H.R. 14089. A bill to amend the Internal Revenue Code of 1954, to promote additional protection for the rights of participants in private pension plans, to establish minimum standards for vesting, to establish an insurance corporation within the Department of the Treasury, and for other purposes; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 14090. A bill to use mortgage refinancing to help preserve low- and moderate-income housing; to the Committee on Banking and Currency.

By Mr. CHARLES H. WILSON:

H.R. 14091. A bill to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida (for himself and Mr. HALPERN):

H.R. 14092. A bill to require the Secretary of Transportation to prescribe regulations requiring certain modes of public transportation in interstate commerce to reserve some seating capacity for passengers who do not smoke; to the Committee on Interstate and Foreign Commerce.

By Mr. BELL:

H.J. Res. 1127. Joint resolution authorizing the President to proclaim annually the day of May 21 as "National Women in Education Day"; to the Committee on the Judiciary.

By Mr. BURLISON of Missouri (for himself, Mr. BROOMFIELD, Mr. DANIELSON, Mr. FISHER, Mr. HALPERN, Mr. HECHLER of West Virginia, Mr. LEGGETT, and Mr. SCOTT):

H.J. Res. 1128. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. PATTEN:

H.J. Res. 1129. Joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII,

343. The Speaker presented a memorial of the House of Representatives of the State of Hawaii, relative to federalization of the State welfare systems, which was referred to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mrs. HECKLER of Massachusetts:

H.R. 14093. A bill for the relief of Jose de Medeiros Moura and his wife, Maria Idalina Medeiros Moura; to the Committee on the Judiciary.

By Mr. PERKINS:

H.R. 14094. A bill for the relief of Appalachian Regional Hospitals, Inc., and the Methodist Hospital of Kentucky; to the Committee on the Judiciary.

SENATE—*Thursday, March 23, 1972*

The Senate met at 9:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

Eternal Father, we thank Thee for Thy mercies which are new every morning and for the promise that they who wait upon the Lord shall renew their strength. Use us this day and every day in bringing to fulfillment Thy holy purposes for this Nation and the world. Direct us in our efforts that they may be spent in high endeavor for an order of justice and peace. Equip us with the graces of charity, kindness, and firmness in the right as Thou dost help us to see the right. Lead us as the shepherd of our souls into green pastures of divine truth and to the cool waters of spiritual renewal. Bring us at last to that abode of peace and rest of those whose lives are in accord with Thee.

In Thy holy name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, March 22, 1972, be disposed with.

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

EXPANSION OF THE GULF ISLAND NATIONAL SEASHORE IN THE STATES OF FLORIDA AND MISSISSIPPI

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 675, S. 3153.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title.

The legislative clerk read as follows:

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

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 2, line 3, after the word "thereof", strike out "'$17,774,000.'" and insert "'$17,774,000 (June 1970 prices).'"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of January 8, 1971 (Public Law 91-660; 84 Stat. 1967), is amended by deleting from the second sentence of section 2(a), "one hundred thirty-five," and inserting in lieu thereof "four hundred," and by deleting from section 11, "$3,120,000," and inserting in lieu thereof "$3,462,000," and by deleting "$14,779,000," and inserting in lieu thereof "$17,774,000 (June 1970 prices)."

Mr. EASTLAND. Mr. President, S. 3153 is a sound piece of legislation and I urge its approval.

I want to commend the distinguished Senator from Nevada for his usual fine performance in expediting consideration of this legislation. I also want to express my gratitude to the distinguished Senator from Washington for his efforts on this important measure. S. 3153 would equip the Gulf Islands National Seashore to serve our people properly in the present. This is an important and necessary objective. Additionally, it would provide a headquarters for the seashore which would satisfy the splendid potential present in this undertaking for the Gulf Crescent and, indeed, for the United States.

My State has participated generously in this undertaking by making Magnolia State Park in its entirety available to the seashore. Enactment of this bill will increase the headquarters area from 135 acres to 400 acres. This additional acreage will provide us with a much improved visitor installation. Duplication of facilities or services will be eliminated and visitor enjoyment of this attractive area would be much enhanced. Interpretive and visitor services will be made available, and school and youth groups can be properly accommodated on a year-round basis.

A right-of-way will be acquired and a 1-mile long access road will be constructed to U.S. Highway 90. Here we have a vital component for our headquarters—safe and easy access into and out of the park area for the countless thousands of Americans who will utilize and enjoy this national asset.

I submit that the very modest additional cost is fully justified by the advantages provided to the seashore, our people, and our country. I am pleased to note that the Department of the Interior has recommended enactment of S. 3153 and that the Office of Management and Budget has advised that it has no objection from the standpoint of the administration's program. In the interest of our citizens and in the furtherance of our mission to develop adequate park and recreational facilities, I urge the passage of S. 3153.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alaska (Mr. GRAVEL) is recognized for not to exceed 15 minutes.

(The remarks Mr. GRAVEL made at this point on the introduction of S. 3409 and the remarks of Mr. MONDALE are printed in the section of the RECORD devoted to the transaction of routine morning busi-

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ness under Statements on Introduced Bills and Joint Resolutions.)

RESCISSION OF ORDER RECOGNIZING SENATOR TUNNEY—TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order recognizing the distinguished Senator from California (Mr. TUNNEY) be vacated; that there now be a period for the transaction of routine morning business for not to exceed 30 minutes; and that at the conclusion of that period the Chair lay before the Senate the unfinished business.

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

ORDER FOR RECOGNITION OF SENATOR STEVENSON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of the remarks of the distinguished Senator from Connecticut (Mr. WEICKER), the distinguished Senator from Illinois (Mr. STEVENSON), now presiding over the Senate, be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the conclusion of the 15-minute orders 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.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON APPROVAL OF LOAN TO CENTRAL IOWA POWER COOPERATIVE

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of a loan to Central Iowa Power Cooperative of Marion, Iowa (with an accompanying paper); to the Committee on Appropriations.

REPORT ON DISPOSAL OF SURPLUS MILITARY SUPPLIES, EQUIPMENT, AND MATERIAL

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report pertaining to the disposal of surplus military supplies, equipment, and materiel for the second quarter, fiscal year 1972 (with an accompanying report); to the Committee on Armed Services.

PROPOSED CONSTRUCTION AT MILITARY INSTALLATIONS

A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

PROPOSED UNIFORMED SERVICES SPECIAL PAY ACT OF 1972

A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED SECURITIES TRANSACTION PROCESSING ACT OF 1972

A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation entitled "Securities Transaction Processing Act of 1972" (with accompanying papers); to the Committee on Banking, Housing, and Urban Affairs.

REPORT OF FOREIGN-TRADE ZONES BOARD

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the Foreign-Trade Zones Board, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Finance.

REPORT ON CAMBODIA OBLIGATIONS

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on Cambodia obligations, for the first two quarters of the fiscal year 1971 (with an accompanying report); to the Committee on Foreign Relations.

PAPERS RELATING TO THE PRESIDENT'S DEPARTMENTAL REORGANIZATION PROGRAM

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, for the information of the Senate, a document entitled "Papers Relating to the President's Departmental Reorganization Program (with an accompanying document); to the Committee on Government Operations.

REPORT ON PROJECT PROPOSALS UNDER SMALL RECLAMATION PROJECTS ACT OF 1956

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, on the receipt of an application from the Semitropic Water Storage District, on behalf of the Pond-Poso Improvement District of Wasco, Calif.; to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT OF SECTION 3401, TITLE 18, UNITED STATES CODE

A letter from the Acting Attorney General, transmitting a draft of proposed legislation to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED AMENDMENT OF TITLE 38, UNITED STATES CODE

A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38 of the United States Code in order to authorize an agreement with the Republic of the Philippines providing for hospital care and medical services to be furnished Commonwealth Army Veterans and new Philippine Scouts for service-connected disabilities, and for other purposes (with accompanying papers); to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution adopted by the city council of Alexandria, Va., praying for authorization of a tour of the Liberty Bell; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 8787. An act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives (Rept. No. 92-709).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1973. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes (Rept. No. 92-710).

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

S. 141. A bill to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes (Rept. No. 92-711).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 276. A resolution authorizing the printing of additional copies of Senate hearings entitled "The Budget of the United States, Fiscal Year, 1973," (Rept. No. 92-712);

S. Res. 278. A resolution authorizing the printing of the report entitled "Progress in the Prevention and Control of Air Pollution" as a Senate document (Rept. No. 92-713);

S. Res. 279. A resolution authorizing the printing of the report entitled "The Economics of Clean Air" as a Senate document (Rept. No. 92-714):

S. Res. 283. A resolution authorizing the printing of additional copies of the 1972 Annual Report of the Joint Economic Committee (Rept. No. 92-715);

S. Res. 287. An original resolution relating to the printing and distribution of legislative proceedings with respect to the deaths of former Senators Hayden, Robertson, and Holland (Rept. No. 92-716);

S. Con. Res. 63. A concurrent resolution to establish a Joint Committee on Inaugural Ceremonies of 1973;

S. Con. Res. 70. A concurrent resolution authorizing the printing of additional copies of Senate hearings on the Consumer Product Safety Act of 1971 (Rept. No. 92-717); and

H. Con. Res. 557. A concurrent resolution authorizing the printing of additional copies of House Report 92-911 (Rept. No. 92-718).

