves the point of the Senator. The entire article proves that the amendment will not work and that the legislators in the 50 States so that they cannot even consider the fact that God created men as male and female whether they adopt the legislation. That is what this amendment does. That is the provision of the amendment, and this proves that is exactly what will happen.

Mr. President, the second reason for the

exemption will no longer be permissible, because it results in discrimination against women. A court will therefore be

required to strike down the rule despite the

shortage of registered males and the absolute necessity for the draft to provide day care; if it does not, it may allow only black men to be excused from induction because of the sexual

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draft boards. It is possible that an all volunteer army will be established in the United States in the foreseeable future. In that event, equalization of educational opportunities, which has lost a member, or several members, cannot be asked to bear a
total loss. The other concern is that the family name and line be preserved.

In another part of the article, however, it says that the family name shall be abolished, that the right to have the family name that one inherits shall be abolished.

That means that even the children could select their own names if the children wanted to take their own names.

Mr. BAYH. Will the Senator read on further?

Mr. ERVIN. I will, if the Senator will refrain from interrupting me too much. I will read the whole of the 114 pages, proving that the Senator from Indiana, whom I now wish to quote, will prove it. I am reading about men and women being sent into combat, which means that women will have their forms devastated by the bombs and shells of the enemy.

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Mr. BAYH. The logic of the Senator from Indiana is the same as the logic of the Senator from North Carolina. We agree with the part that proves our point and disagree with the part that does not.

Mr. ERVIN. That is the only distinction I found that this shows between men and women.

Distinctions between single and married women who become pregnant will be permissible only if the draft regulations related to a unique physical characteristic of women, and if shown to be directly related to the physical condition of pregnancy, can be applied to women and men.

The Senator from North Carolina is distressed to say that is to him a rather strange thought, that pregnancy and childbearing are not incompatible with military service. In other words, if a woman in the military is going to have to leave a little infant child to fight the enemy for the first time, she should continue to serve when they have children, it is clear that pregnancy and childbearing alone are not incompatible with military service.

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Mr. BAYH. Mr. President, I hope that the Senator will have time to read all of that because it is too enlightening to miss.

Mr. ERVIN. I have read it myself. And I commend that the Senator from Indiana read it. I think he will agree with me that this amendment is pretty unwise if he does read it.

Mr. BAYH. Mr. President, may I ask one question? The Senator from North Carolina recommends that I read it. Does that mean that the Senator agrees with it?

Mr. ERVIN. I agree that the Yale Law Journal article shows, at a very minimum, what the ERA will accomplish.

Mr. BAYH. The logic of the Senator from Indiana is the same as the logic of the Senator from North Carolina. We agree with the part that proves our point and disagree with the part that does not.
engineer Corps or the Army Nurse Corps, this service or "corps" is also used to designate a numerical grouping of two to five divisions. Although the members of a functional corps are physically dispersed in job assignments, they are based on common job skills, orders, and promotions and assignments are routed through its office.

Almost all of the women in the Army are members of the Army Nurse Corps or the Women's Army Corps. Although the Army Nurse Corps, a pre-WAC (Women's Army Corps) organization, has a separate system of training and assignment procedures applicable to men. They receive some basic service, it will be permissible to administer to women in this country are fully capable of filling over three-quarters of all zones. Thirty years ago, women were found in the military personnel. Ea.ting facilities will likewise be integrated by sex. Sleeping facilities will be abolished and women assigned to the same basis as men. Athletic facilities and the pavilions they occupy, will be far greater than at present. Women will be subject to the draft, and the requirements for enlistment will be the same for both sexes. In-service and veterans' benefits will be identical. Women will serve in all kinds of units, and they will be eligible for combat duty. There is no reason to assume that in non-combat activity of men and women will be prohibited.

Some public debate has implied that hundreds of thousands of women will be affected by such a requirement. This is not true. Combat soldiers make up only a small percentage of military personnel. Even in combat zones many jobs of logistic and administrative nature are more difficult than the work done in non-combat zones. Thirty years ago, women were found carts, trucks, hospitals, and rear-area Army job classifications, and there is no reason to prevent them from doing these jobs. This issue, involving the question of women to actual combat duty, therefore, involves a relatively small segment of total military assignments.

The Equal Rights Amendment the WAC was abolished and women assigned to other corps on the basis of their skills. Women are only partially integrated into the training and assignment procedures applicable to men. They receive some basic training but it does not equip them for combat duty. They serve mainly in administrative and clerical jobs or as medical technicians.