A 1972 JOINT ECONOMIC REPORT—REPORT OF JOINT ECONOMIC COMMITTEE (S. REPT. NO. 92-708)

Mr. PROXMIRE. Mr. President, the Employment Act of 1946, section 5(b)(3), requires that the Joint Economic Committee, not later than March 1 of each year, shall file a report containing its findings and recommendations with respect to each of the main recommendations made by the President in the economic report. This year the date for filing the committee's report was extended to March 28 by Public Law 92-232, dated February 15.

I, therefore, submit, from the Joint Economic Committee, a report entitled "1972 Joint Economic Report," and ask unanimous consent that this report may be printed together with minority and other views.

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

PRINTING OF REVIEW OF REPORT ON METLAKATLA HARBOR, ALASKA (S. DOC. NO. 92-64)

Mr. RANDOLPH. Mr. President, I present a letter from the Acting Secretary of the Army, transmitting a report dated November 6, 1970, from the Chief of Engineers, Department of the Army, together with accompanying papers and an illustration, on a review of the report on Metlakatla Harbor at Metlakatla, Alaska, requested by a resolution of the Committee on Public Works of the U.S. Senate, adopted February 4, 1964. I ask unanimous consent that the report be printed as a Senate document, with an illustration, and referred to the Committee on Public Works.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, it is so ordered.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. METCALF) announced that on today, March 23, 1972, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases; and

S. 3160. An act to provide for a modification in the par value of the dollar, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 23, 1972, he presented to the President of the United States the following enrolled bills:

S. 904. An act to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases; and

S. 3160. An act to provide for a modification in the par value of the dollar, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MANSFIELD (on behalf of Mr. MCGOVERN) (for himself and Mr. MUNDT):

S. 3408. A bill to provide for the distribution to Mdewakanton and Wahpakoota Tribes of Sioux Indians of their portion of the funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets Nos. 359 through 363, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRAVEL (for himself, Mr. CRANSTON, Mr. MONDALE, Mr. HUGHES, Mr. MCGOVERN, Mr. NELSON, Mr. PROXMIRE, Mr. TUNNEY, and Mr. STEVENSON):

S. 3409. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos. Referred to the Committee on Foreign Relations.

By Mr. ALLOTT (for himself, Mr. STAFFORD, Mr. TOWER, and Mr. CRANSTON):

S. 3410. A bill to amend chapter 5, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes. Referred to the Committee on Armed Services.

By Mr. TOWER:

S. 3411. A bill to facilitate Federal Ship Mortgage Insurance for drydocks and drilling vessels. Referred to the Committee on Commerce.

By Mr. WILLIAMS (for himself, Mr. BENNETT, and Mr. TOWER) (by request):

S. 3412. A bill to foster the development and implementation of an integrated system, to be privately owned and operated, for the prompt and accurate processing and settlement of securities transactions effected on national securities exchanges and in the over-the-counter markets, which will assist in assuring the proper functioning of the securities markets and which will be responsive on a nondiscriminatory basis to the needs of issuer companies, brokers, dealers, banks, and other members of the securities industry and the public investors. Referred to the Committee on Banking, House, and Urban Affairs.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 3413. A bill to provide for the expansion of the Beverly National Cemetery in or near Beverly, Burlington County, N.J. Referred to the Committee on Veterans' Affairs.

By Mr. STEVENSON:

S. 3414. A bill for the relief of Alexandria Nicholson. Referred to the Committee on the Judiciary.

By Mr. HRUSKA (by request):

S. 3415. A bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 3416. A bill to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces who are in a missing status to accumulate leave without limitation, and for other purposes. Referred to the Committee on Armed Services.

By Mr. MOSS:

S. 3417. A bill to amend title 5, United States Code, to regulate certain activities of Federal employees, and for other purposes. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL (for himself, Mr. CRANSTON, Mr. MONDALE, Mr. HUGHES, Mr. MCGOVERN, Mr. NELSON, Mr. PROXMIRE, Mr. TUNNEY, and Mr. STEVENSON):

S. 3409. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos. Referred to the Committee on Foreign Relations.

Mr. GRAVEL. Mr. President, I rise today to introduce legislation which I hope will carry with it the support that it deserves, and I say that because this legislation, if passed by the Senate and then subsequently by the House of Representatives and signed into law, could bring to a close the most tragic saga in American history, the war in Vietnam.

The bill that I send to the desk, cosponsored, along with myself, by Senators CRANSTON, MONDALE, HUGHES, MCGOVERN, NELSON, PROXMIRE, and TUNNEY, would end the war. It is not a long bill. It is presented on two pages, but it is long in its impact. It has three sections.

The first section is an "end the war" section. That is, very simply, after 30 days from the enactment of this legislation no further funds would be available to continue any type of military or paramilitary operation in Indochina.

The second section would stop the bombing.

This second section is broken down into two points—part (a), which is to stop the bombing in Cambodia, Thailand, Laos, and the Democratic People's Republic of Vietnam.

The part that concerns the bombing in South Vietnam is taken up in paragraph (b) of section (2), and states that the President of the United States can use bombing there, but only when it involves the immediate safety of the troops being withdrawn.

This, of course, is important because we all do have a concern with the loss of life of Americans, and we want to assure the people of this country, the mothers and fathers of the children who are in Vietnam as a part of American policy, that they will be given the maximum amount of safety as they are brought home. However, because of the irresponsible use of bombing by the Chief Executive today, I feel it is important to provide and it has been included in this section, that when and if the President chooses to use bombing in South Vietnam he report to the Congress why, and give the particulars concerning the use of bombing.

This, I want to underscore, I find very important. He should render an accounting to Congress, and thereby an accounting to the American people, because the Congress itself has been held in darkness concerning what is going on with respect to the bombing.

This is a ridiculous situation. I say ridiculous because that is the only word for it. It is quite obvious in this particular case that all a person in Indochina needs to do is walk out of the door of his house, and he can see and count the airplanes and count the number of bombing strikes. Of course, the American people cannot do that.

When it is asserted that secrecy is necessary because security is involved in the bombing, there is only one group of people that this secrecy is bound to affect, and that is the American people, not the Indochinese people, not the people that are being bombed.

The third section of this legislation deals with the prisoners of war. Here again I want to make a very strong statement, because I think a strong statement is in order. It is very simple—that this administration, with forethought, has developed a POW issue in this country with the intention of arousing the emotions of the American people so as to

develop their resolve to maintain military presence in Indochina.

Well, that tactic has failed. It has failed not because of perspicuity by the Congress in acting as an adversary to the administration, but it has failed because the wives of the prisoners have found out what a gigantic hoax has taken place. The wives themselves felt that they were being used, and reacted accordingly.

That, of course, is the reason why we have two POW groups in this country, one representing the POW wives who are disenchanted with the activities of the present administration, and another group which innocently has been manipulated to effect a preconceived notion of what public opinion should be in this country.

History is replete with examples of the fact that when you are at war, your prisoners are not returned. To do so would not make any sense. In fact, I could be wrong, but the only case I know of in which prisoners were released during the course of a war in recent history was a situation that took place during the civil war in China in the 1940's. The forces of Mao Tse-tung released troops they had captured in large numbers back into the countryside, because of the effect on the people they hoped the release would have.

We have a section in this amendment which addresses the POW question, because we truly want to see them returned. But there is only one way the POW's will be returned, and that is to end the war. Any thought of continuing the war fails to provide any personal, humane, or emotional consideration for the men who are held prisoners. And the number of prisoners is increasing with every bombing raid, every time an American plane is shot down.

Mr. President, this is the intent of the bill introduced today. I know that my colleague, the Senator from Minnesota (Mr. MONDALE), who is in the Chamber, will add his voice in support of the bill which we introduce together. I wish a larger number of Senators had joined us, but this is an election year, and I do not think their resolve is as strong as it has been in the past. I hope that with the efforts of the peace community throughout the Nation, as a result of the introduction of this legislation, the people will come forward and press for its passage, and that we will develop a stronger resolve in Congress as a result of the pressure of the people.

But more importantly, I believe the introduction of this legislation will, in an election year, bring about an accountability, because we fully intend to bring this measure up for a vote through one parliamentary device or another. The membership of this body will have to vote on ending the war in 1972, the year we were promised that the war would be ended.

I think it is tragic that we have not seen through the ruse that was perpetrated. I think it was a ruse. It is a little strong to say that, but when we are talking about loss of lives, we have to go a step beyond the normal amenities. I say it was a ruse because Richard Nixon, in 1968, campaigned with the promise that he had in his pocket a secret plan to end the war. Now, 3½ years later, we find that there was no secret plan to end the war. There has developed a plan to wind down the war, but if anyone in 1968 had campaigned on the premise of winding down the war, he would never have been elected. Quite obviously this will be an issue in 1972, regardless of what statement is made by Mr. Nixon and his colleagues. It will be an issue because, very simply, the American people do not want to wind down the war, the American people want to end the war. I think we in Congress have the responsibility to shift from the rhetoric of winding down the war to the reality of ending the war.

The reasons for our continued participation in this war are varied. But it seems to me at this point that to continue the war, in the face of all these reasons to end it, boggles the imagination and stultifies the mind.

All of the reasoning in support of continuing the war is bankrupt. The first reason offered is that we will continue the war until we get our prisoners back. But logic tells us we will get our prisoners back the moment we tell those who hold them we want to end the war.

The second reason is that we are trying to give these people in South Vietnam the opportunity for self-determination. Well, the history of the last year is testimony that that is a hoax. I say—and I underscore the word three times—that it is a lie. Anyone who says that today is telling an outright lie, because that is not what is happening. Any normal, intelligent person need only read the newspapers to know that. You do not have to be privy to classified documents; just read the newspapers.

A year ago on Memorial Day I stood on this floor trying to bring to the attention of the American people the passage of an act in the assembly of South Vietnam that would restrict the participation in free elections for the Presidency there. That act was passed because its chief opponent in the assembly, a man of my own age, was incarcerated on a phony charge of assault with intent to kill, and was released with the proviso that the votes would be there for the passage of that act. That person thereafter attempted to file for office in October, and was physically stopped from entering the filing place. There were guards at the door. So he no longer sits in the assembly.

We saw a law passed, in what our Government euphemistically calls a democracy in South Vietnam, whereby the person who was the Vice President of South Vietnam could not even qualify to run for President.

Mr. MONDALE. Mr. President, I am proud to join the Senator from Alaska today in introducing legislation designed to bring about immediate withdrawal of all our forces from Indochina, a speedy return of our prisoners, and an end to the bombing.

Our bill is simple. It requires total withdrawal within 30 days in exchange for a release of our prisoners. It would prohibit all further bombing of Indochina except as the President determined necessary to protect our troops in South Vietnam as they withdraw.

Our purpose is simple. We want to end American involvement in the war and end it now. We think the American people should know clearly how the Senate will face that choice in 1972.

The time is long past for lengthy speeches on this war. The Senate may debate or alter the details of our amendment. But in the end, it will all come down to the basic question: Do we let this nightmare continue?

I am not sure any more that we can really grasp what we have done in the war—and what the war has done to us.

The Senator from Wisconsin (Mr. NELSON) stood on this floor a few weeks ago and told us that our bombs and herbicides had ravaged millions of acres of land in Indochina. If only we knew and understood, he said, we would stop it.

Last spring, the Vietnam Veterans Against the War came to Washington to tell us in voices choked with tears and anger how this war had ravaged a generation of young Americans as brutally as our bombs destroy the land and people of Indochina. If only we understood, they told us, we would stop it.

But the nightmare goes on.

It goes on for the more than 200 families in my State of Minnesota and thousands more around the Nation who have lost sons and husbands and fathers since 1969, since this administration promised peace. It goes on for the men who still remain in the firebases, in the aircraft over Laos or North Vietnam, and in the POW camps.

It goes on for the thousands of civilians we kill with each bombing raid over Indochina. It goes on for the hundreds of thousands who are refugees because of our bombing.

The administration tells us, of course, that the casualty lists are at an all-time low. And perhaps the President can feel that Vietnam is no longer a political issue. Perhaps there is, as I said here last December, some gruesome threshold of public outrage over the killing of American boys and the savagery of the war on other people. The horrible truth may be that neither the administration nor the Congress cares enough to stop this carnage so long as the weekly casualties are politically acceptable.

But then there are casualties that never show up in Pentagon figures or political polls. There are fearsome and often fatal wounds to the spirit of a nation that wantonly destroys and refuses to face the truth. By letting this war happen, we broke faith with our own generation. By failing to stop it even now, we are breaking faith with the future.

There is no more need here to argue the realities of the war policy—the folly and senselessness of our involvement in Southeast Asia have been documented beyond any doubt. The reasoning has been done. We are left, as always on the great issues, with our conscience.

No one can honestly question now how the vast majority of Americans would vote on our bill—the gold star families, the young men who may yet have to lay down their lives, the millions from our farms to our cities whose desperate needs are starved because of the waste of this war.

But we should remember yet another constituency, one that will not appear in our correspondence, speak to a pollster,

or vote for a Senator or a President. Those are the more than 50,000 dead Americans from this tragedy. As the columnist Pete Hamill wrote so movingly:

They are scattered all over this country, in lonely cemeteries, silent through still another winter, killed by Asia, killed by malignance, killed by ignorance, and killed by cowardice. A lot of those kids will be 21 forever . . . we will never know what they might have been; we do not know which of them might have written songs, scribbled novels, painted murals across the walls of New York; we don't know which of them might have cured cancer or played the outfield for the Yankees or run a great gas station in Oklahoma or rode horses at dusk through the steppes of Montana. They are all dead. We will never find out about their lives.

Those men too should be with us when we search our consciences and vote on this amendment.

So we will try once again to end the nightmare. And if we fail again, we will keep trying.

For we are doing more than voting on a foreign policy or the conduct of a war. We are recording for history our character as a nation.

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

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

S. 3409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the provisions of Section 3 of this Act, no funds heretofore or hereafter appropriated may be expended for longer than thirty days after the enactment of this Act to support the deployment of United States Armed Forces or any other military or paramilitary personnel under the control of the United States in or the conduct of military or paramilitary operations in or over the Republic of Vietnam, the Democratic Republic of Vietnam, Cambodia, or Laos.

SEC. 2. (a) That no funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within Laos, Cambodia, Thailand, or the Democratic Republic of Vietnam.

(b) No funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within the Republic of Vietnam unless the President determines any such bombardment or air operation clearly to be necessary to provide for the immediate safety of United States Armed Forces during their withdrawal from the Republic of Vietnam, and submits to the President pro tempore of the Senate and the Speaker of the House for immediate transmission to the respective bodies of the Congress, within 48 hours of each such bombardment or operation (or if the Congress is not in session, as soon thereafter as it may return), a written report setting forth the time, place, nature and reasons for conducting such bombardment or operation.

SEC. 3. (a) If, by twenty days after the date of enactment of this Act, the Democratic Republic of Vietnam and other adversary forces in Indochina holding American prisoners of war have not made arrangements for the release and repatriation, by the date in section 1, of all such prisoners—

(1) the date in section 1 shall be extended for thirty days, and

(2) the Congress may by joint resolution authorize such further action as is recommended by the President to secure the release and repatriation of American prisoners of war.

(b) Nothing in this section shall be construed to affect the authority of the President to arrange asylum or other means of protection for individuals who might be physically endangered by the withdrawal of United States military or paramilitary personnel from the Republic of Vietnam, Cambodia, or Laos, or to arrange for the return of United States equipment or stores from the Republic of Vietnam.

Mr. MONDALE. Mr. President, it is hard to recount fully the horror of our bombing policies in Vietnam.

A recent Cornell University study on the air war in Indochina tells us that civilian casualties in Laos have totaled 10,000 more in the period 1969 to 1971 than in the earlier period 1965 through 1968. That study estimated that throughout Indochina an average of 130,000 civilians have been killed, wounded, or refugeed each month since 1969. That compares to an estimated 98,000 each month during the period 1965–68.

According to Senator KENNEDY's Subcommittee on Refugees, the number of refugees in Laos since 1969 has grown to twice the total number during the period from 1965 through 1968. Homeless victims of the war in Laos now number more than 10 percent of the population of that country. Senator KENNEDY told us last April that our bombing in Laos is responsible for at least 75 percent of these refugees.

If one is a villager in Laos, Cambodia, or South Vietnam, the terror of this supposedly disappearing war is greater than ever before. According to our own official Department of Defense figures, the United States dropped 400,000 tons of bombs more in the period 1969 to the present than in the period 1965 to 1968. The tonnage totals for the period since 1969 are greater than those of all the bombs we dropped in World War II and the Korean war combined.

Let me read that again. The tonnage totals for the period since 1969—tonnage of bombs dropped on Southeast Asia—was greater than all the bombs we dropped in World War II and the Korean war combined.

Or, to put it another way, every month our bombs are falling on Indochina at the equivalent tonnage of twice the nuclear bomb we dropped on Hiroshima. And that is going on today, as we speak of a generation of peace.

We have dropped almost 3 pounds of explosive per person for every man, woman, and child on earth—8 billion pounds—and created 23 million craters on the land measuring 26 feet deep and 40 feet in diameter.

Land destruction in Indochina involves 80 percent of the timber forests and 10 percent of all the cultivated land in the region.