Whether women ought to serve in combat units has provoked lengthy debate. I digress from reading to say that the militant advocates of this amendment would be compelled to serve in combat. The Senator from North Carolina respectfully begs leave to disagree with that conclusion. I think all mothers and fathers in America disagree. They do not think any of the fathers and mothers in America want their daughters drafted for military service and assigned to duty in combat.

I repeat the last sentence I read from the Equal Rights Amendment, said that this article, said that this article, said that this article concerning the oft-repeated assertion by supporters of the amendment with respect to service by women in the armed forces in Israel. He has been informed as a result of that inquiry by the four strong supporters of the amendment, the Senate, the House of Representatives, and the President, that women will serve in all kinds of units, but that hundreds of thousands of women will be affected by such a test. There will be no unifying principle except that the Equal Rights Amendment the WAC would be abolished and women assigned to other corps on the basis of their skills. Whether women ought to serve in combat units has provoked lengthy debate. I digress from reading to say that the militant advocates of this amendment would be compelled to serve in combat. The Senator from North Carolina respectfully begs leave to disagree with that conclusion. I think all mothers and fathers in America disagree. They do not think any of the fathers and mothers in America want their daughters drafted for military service and assigned to duty in combat.

In the current debate, there is no reason to prevent them from doing these jobs. This issue, involving the question of women to actual combat duty, therefore, involves a relatively small segment of total military assignments.

Opponents of the amendment claim that women are physically incapable of performing combat duty. The facts do not support this conclusion. The effectiveness of the modern soldier is due more to equipment and training than to individual strength. Training and combat may require the carrying of loads weighing 40 to 50 pounds, but many men, if not most, women in this country are fully able to do that.

I digress to say that the Senator from North Carolina recalls many long miles of his post war tour of duty and many hours on his backpack. A 9-pound rifle on his shoulder. Frankly, I do not commend exercise of that character to women, even the ones who want to serve in the Army or in combat units.

And women are physically as able as men to perform many jobs classified as combat duty, such as piloting an airplane or engaging in air defense. In order to screen out those of both sexes incapable of combat service, it will be permissible to administer a test to measure ability to do the requisite physical tasks. Those who pass, or who forego the test without training, will receive combat training. The test will have to be closely related to the actual requirements of combat duty. There will be many warrant officers, test instructors, and promotion examinations. It is not to be wondered that Dr. Pincus, professor of neurology in the Yale Medical School of Yale University, after reading this article, said that this equal rights preemption of the equal rights amendment, all that a lazy husband has to do is to bring his wife in this country, and then he could be rated as one of her dependents and not only escape military service himself but also enjoy the emoluments of her military service.

Living conditions in the service will be changed by amendment of the Equal Rights Amendment to the extent that they separate men and women for functions in which there are some obvious differences. The married men's clubs, and other social organizations and activities on military bases will be open to women as well as men. Athletic facilities and the pavilions they occupy, will be far greater than at present. Women will be subject to the draft, and the requirements for enlistment will be the same for both sexes. In-service and veterans' benefits will be identical. Women will serve in all kinds of units, and they will be eligible for combat duty. There is no reason to assume that in non-combat activity of men and women will be prohibited.

The Equal Rights Amendment will result in substantial changes in our military institutions. The number of women serving, and the nature of their jobs, may as that any of her dependents. And not only escape military service himself but also enjoy the emoluments of her military service.

I would like to digress from the reading to emphasize the statement that the participation of women in the Armed Services and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Armed Forces and in combat units of the Arm
amendment or the resolution for equal rights could properly be called the Gulf of Tonkin resolution for the American social system.

I continue to read:

VI. Conclusion

The word "Conclusion" does not mean it is the conclusion of this 114-page document. It is simply the end of the Power. The part which discusses the effect of the amendment on men and women in the military forces which will be encompassed by the amendment. The article makes it very clear that men and women will be drafted into the compulsory military services on exactly the same terms, that men and women will be enlisted for combat service on exactly the same terms, that men and women will be sent into combat on exactly the same terms.

It makes clear that if the amendment should be adopted, Congress will be powerless to change any of the things which the amendment would require.

I respectfully submit that Congress now has the power either to draft or refuse to draft women, the power to permit or refuse to permit women to enlist in the combat units of the Armed Forces and the power to permit or refuse to permit women to be sent into combat. Why should Congress not keep this power? It is a constitutional power. Why should Congress be put in a straitjacket by this amendment and, in the words of the Chief Counsel for the Department of Defense, be required to choose between drafting men and either drafting nobody and sending nobody into combat service or drafting and sending into combat services men and women on exactly the same terms and for exactly the same purposes?

I understand the amendment, but there are many things which I cannot understand about those who advocate this amendment. Why do they want to purport to change any of the things which the amendment would require? I am perfectly willing, after I read an amendment which contains these words:

The transformation of our legal system to one which establishes equal rights for women under the law is long overdue.