Let me repeat that. Every month, our bombs are falling on Indochina at the equivalent tonnage of twice the nuclear bomb we dropped on Hiroshima. We have dropped almost 3 pounds of explosives per person for every man, woman, and child on earth—8 billion pounds—and created 23 million craters on the land, measuring 26 feet deep and 40 feet in diameter.

Mr. President, the distinguished Senator from Wisconsin (Mr. NELSON), perhaps the Nation's greatest environmentalist, recently introduced what he called the Vietnam War Ecological Damage Assessment Act of 1972, in which he recounted in detail the ecological disaster we are visiting on Southeast Asia.

We talk about deaths; we talk about injuries; and those, of course, are unspeakable. But he gives the other part of the problem as well: What we are doing in creating the ecological nightmare in Southeast Asia. He points out the following:

Suppose we took gigantic bulldozers and scraped the land bare of trees and bushes at the rate of 1,000 acres a day or 44-million square feet a day until we had flattened an area the size of the State of Rhode Island, 750,000 acres.

Suppose we flew huge planes over the land and sprayed 100-million pounds of poisonous herbicides on the forests until we had destroyed an area of prime forests the size of the State of Massachusetts or 5½ million acres.

Suppose we flew B–52 bombers over the land dropping 500-pound bombs until we had dropped almost 3 pounds per person for every man, woman, and child on earth—8 billion pounds—and created 23 million craters on the land measuring 26 feet deep and 40 feet in diameter.

Suppose the major objective of the bombing is not enemy troops but rather a vague and unsuccessful policy of harassment and territorial denial called pattern or carpet bombing.

Suppose the land destruction involves 80 percent of the timber forests and 10 percent of all the cultivated land in the Nation.

We would consider such a result a monumental catastrophe. That is what we have done to our ally, South Vietnam.

While under heavy pressure the military finally stopped the chemical defoliation war and has substituted another massive war against the land itself by a program of pattern or carpet bombing and massive land clearing with a huge machine called a Rome Plow.

The huge areas destroyed pockmarked, scorched, and bulldozed resemble the moon and are no longer productive.

This is the documented story from on-the-spot studies and pictures done by two distinguished scientists, Prof. E. W. Pfeiffer and Prof. Arthur H. Westing. These are the same two distinguished scientists who made the defoliation studies that alerted Congress and the country to the grave implications of our chemical warfare program in Vietnam, which has now been terminated.

The story of devastation revealed by their movies, slides, and statistics is beyond the human mind to fully comprehend. We have senselessly blown up, bulldozed over, poisoned, and permanently damaged an area so vast that it literally boggles the mind.

Quite frankly, Mr. President, I am unable adequately to describe the horror of what we have done there.

There is nothing in the history of warfare to compare with it. A "scorched earth" policy has been a tactic of warfare throughout history, but never before has a land been so massively altered and mutilated that vast areas can never be used again or even inhabited by man or animal.

This is impersonal, automated, and mech-

anistic warfare brought to its logical conclusion—utter, permanent, total destruction.

The tragedy of it all is that no one knows or understands what is happening there, or why, or to what end. We have simply unleashed a gigantic machine which goes about its impersonal business destroying whatever is there without plan or purpose. The finger of responsibility points everywhere but nowhere in particular. Who designed this policy of war against the land, and why? Nobody seems to know and nobody rationally can defend it.

Those grand strategists who draw the lines on the maps and order the B–52 strikes never see the face of that innocent peasant whose land has been turned into a pock-marked moon surface in 30 seconds of violence without killing a single enemy soldier because none were there. If they could see and understand the result, they would not draw the lines or send the bombers.

If Congress knew and understood, we would not appropriate the money.

If the President of the United States knew and understood, he would stop it in 30 minutes.

If the people of America knew and understood, they would remove from office those responsible for it, if they could ever find out who is responsible. But they will never know because nobody knows.

By any conceivable standard of measurement, the cost benefit ratio of our program of defoliation, carpet bombing with B–52's, and bulldozing is so negative that it simply spells bankruptcy. It did not protect our soldiers or defeat the enemy, and it has done far greater damage to our ally than to the enemy.

These programs should be halted immediately before further permanent damage is done to the landscape.

The cold, hard, and cruel irony of it all is that South Vietnam would have been better off losing to Hanoi than winning with us. Now she faces the worst of all possible worlds with much of her land destroyed and her chances of independent survival after we leave in grave doubt at best.

This has been a hard speech to give and harder to write because I did not know what to say or how to say it—and I still do not know. But I do know that when the Members of Congress finally understand what we are doing there, neither they nor the people of this Nation will sleep well that night.

For many reasons I did not want to make this speech but someone has to say it, somewhere, sometime.

Mr. President, the Senator from Wisconsin then asked for some tables to be printed in the RECORD which were provided by Dr. Arthur H. Westing, and I ask unanimous consent that they be printed in the RECORD at this point.

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

MUNITIONS EXPENDITURES

[In millions of dollars]

Year	South Vietnam	North Vietnam	South Laos	North Laos	Cambodia	Total Indochina
1965	594	65	60	10	0	630
1966	1,778	255	135	20	0	2,188
1967	3,634	415	200	30	0	4,278
1968	5,185	330	310	40	0	5,866
1969	4,674	0	490	420	0	5,583
1970	3,333	0	655	240	115	4,344
Total	19,099	1,065	1,850	760	115	22,889

ECOLOGICAL IMPACT

Country	Number of craters (in millions)	Area with "shrapnel" (in million acres)	Area cratered (in thousand acres)	Earth displaced (in million cu. yds.)
South Vietnam	19.1	23.9	309.9	2,500
Military region I	(6.1)	(7.6)	(98.4)	(794)
Military region II	(3.8)	(4.8)	(62.0)	(500)
Military region III	(8.3)	(10.3)	(134.2)	(1,083)
Military region IV	(.9)	(1.2)	(15.3)	(124)
North Vietnam	1.1	1.3	17.3	139
Laos	2.6	3.3	42.4	342
Southern Laos	(1.8)	(2.3)	(30.0)	(242)
Northern Laos	(.8)	(1.0)	(12.3)	(99)
Cambodia	.1	.1	1.9	15
Total Indochina	22.9	28.6	371.4	2,996

ALL INDOCHINA

[In millions of pounds]

Year	Air munitions	Surface munitions	Total munitions
1965	630	----------	630
1966	1,024	1,164	2,188
1967	1,866	2,413	4,278
1968	2,863	3,003	5,866
1969	2,774	2,808	5,583
1970	1,955	2,389	4,344
Total	11,112	11,777	22,889

IMPACT OF U.S. MUNITIONS

[In pounds]

Expenditure	South Vietnam	North Vietnam	Laos	Cambodia	Total Indochina
Per acre	446	26	45	3	125
Per person	1,091	58	992	18	513

B–52—ASSUMING AN AVERAGE OF 7 SORTIES PER MISSION

[In numbers of missions]

Year	Military region I	Military region II	Military region III	Military region IV	Total South Vietnam
1967	527	284	269	10	1,090
1968	1,137	644	1,143	148	3,072
1969	319	440	1,777	98	2,634
1970	624	274	366	150	1,414
Total	2,607	1,642	3,555	406	8,210

Note: Although breakdowns for 1965 and 1966 are not available, the totals approximate 138 and 550, respectively.

Mr. MONDALE. Mr. President, the bill which the Senator from Alaska and I and others are introducing today is designed to end that carnage, and end it now, and stop this totally inexcusable and inhumane devastation which our country is visiting on Southeast Asia. We can no longer tolerate its continuance. I believe that the bill, if adopted, will bring it to an end.

I yield the remainder of my time to the distinguished Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. I thank my colleague from Minnesota for yielding me this time. I also want to thank him for the encouragement he has given me in bringing this bill to the floor of the Senate today. This is a matter which I have been deliberating for some months—what to do and how to do it—and it is due to his resolve and the strong feelings he has on this subject that we are now doing something today. I want to thank him not only as a colleague of mine in the Senate, but also as an American citizen.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement of the distinguished Senator from Iowa (Mr. HUGHES), who is one of the cosponsors of this bill.

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

THE GRAVEL-MONDALE BILL

Mr. President, I am pleased to join my distinguished colleages in sponsoring this legislation which would bring an end, once and for all, to our military involvement in Indochina. Senators Gravel and Mondale have performed a particular service by drafting a measure which brings clearly into focus the problem of the continuing air war in that region of the world.

The American escalation of the war in Vietnam and in Laos began in the air, and it looks now as if we will continue massive aerial bombardment long after the number of U.S. ground forces drops to a level of military insignificance. Until we end all of our war-making in Indochina, we will not have ended the war. And until the war ends, we have no reason to expect the return of our men who are held prisoner.

Despite all the claims of progress in ending the war—the reduced casualties, fewer ground troops, lessened costs—the American people still know that the war is "pretty big," as a Harris poll revealed last week. By better than two-to-one, they also oppose the policy of bringing home ground combat troops but continuing the air war. Other surveys have also shown the widespread and even growing discontent over a war which does not end.

In a few weeks we will have more men stationed outside Vietnam yet involved in the air war than we have men in South Vietnam itself. The 30,000 Americans in Thailand and nearly equivalent number stationed offshore have the capability to bring continued devastation to the land and people of Indochina. If the bombing continues at the rate for December—the most recent figures available—it means more than 3 million pounds of explosives every day.

The statistics of this war are so staggering that many people try to blot them out of their minds. Yet all of the numbers have a human factor which no computer can ever calculate.

How can we put a value on the 55,000 American dead, not to mention the hundreds of thousands of Vietnamese dead?

How can we measure the true impact of the bombing, which is now more than double the total U.S. bombing in World War II and Korea?

How can we add up the long run social costs of a policy which has defoliated an area of prime forests the size of Massachusetts and has driven perhaps one-fourth of the people of Laos and Cambodia from their homes?

The numbers go into official reports, but the shrapnel still rips through human bodies and the warfare leaves permanent scars on the hearts and minds of the people we were supposed to protect.

In the past the American people saw the horror of war every day on their television sets. Now that the automated air war has become the prime U.S. activity, the war is harder to visualize or report. Even the

bomber pilots admit not knowing precisely what damage they have caused, since that assessment is made by others. As one pilot told Life magazine: "All we can see are our losses and no fruits for our efforts."

The news reports in recent weeks make it clear that the war is changing, not ending, and that it may even be reescalating.

The United States has increased its carrier fleet off the Vietnamese coast and has doubled the number of B–52s assigned to fly in Indochina.

We have already lost as many multi-million-dollar fighters over Indochina this dry season as during the same period last year.

The number of so-called protective reaction strikes against North Vietnam is already almost equal to the total for all of 1971.

There have been more B–52 raids on targets in the South Vietnamese Central Highlands in the last 30 days than in the previous 18 months.

Despite all the bombing, men and material still get through in sufficient numbers to threaten a major offensive. For weeks we have been told that such an offensive is coming; now we hear that it is set for Saturday. Meanwhile, the Wall Street Journal's assessment remains accurate: "the only offensive so far this year has been in the air. . . ."

Most disturbing of all, there is really no end in sight to this war. The Washington correspondent of the *Philadelphia Inquirer*, James McCartney, reached this conclusion after several discussions with leading policymakers: "As officials sum it, prospects now are for continued bombing for an indefinite period, though perhaps at reduced levels; continued fighting in both Laos and Cambodia; at least some U.S. casualties; continuing high rate of South Vietnamese combat deaths and casualties, running to tens of thousands a year." Top Administration officials, McCartney says, say that "they do not know when the war may end, or how."

I believe that the Congress can find an answer to that question and can bring the end to this war which the American people so strongly desire. The legislation introduced today would end the killing within 30 days after enactment and would provide the needed incentive to obtain the release and repatriation of the Americans held prisoner.

Whether one views the history of peace negotiations as sincere or half-hearted, the fact remains that we have neither peace nor our POWs. The Gravel-Mondale bill offers hope for both.

Mr. GRAVEL. Mr. President, I send to the desk the bill introduced by the Senator from Minnesota (Mr. MONDALE), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from California (Mr. TUNNEY), and myself.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, the bill will be received and appropriately referred.

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by me of last October 5, 1971, entitled "Cessation of Bombing in Indochina."

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

CESSATION OF BOMBING IN INDOCHINA

(Statement by Senator MIKE GRAVEL)

While we deliberate today in this chamber American planes will ease into the sky over Southeast Asia. They will drop tons of explosives, guided to the flesh of human beings by the most elaborate and impersonal technology.

Hovering over Laotian rice fields, the A–119 Stinger gunship can put a piece of shrapnel into every square foot of an area the size of a football field.

On the ground are three million Laotians, the heaviest bombed people in the history of warfare. They will huddle in their caves and field trenches, and some will die. Many will not see the sun for months, fear keeping them in their covered bunkers during daylight hours.

In the name of America the planes come.

Over the past ten years 700,000 Laotians have been made refugees, tens of thousands have been killed or wounded, and hundreds of thousands forced to live much of the time in caves and trenches.

The bombing raids also come in the name of the United States Senate, until we legislate otherwise.

The war is not winding down for the peoples of Indochina. Since the much heralded bombing halt over North Vietnam, the planes have not come home. They've simply shifted their targets into Laos and Cambodia.

The bombing has continued at 100 tons an hour, 2,400 tons a day. The rate of civilian casualties and refugee generation, indicative of the overall level of violence, has if anything increased during the last two years.

Recent hearings before the Senate Subcommittee on Refugees reveal that since the invasion of Cambodia nearly one quarter of that country's population—1,500,000 people—have become refugees. In the last few months in South Vietnam more refugees have been created than at any time since the 1968 Tet offensive.

The bombing of North Vietnam has been resumed. As recently as September 21 an armada of 250 U.S. planes attacked targets in the North, and this raid was followed on successive days by two more so-called "protective reaction" strikes. At present the bombing of North Vietnam has reached an average rate of once every four days, and according to North Vietnamese reports 106 villages in addition to missile sites have been struck. The Meatgrinder in Vietnam, which has taken 325,000 civilian lives and wounded more than a million since 1965, is still whirling. As the South Vietnamese Minister of Information commented in 1968, South Vietnam has been devastated by an alien air force that seems at war with the very land of Vietnam.

The Amendment I offer is quite straight forward. Let us stop the bombing, not just partially over North Vietnam but in all Indochina—except for those strikes inside South Vietnam demonstrably related to the security of our withdrawing troops. Is it really the desire of the Senate to continue to send out those planes?

An Orwellian transformation is taking place in our military policy in Indochina. Due to public pressure American boys are slowly coming home, but they are leaving an automated war behind. There is every danger, as Noam Chomsky has warned, that we intend to turn the land of Vietnam into an automated murder Machine. Computer technology and a small number of troops manning aircraft and artillery are creating a U.S. destructive presence that may literally hover over Southeast Asia for years to come. In the midst of this the public is confused, pacified by the diminishing troop levels, yet vaguely troubled by continuing reports of devastation.

Eluding recognition, hidden in the techno-euphemisms of military speech, is the reality of our policy. "Selective Ordnance"—a rather dull and technical sounding term until one realizes it masks the use of napalm against human beings. "Harassment and interdiction"—a rather light-hearted term until one understands that it represents the random hurling of destruction into jungle areas.

These antiseptic words obfuscate horror-filled realities, and thereby circumvent public judgment. "Surgical air strike"—one pictures a diseased cancer benevolently removed from the countryside. But the cancer is the peasantry. In World War II the cancer was the Jews, and the operation was the "final solution". In the name of America, how many executions are taking place from the air in Indochina.

It is the enormity of our mistake that clouds it. If we were wrong, how wrong we were! Nothing will bring back those who have died, or the lost arms and legs, eyes and ears. But let us commit ourselves at least to stop the bombing of those who remain.

How the people of this country, a good people, industrious people and generous people, could have come to visit such destruction on another nation is difficult to comprehend. Orwell in his masterpiece 1984 depicts such carnage as the result of technology gone mad, removed from common experience, giving reality to surrealistic nightmares. We may have intervened in Indochina for commendable reasons—even that is questionable—but at some time the machine got out of control and we could not turn it off.

Picture the battlefield in Laos. Light spotter planes at 2,000 feet; A–1E, A–26 and T–28 prop bombers, AC–47 and AC–130 gunships, flare ships and rescue helicopters at 5,000 feet, F–4, F–105 and B–57 Jet fighters and Jet reconnaissance aircraft at 10,000 feet: KC 135 super-tankers at 20,000 feet; C–130's filled with electronic gear designed to coordinate the bombing at 25,000 feet: B–52 bombers at 30,000 feet; C–130's of Hillsboro control overseeing the entire operation at 35,000 feet and SR–71 reconnaissance aircraft at 70,000 feet.

And on the ground is the Laotian peasantry. Listen to their reactions and thoughts as recorded in refugee interviews.

"The planes came like birds and the bombs fell like rain." Another—"there wasn't any night when we thought we'd live until morning . . . never a morning we thought we'd survive until night."

And another—"I just stayed in my cave. I didn't see the sunlight for two years. What did I think about? Oh, I used to repeat, please don't let the planes come, please don't let the planes come, please . . ."

And another—"before the village was beautiful and filled with happiness and there was a large field of fruit trees. But when I left my village all I saw were the holes of the bombs and the burning houses and the people who had died so pitifully."

And another—"Our lives became like one of the animals who search to escape the butcher."

And this continues every hour—200,000 pounds of bombs, every 9 days the equivalent of one Hiroshima. From 1965 to 1969, 70 tons of bombs for every square mile of North and South Vietnam were dropped, 500 pounds for every man, woman and child. In just the first five months of 1971 there were 780 million pounds of bombs dropped over Southeast Asia.