The movement for women's liberation in this country. The movement as a whole is in a stage of ferment and growth, seeking a new political analysis based upon and red:istribution of power, change must involve the capacity of Congress and the State legislatures, under the due process and equal protection clauses of the Constitution, to provide for women the protections which life and experience and history show are necessary to facilitate the existence and development of the race.

I resume reading:

The call for this constitutional revision is taking place in the midst of other significant developments calling for women's liberation in this country. The movement as a whole is in a stage of ferment and growth, seeking a new political analysis based upon new political forms and red:istributions of power, change must involve the capacity of Congress and the State legislatures, under the due process and equal protection clauses of the Constitution, to provide for women the protections which life and experience and history show are necessary to facilitate the existence and development of the race.

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

Mr. ERVIN. Mr. President, my arguments have convinced me that even 3 years is not sufficient time to bring about conditions necessary for an amendment. So I withdraw the amendment which I have been discussing and send forward another amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment is withdrawn.

The clerk will state the amendment.

The legislative clerk reads as follows:

On page 2, line 3, strike out "two" and insert in lieu thereof "five".

Mr. ERVIN. Mr. President, I resume:

A number of feminists have argued for increased separation of women from men in some spheres of activity or stages of life. Dialogue and experimentation with new family forms, social, political and economic organization will undoubtedly go on as long as the women's movement continues to grow.

But I suggest to the majority leader that there are 20 Senators absent; according to my information, there are 20 Members of this body who are not here today.

Mr. MANSFIELD. All the more reason to vote.

Mr. ERVIN. Including at least one or two who will vote with me on this issue.

I propose to offer an amendment which would preserve the laws which now extend to women in general and to wives, mothers, and widows in particular exemptions and protections which I say that the experience of the race shows is necessary for the development and education of the race.

Third, I propose to offer an amendment which will make it plain that the policy responsible for army recruiting children will continue to rest upon the fathers, and that this amendment will not invalidate any laws which now require husbands to pay alimony to their wives.

Next, I propose to offer an amendment which will preserve the laws which now extend the right of privacy for men and women and boys and girls in public restrooms, in public schools, and in public correctional institutions.

Finally, I propose to offer an amendment which will make it certain that the laws which make it a crime for a war to be under a promise of marriage, the laws which now make it a crime for a mature man to seduce an innocent and virtuous woman under a promise of marriage, the laws which now make it a crime for a mature man to seduce an innocent and virtuous woman under a promise of marriage, the laws which now make it a crime for a mature man to seduce an innocent and virtuous woman under a promise of marriage, the laws which now make it a crime for a mature man to seduce an innocent and virtuous woman under a promise of marriage, the laws which now make it a crime for a mature man to seduce an innocent and virtuous woman under a promise of marriage, the laws which now make it a crime for a mature man to seduce an innocent and virtuous woman under a promise of marriage, the laws which now make it a crime for a mature man to seduce an innocent and virtuous woman under a promise of marriage.
Senator has mentioned that one of the reasons why he is somewhat averse to having a vote this afternoon is that there are 20 Members absent. That really should be one of the reasons why the distinguished Senator should want a vote this afternoon, to help make certain that the Senate would not be holding into a Tuesday-to-Thursday club. But I recognize the realities of the situation.

I, of course, take the Senator at his word that the amendment now pending will be decided on at a reasonable time tomorrow, in line with the time limitation on amendments, that others will follow that, and if the distinguished chairman of the committee, the manager of the bill, would allow me, I would like to suggest the absence of a quorum, subject to making a motion to adjourn.

Mr. BAYH. Mr. President, I concur in the judgment of the leadership. I would say to my friend from North Carolina that I think the issues have been clearly drawn by his enumeration. He and I have discussed these; I think they are legitimate points for discussion, and they are legitimate points for differences of opinion. As strongly as I feel that the Senator from North Carolina is wrong, I can see his reasoning. I know there are some who will argue for the Senate as a whole, and the country because of the presence of our friends in the news gallery, will be aware of the issues which will be decided tomorrow. There is no excuse for that in the Senate.

Mr. ERVIN. Mr. President, I hope the news media will carry something about what is involved in this amendment, and I hope the absent Senators will either read that in the news media or will read the CONGRESSIONAL RECORD, and therefore be able to vote with a certain degree of light instead of voting in darkness. I am sure many of them have studied this problem and are ready to vote anyway.

Mr. MANSFIELD. Mr. President, if the Senator will yield, the Senator was quite explicit in indicating the type of amendment that he will offer, and if the members of the fourth estate were listening, I too would hope that they would give a degree of publicity to the distinguished Senator, who has been on his feet all afternoon expressing his views, and doing so, I think, intelligently and with a degree of understanding.

Mr. ERVIN. I thank the Senator.

I ask unanimous consent that the remainder of the article from which I have been reading be printed in the Record at this point.

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

**EQUAL RIGHTS AMENDMENT**

Moreover, the increasing nationwide pressure for passage of an Equal Rights Amendment does not arise out of the active women’s movement, makes it clear that most women do not believe their interests are ever best served by discriminatory state laws. In all legal distinctions based upon sex have become politically and morally unacceptable.

In this context the Equal Rights Amendment provides a necessary and a particularly valuable political change. It will establish equality for women without compelling conformity to any one pattern within private relationships. Persons will remain free to structure their private activity and association with governmental interference. Yet within the sphere of state activity, the Amendment will establish fully, explicitly and constitutionally the proposition that before the law women and men are to be treated without difference.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time for the quorum call being taken from neither side.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I withdraw the last amendment submitted by me.

The PRESIDING OFFICER. The amendment is withdrawn.

**EQUAL RIGHTS**

Mr. PEARSON. Mr. President, in 1923, Senator Charles Curtis and Representative Dan Anthony, both of Kansas, introduced an amendment to the Constitution denying discrimination on account of sex. At that time, the women of this Nation were on the verge of voting in their first election, having 3 years earlier been granted this privilege through ratification of the 19th amendment.

Now, nearly 50 years later, the Senate has taken up consideration of a new equal rights amendment, and never have the chances for approval and ultimate ratification appeared more favorable.

Mr. President, history advises us that the role of women throughout our civilization has been one of subordination. This tenet can also be traced throughout our legal history, as discrimination on account of sex has been prescribed not only by statutory law, but by common law as well.

No one denies that anything other than good faith was intended in the development and practice of such discrimination. Yet the guiding light of our society has always been equal opportunity for all. Clearly, the role of women and it is therefore that we recognize that women have been denied the opportunities rightly due them.

Mr. President, I shall support approval of the equal rights measure in the Senate, and I shall support it without the amendments which I am aware will cripple or totally negate its intended effect. The great majority of women want to share the burdens and responsibilities of society. Let us not deny them this measure of respect and confidence.

**ENROLLED BILLS PRESENTED**

The Secretary of the Senate reported that on today, March 20, 1972, he presented to the President of the United States the enrolled bill (S. 2097) to establish a Special Action Office for Drug Abuse Prevention and to concentrate the resources of the Nation against the problem of drug abuse.

**MESSAGE FROM THE HOUSE**

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 333) to provide for the striking of medals in commemoration of the first U.S. International Transportation Exposition.

**ORDER FOR ADJOURNMENT UNTIL 9:15 TOMORROW**

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. tomorrow.

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

**ORDER FOR RECOGNITION OF SENATOR HARRIS TOMORROW**

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the recognition of the two leaders on tomorrow under the standing order, the distinguished Senator from Oklahoma (Mr. Harris) be recognized for not to exceed 15 minutes.

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

**ORDER FOR TRANSACTION OF ROUTINE BUSINESS AND FOR CHAIR TO LAY BEFORE THE SENATE THE UNFINISHED BUSINESS TOMORROW**

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the close of the 15-minute unanimous-consent orders on tomorrow, there be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

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

**ORDER FOR RECOGNITION OF SENATOR KENNEDY ON TOMORROW**

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the distinguished Senator from Minnesota (Mr. Mondale), the distinguished Senator from Massachusetts (Mr. Kennedy) be recognized for not to exceed 15 minutes.

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

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:15 a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senator Harris, Senator Nelson, Senator Monbouquette, and Senator McGovern.

There will then ensue a period for the transaction of routine morning business. The Senate will be called up and voted on to-morrow. There will be rollcall votes to-morrow.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until to-morrow, Tuesday, March 21, 1972, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate March 20, 1972:

U. S. COAST GUARD

The following named officers of the U. S. Coast Guard for promotion to the grade of rear admiral:

William H. Brinkmeyer, Ricardo A. Batiz.

IN THE AIR FORCE

The following named officers of the U. S. Air Force for promotion to the rank of lieutenant colonel:


IN THE NAVY

The following-(Navy Reserve officers) to be permanent lieutenants and a temporary lieutenant commander in the Dental Corps of the Navy, subject to the qualification therefor as provided by law:


IN THE AIR FORCE

Ricardo A. Ratti.

COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER

The nominations beginning Dorsey J. Abel, to be colonel, and ending Johanna R. Norris, to be permanent captain in the Medical Corps of the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law:}}