PART II

The airwar is not even militarily effective. Secretary of Defense McNamara revealed in 1968 that it could at best reduce the flow of supplies along the Ho Chi Minh trail by only 10%–15%. At a cost of over $100,000 per truck destroyed. Former Under Secretary of Defense Townsend Hoopes has pointed out that in the history of bombing campaigns, only when the sources of production are attacked can the logistical flow of supplies be effectively impaired. In this case that would involve strikes against China and the Soviet Union. A study of the hamlet evaluation reports reveals that the number of villages under government control in South Vietnam varied independently of the level of the air campaign over the North.

On the ground the bombing raises enemy morale and alienates civilians. Pathet Lao defectors indicate that before the heavy bombing in Laos they managed only a 30% rate of voluntarism among their forces. However, after the massive attacks of late 1968 the figure jumped to almost 100%. Better to die fighting than in a trench was the feeling of one Pathet Lao recruit.

As I have indicated, the air war is not isolated in any one country in Indochina. The Vietnam war has indeed become the Indochina war. But information concerning the extent of U.S. bombing in Laos has been limited and concealed by the Executive Branch, so I would like to discuss in more detail the situation in those skies.

Since 1964 the United States has been engaged in an aerial campaign over Laos. The bombing was seriously escalated in late 1968 and early 1969 when restrictions against civilian targeting were significantly related. The air war has involved in Laos alone an estimated cost of 5–7 billion dollars, innumerable Laotian casualties, and over 400 pilots either dead, missing in action, or captured.

Even traces of these facts were kept officially from the public until March 1970. The same pattern of duplicity and deception which the Pentagon Papers have shown to characterize our entry into Vietnam has been repeated in Laos.

Currently a strict Gray-out is imposed on U.S. operations there, with little information besides official reports available to the press. Reporters are not permitted to accompany attack and spotter planes on their missions as they are in Vietnam. Most pilots are apparently under instructions not to talk with newsmen. The Air Attache in Vientienne is similarly inaccessible. Recent requests by Congressman McCloskey for photographs of previously existing Lao villages to confirm their continued well being have gone unmet by the Pentagon. Military officials have failed as well to provide Congressman McCloskey with a listing of all bombed civilian targets in Laos.

But there are some unofficial sources of information. These nearly unanimously tell one story—that of massive bombardment of civilians under Pathet Lao control. Congressmen McCloskey and Waldie found, in a U.S. information survey initially concealed from them by the Embassy, that 75% of the 190 respondents from 96 villages had had their homes bombed. In addition 97% had seen a bombing attack and 61% had seen a person killed. Congressmen McCloskey and Waldie also conducted their own interviews, and all 16 refugees queried, from 7 different villages, testified to the aerial destruction of every single dwelling in their hamlets.

A report by U.N. expert Georges Chapelier in December 1970 stated that in the Plaine des Jarres "by 1969 the intensity of the bombings was such that no organized life was possible in the villages . . . Jet planes came daily and destroyed all stationary structures. Nothing was left standing. The villagers lived in trenches and holes or in caves. They only farmed at night. All of the interlocutors without exception had their villages completely destroyed. In the last phase, bombings were aimed at the systematic destruction of the materials bases of the civilian society.

At one time there were more than 50,000 people living in the Plaine des Jarres. There is virtually no life there now.

One village chief indicated that in 21 hamlets not one home was left standing. In his own village 45 percent of the 2600 inhabitants never left their trenches.

A sample of 25 villages from the Plaine des Jarres revealed casualty rates of 5–10 percent from the bombing It is estimated that 50 civilians are killed for every Pathet-Lao casualty.

In 1968 Jacques Decornoy, the Southeast Asian desk editor for *Le Monde* traveled through Pathet Lao controlled areas. According to his interviews, 65 villages in the Sam Neua district alone had been destroyed by U.S. air power. Traveling through the devastated areas he depicts it as "a world without noise for the surrounding villages have disappeared. The inhabitants themselves living in the mountains."

Such testimony is of course contrary to our government's official position that "never before has such care been taken to spare civilians in bombing raids."

The picture burnt into one's imagination is that of hundreds of thousands of Laotians desperately huddling in caves and trenches as U.S. planes roar overhead. Again it is the enormity of the suffering endured by these poor people which blinds us to our own policy. I will rerun the picture, because we must break through the psychic numbness we have developed.

There are hundreds of thousands of poor peasants, noncombatants, living underground in fear of U.S. air power in Asia. There are entire areas of former civilization reduced to near cave man standards by the most advanced nation in the history of the earth. For what? no matter for what, it is indefensible.

At Nuremberg Teleford Taylor, chief U.S. Prosecutor, argued that where the military profits of any policy are dwarfed by the civilian casualties, such a policy is indefensible. The massive air war by the U.S. against the peoples of Indochina is indefensible. Every B–52 raid, every A–119 K stinger drop is criminal.

The situation in Laos is not appreciably different from what is currently occuring in Cambodia. As the Senate Subcommittee on Refugees noted, the same pattern of destruction is being repeated relentlessly throughout Indochina. It is up to the Congress to terminate it. The President has made it clear that he intends to continue the bombing, stating in February this year, "I will not place any limitations on the use of air power."

Secretary of Defense Laird has indicated that we intend to maintain a naval and air presence in Southeast Asia indefinitely after the last ground troops are withdrawn. The Pentagon, which seems to have statistics available for all categories and contingencies, lacks even an estimate of the likely civilian casualties this presence will cause. Such considerations do not seem to have a high priority in current American decision making. The so-called "gook rule" which haunted the Calley trial has far more profound implications for the air war.

On the afternoon that the U.S. helicopters and attack planes accompanied the South Vietnamese into Laos the President issued a statement on our environmental crisis. Within it he quoted from T. S. Eliot's "Murder in the Cathedral." "Clean the air, clean the sky, wash the wind . . ." It would have been revealing for the President to have quoted further: "The land is foul, the water is foul, our beasts and ourselves are defiled with blood.

A rain of blood has blinded my eyes . . . Can I look again at the day and its common things and see them all smeared with blood through a curtain of falling blood? We did not wish anything to happen."

Let us stop the bombing, withdraw our troops and begin to "take stone from stone and wash them."

Mr. GRAVEL. Mr. President, I also ask unanimous consent to have printed in the RECORD excerpts from remarks I made to the Fund for New Priorities dinner in New York City on January 14, 1972.

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

THE CONTINUING AIR WAR

(Excerpts from remarks by Senator MIKE GRAVEL)

The Nixon Administration's recent resumption of heavy bombing of North Vietnam once more raises a basic moral question: what right do our leaders have to kill and maim men, women, and children halfway across the globe who pose no threat to this Country?

As usual, the Administration is claiming that it is bombing only "military" targets. This may or may not be true. One remembers, after all, that the Johnson Administration claimed the same thing.

Even if the Administration *is* bombing only "military" targets this time, there can be no doubt that it also is causing serious civilian casualties. In a rural country like North Vietnam most so-called military targets such as bridges and factories are located in and around heavily populated civilian areas. Hanoi reports that in the most recent raids bombs fell on a hospital, and even military sources admit that American jets hit North Vietnamese army barracks as they went after nearby airfields.

The Cornell Air War Study quotes a memorandum by former Defense Secretary McNamara, in which he estimated that the bombing was causing 1,000 civilian casualties every *week* during the sustained raids of 1967. An equivalent casualty rate in the U.S. would be more than 600,000 per year.

Interviews with U.S. pilots indicate that most of the bombs we drop on North Vietnam are anti-personnel ordnance such as pineapple or guava bombs. These bombs contain hundreds of steel pellets.

One sortie of this type of bomb sends over half a million of these pellets spewing over an area half a mile long and an eighth of a mile wide.

During the Christmas raids alone it was announced that American planes flew over 1,000 sorties against North Vietnam. It is, therefore, not hard to believe the following Associated Press dispatch, dated December 29,: "Hanoi claimed that in Thanh Hoa Province on Sunday the U.S. planes killed 24 civilians and wounded 47. A broadcast said most of the casualties were caused by steel pellet anti-personnel bombs dropped on workers in the fields."

It's not a very pretty thing what our bombers are doing to these people.

But it's still going on right now. This month alone another 50,000 tons of anti-personnel bombs, napalm, and white phosphorous are raining down upon not only the people of North Vietnam, but Laos, Cambodia, and South Vietnam as well.

We won't be told of the victims, of course. To the extent we learn anything it will be of "protective reaction" strikes, "interdiction" missions, and the bombing of supply depots.

But there are human beings under those bombs, and they will continue being killed and maimed until we, the American people, demand an end to this bombing.

In just the eight months since President Nixon told the American people in his April address to the Nation that "Vietnamization has succeeded", there have been an additional 1,302 Americans killed in the Indochinese War, and 4,870 more wounded. Deaths among allied forces in that same period have risen 15,595, and the Pentagon estimate of the number of new deaths among those people it chooses to call the "enemy" is 56,030. That last figure is no doubt conservatively low.

These numbers tell of the *failure* of Vietnamization, not its success.

An Orwellian transformation is taking place in our military policy in Indochina. Due to public pressure American ground troops are slowly coming home, but they are leaving an automated war behind. Computer technology and a small number of troops manning aircraft and artillery are

creating a U.S. destructive presence that may literally hover over Southeast Asia for years to come. In the midst of this the public is confused, pacified by the diminishing troops levels, yet vaguely troubled by continuing reports of devastation.

In his mid-December newsbriefing Secretary of the Air Force Seamans sought once again to play down the air war. The basic point Seamons tried to make was that the air war was not escalating, that in fact it had been wound down. As such, his remarks represent a relativistic apology for the continuing raids, a logic more appropriate for 1984 than 1972—the logic of permanent war.

It is an insult to the American people to portray the air war as fading away when in 1971 somewhere between 750,000 and 800,000 tons of bombs were dropped over Indochina. Though down from the peak years of 1968 and 1969, this figure represents:

a) nearly 40% of all the U.S. air ordnance expended during the Second World War,

b) nearly 80% of all the air ordnance expended during the three year Korean War,

c) the equivalent of 37 Hiroshimas, or roughly one every nine days.

Most importantly, the Nixon Administration has made it clear that the bombing is to continue indefinitely even after the last American ground troop comes home (if he ever does). Even if reduced by 50% the air war still would continue at an average level greater than that of the Korean War.

But there are many indications that the reductions in the bombing are bottoming out. Pentagon sources, for example, indicate that B-52 strikes, though currently down 60% from their peak in 1968, are to continue indefinitely at their present rate of 1,000 per month. And although tonnage figures registered a 30% decline from 1969 to 1970 they dropped only 23% from 1970 to 1971.

At a time when the Harris Poll indicates that 65% of the American people feel the war is "immoral", and oppose by a 57 to 29 margin continued American bombing in order to achieve political ends, it is indefensible to continue the strikes at any level.

In regard to Secretary Seamans' "wound down war", it is worth noting that the Senate Refugee Subcommittee found that, "In this year, 1971, more civilians are being killed and wounded in the three countries of Indochina, and more made refugees, than at any time in history. Most of the casualties are caused, and people made refugees, by American and allied military activity."

Secretary Seamans also underplayed the seriousness of the Administration's expansion of the air war into Cambodia (all of the 140,000 tons absorbed by Cambodia are Nixon tons) and the doubling of the strikes within Laos during these last three years. A recent General Accounting Office study of the war in Cambodia found that two million of that nation's seven million population had been made refugees since the May, 1970 invasion, largely as a result of the bombing. In Laos more than 700,000 have been refugeed out of a total population of less than three million. Senator Kennedy—Chairman of the Senate Refugee Committee—estimates that three-fourths of the Laotian refugees were produced by American bombing.

Secretary Seamans also took great pride in the growth of the South Vietnamese Air Force, now one of the largest in the world. It is questionable, however, whether the American people wish to continue to pay the massive cost of such a Vietnamese force. It is questionable whether the American people wish to fight a war by proxy which 65% of them believe to be morally wrong. It is questionable whether the American people are as anxious as the President to find a magic combination of mercenaries and machines that will allow permanent war in Indochina.

Though the number of sorties and tonnage figures have declined, there has been an escalation in the technology applied. Administration spokesmen are quick to point out the "provocative" escalations of the other side when SAMs or higher caliber anti-aircraft weapons are introduced, but they are boastful about our own deployment of a new generation of aerial weapons. In recent years our laser guided bombs, teleguided bombs, more sophisticated anti-personnel bombs, and the gradual refinement of automated battlefield and its sensor computer bombing have all raised the "ante" throughout Indochina.

In the name of America, how many executions are taking place from the air in Indochina?

It is the enormity of our mistake that clouds it. If we are wrong, how wrong we are! Nothing will bring back those who have died, or the lost arms and legs, eyes and ears.

The Christmas raids against North Vietnam represent a serious escalation of the war. But what we must realize is that they amount to only a drop in the bucket when compared to the total air war. The 1,000 sorties flown against North Vietnam accounted for less than 10% of the total tonnage expended over Indochina last month.

But the strikes do illustrate the logical extension of the Administration's escalations into Laos and Cambodia—namely, the renewal of the bombing against the North. In 1971 "protective reaction" strikes totalled over 100, as compared to 20 in all of 1970. And the rationale of the raids has been expanded beyond their original self-defense justification to the familiar purpose of strategic bombing to weaken the North's ability to fight the war in the South. Historically the failure of such bombing and its significant civilian casualties is well documented.

The President has made it clear that he intends to continue the bombing, stating, "I will not place any limitations on the use of air power."

Secretary of Defense Laird has indicated that the Administration intends to maintain a naval and air presence in Southeast Asia indefinitely after the last ground troops are withdrawn. The Pentagon, which seems to have statistics available for all categories and contingencies, lacks even an estimate of the likely civilian casualties this presence will cause. Such considerations do not seem to have a high priority in current American decision making. The so-called "gook rule" which haunted the Calley trial has far more profound implications for the air war.

At Nuremberg the United States argued that where the military profits of any policy are dwarfed by the civilian casualties, such a policy is indefensible. Clearly, the massive air war by the U.S. against the people of Indochina is indefensible.

Mr. GRAVEL. Mr. President, I also ask unanimous consent to have printed in the RECORD a handbook prepared by Project Air War and the Indochina Resource Center entitled "Air War—The Third Indochina War."

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

AIR WAR—THE THIRD INDOCHINA WAR

(A handbook prepared by Project Air War and the Indochina Resource Center, March 1972)

"In the defense report which I made to Congress this year, I tried to point out that we would be continuing air and sea power and the presence of air and sea power in Asia for a good time . . . This idea that somehow or other the Nixon Doctrine means that we will not have air or sea power in Asia is a great mistake . . ."

Secretary of Defense Melvin Laird on NBC's "Meet the Press," November 14, 1971.

Project Air War and the Indochina Resource Center are projects of the Indochina Education Council which was established by agencies of the United Church of Christ, the United Presbyterian Church in the U.S.A., and the United Methodist Church to help meet the crucial need for informing the American people about the ongoing war in Indochina.

PROJECT AIR WAR

Project Air War is one of the major information centers in the country studying and analyzing the ongoing war, a conflict which has escalated in the air even as U.S. foot-soldiers have been withdrawn. The Project provides both authoritative statistical data about today's automated war and a tragic picture of what life is like for hundreds of thousands of Indochinese peasants living under constant bombing.

Project material has already appeared in The New York Times, Washington Post, Time, Boston Globe, St. Louis Post-Dispatch, San Francisco Chronicle, Congressional Record, CBS and NBC national news, the Mutual Radio network, transcripts of Congressional hearings, and a wide variety of other publications.

Project staff members speak at community meetings, college campuses, and academic gatherings; are called upon frequently by congressional offices and media representatives for background information; and work closely with several national peace groups.

INDOCHINA RESOURCE CENTER

The Indochina Resource Center serves as an independent clearinghouse for information on contemporary Indochina. The Center incorporates nine general sponsors from the academic associates who provide a wide range of inputs.

The Center provides reliable, up-to-date information from specialists on the social, economic, cultural, political, and historical realities of Vietnam, Cambodia and Laos. This information, which is often otherwise unavailable, is made accessible to Congress, journalists, peace groups, and others concerned with Indochina through the twice-monthly newsletter, Indochina Chronicle, in books and articles, as well as by direct contact. The Center also provides direct answers to specific requests, sets up briefings and seminars, and is currently developing a series of audio-visual exhibits on Indochina for loan.

ESSAY BY A 29-YEAR-OLD LAO REFUGEE

"There was a pagoda on the hill right next to my village. The airplanes shot it and started a fire. Two monks were killed there together. On account of the war, the planes thought that there were soldiers in the pagoda so they shot it. But there weren't any. Only the monks died.

From *Voice from the Plain of Jars*, ed. by F. Branfman, Harper and Row, 1972. Original collection of essays and drawings by Laotian peasants.

ABBREVIATIONS

Publications and Wire Services:

AmRep, American Report.

AP, Associated Press.

Chronicle, Indochina Chronicle.

Cornell study, The Air War in Indochina, Institute for International Studies, Cornell University.

CR, Congressional Record.

DNSI, Dispatch News Service International.

Harvey, *Air War: Vietnam*, by Frank Harvey.

NewRep, The New Republic.

NYP, New York Post.

NYT, New York Times.

PNS, Pacific News Service.

Post, Washintgon Post.

Star, Washington Star.

UPI, United Press International

Organizations and other:

AFSC, American Friends Service Committee.
ARVN, Army of the Republic of Vietnam.
CCAS, Committee of Concerned Asian Scholars.
CamAF, Cambodian Air Force.
DoD, Department of Defense.
DRV, Democratic Republic of Vietnam.
FY, Fiscal Year (begins July 1, ends June 30).
GAO, Government Accounting Office.
GPO, Government Printing Office.
Ibid., Same source as quoted above.
IVS, International Voluntary Service.
NARMIC, National Action/Research on the Military Industrial Complex.
NEARMIC, New England Action/Research on the Military Industrial Complex.
NLF, National Liberation Front of South Vietnam.
PAW, Project Air War.
PRG, Provisional Revolutionary Government of South Vietnam.
RLAF, Royal Laotian Air Force.
SSAS, Subcommittee on U.S. Security Agreements and Commitments Abroad of the Committee on Foreign Relations, U.S. Senate.
SRS, Senate Subcommittee on Refugees.
USAF, United States Air Force.
VNAF, Vietnamese (South) Air Force.

INTRODUCTION

This handbook has been prepared by Project Air War and the Indochina Resource Center, two Washington-based research projects concerned with the air war. The material presented in this handbook is but a fraction of the information on file in our offices, and we welcome requests for further help.

This manual was conceived in the belief that this election year 1972 may well be the most crucial period in the Indochina War. The war is not ending. It is not even "winding down." The Nixon Administration is waging a massive and highly sophisticated air war which is even more destructive than the ground war of preceding years.

Ironically, domestic opposition to the war has been diminishing. Domestic dissent in the past has been largely due to high draft calls, numerous American casualties, and extensive press coverage. In today's air war, however, conscription and American deaths are down, and news is carefully managed. The air war has been removed from the front pages and TV screens. As a result, many Americans have been convinced that the war is ending.

This handbook has been designed to help U.S. newsmen, political figures and peace groups do what correspondents in Indochina can no longer do: reveal the facts about today's air war to the American pepole. The graphics and source material are intended especially for use in leaflets, speeches, articles, posters and brochures.

The manual is divided into three sections:

1. *Documented source material on the air war*—Material is broken down into 17 topics. A fact sheet has been prepared on each topic, consisting primarily of statistics and quotes from the Department of Defense, Congressional hearings, books, and newspaper and magazine articles.

2. *Graphics*—The middle section of the handbook contains camera-ready photographs, drawings by bombing victims, and charts, diagrams and cartoons on the air war.

3. *Resource Bibliography*—A list of readily available groups, articles, pamphlets, audiovisual and other materials for further action-oriented research on the air war is appended.

It is our belief that the use which is made of this handbook and similar information will play a crucial role in ending the Indochina War. Public pressure to end the war in this election year will depend to a large extent on public awareness of the full extent of today's air war.

The effects of the Third Indochina War will be felt far beyond Indochina. It is clear that the air war represents a new age in the history of military conflict, an era of automated war. One of the few limitations on our leaders to wage such war now and in the future is informed public opinion here at home.

Public awareness of the air war in this key election year may well affect the fate of millions throughout the Third World in the years to come.

OVERVIEW

A giant apparatus of destruction is today firmly installed in and around Indochina. Fifty thousand American airmen and 500 strike aircraft ranging from the huge B-52 to the killer gunship, located at a dozen mammoth airbases and aircraft carriers, are waging full-scale aerial warfare.

The Nixon Administration, while removing U.S. foot soldiers, remains fully committed to a 20-year-old goal of American leaders: keeping U.S.-supported regimes in power in Indochina.

For this reason the Administration has invaded Cambodia and southern Laos, doubled the bombing of Laos and introduced 10,000 new Thai soldiers there, renewed the bombing of North Vietnam, dropped over 3 million tons of bombs on Indochina and killed, wounded or made homeless over 3 million civilians (source: SRS). For the same reason the Administration's newest negotiating stance still insists that the U.S. government have a say in determining who will rule in Indochina, the very reason the war has been fought for over two decades.

Tactics have changed, but the goals have not. The Nixon Administration took office committed both to maintain pro-American Indochinese governments and to withdraw American ground troops from Vietnam. Under the Nixon Doctrine the Third Indochina War (1969–?) began, substituting American air power for American ground troops. The First Indochina War (1946–54) was primarily a French colonial war; the Second Indochina War (1961–68) was the Kennedy-Johnson commitment of American ground troops. The Second Indochina War proved too costly to maintain.

The Nixon Administration has thus turned to a new form of war, one in which machines do most of the killing and destruction, unknown to the American people; a war in which an American President can claim to be bringing peace even as he continues to wage a full-scale and bloody war from the air.

Militarily, this new war is a variation of former Gen. James Gavin's "enclave" strategy. A majority of the people of Indochina has been concentrated in and around the major towns and bases. Within these American-controlled zones, a wide variety of political, economic and cultural measures are undertaken to break the spirit and culture of resistance which has thus far proved the main obstacle to U.S. military success. The vast regions outside the American-controlled zones—including two-thirds of Laos, three-quarters of Cambodia, all of North Vietnam, and much of South Vietnam—are basically free-fire zones, subject to American bombing any time of the day or night. Well over two-thirds of Indochina has thus been turned into a virtual free-fire zone where the new warfare is being tested.

This new war is *automated* war, waged by machine with ground troops playing a secondary role; it is *total* war, making no distinction between military and civilian targets, destroying everything below; and it is *secret* war, carried out without the knowledge of the American people.

This new war is the air war, the Third Indochina War.

Automated war

Always in the past air power has been used to supplement a large expeditionary ground force sent abroad. Substantial bombing has, of course, been carried out before: during World War II, the Korean War, the Second Indochina War. But in the past such bombing has always been meant to support an expeditionary ground army which did the bulk of the fighting and dying. Between 1965 and 1968, for example, most American bombing was employed to aid the half million strong American ground force in South Vietnam by weakening NLF rear bases, supply lines, and strike teams.

What is new today is that bombing is the heart of American military policy; ground forces play a secondary, though still important, role. American air power today does more fighting, costs more, and involves more men than the dwindling force of U.S. foot soldiers still engaged in combat. Asian foot soldiers are used to support American bombers by: (1) "showing the flag" when going in after bombing has caused guerrilla retreat and taking out supplies and refugees; (2) providing static defense for the major towns and bases; and (3) serving as "live bait" to draw guerrilla fire so American pilots will have some idea where to bomb.

Total war

The air war, by its very nature, is destroying everything below: homes, schools, gardens, pagodas, rice fields, forests, animal life and, of course, any people caught in the open.

When American leaders chose to massively bomb the poor, rural lands of Indochina, they inevitably undertook war against the society as a whole. The only strictly "military" targets regularly locatable from the air were roads and bridges, with the exception of a few North Vietnamese factories destroyed early in 1965. Other "military" targets, such as soldiers, trucks, arms depots, or anti-aircraft batteries, are but sporadically found and are assumed to be inter-mixed with the civilian population. The Air Force and Navy have introduced hundreds of aircraft into the skies of Indochina, ordering that aircraft must be used as often as possible and cannot return to base without dropping their bombs. As a result, pilots inevitably wind up systematically destroying the civilian and social infrastructure.

One of the most striking examples of this total war from the air is the Plain of Jars in northeastern Laos. The Plain of Jars was a thriving, vibrant community of 50,000 when the Pathet Lao guerrilla movement occupied it in May, 1964. The United States then began bombing it, striking in ever-increasing intensity until September, 1969, when U.S.-supported Meo guerrillas took the survivors off the Plain. During these years, everything on the Plain was leveled. Today it is a deserted wasteland. There was almost no ground fighting on the Plain during these 5½ years. It is the first society in history to be erased from the map by total, automated war.

Secret war

Through blatant news management, the Nixon Administration has been able to wage a full-scale war while convincing most Americans that it is attempting to end the war. Secrecy is the means of keeping the war politically "acceptable."

The public was first informed of the Laos air strikes in March, 1970, six years and 350,000 sorties after they began. Sen. William Fulbright complained at that time that, "The President does not have the authority, nor has the Congress given authority to engage in combat operations in Laos, whether on the land or in the air." The Nixon Administration has unilaterally expanded the air war into Cambodia and recently reinitiated massive bombing of North Vietnam. With the air war's funding scattered in the general budgets of the services and the CIA, it eludes effective control by Congress.

The Nixon Administration has prohibited the press from observing most of the air war first-hand, by refusing to allow newsmen to

go on bombing raids outside South Vietnam, keeping unsympathetic journalists off Thai airbases, and not allowing free access to American pilots in Udorn, Thailand. Since such censorship was not practiced in Vietnam (newsmen were always permitted to go out on bombing raids, and have free access to bases and pilots there), it is clearly not due to any need for military security. Rather, the goal seems to be to keep the truth from the American people.

Before 1969, 70 percent of the tonnage fell within South Vietnam (source: Cornell study) and most of the bombing was carried out from South Vietnamese airbases. Since 1969, two-thirds of the tonnage has fallen outside South Vietnam (*Ibid.*), mostly from Thai airbases. The Administration has refused to fly newsmen to scenes of battle in Laos and Cambodia, where most of the fighting has taken place. Newsmen are only infrequently taken in on short, packaged tours, and are invariably kept away from freshly bombed areas. Thus newsmen usually have been unable to observe newly bombed regions taken by American-supported troops. Once again, this was not the policy in South Vietnam, where first-hand reports of aerial devastation did much to create sentiment against the war in this country.

Administration officials have successfully created the illusion of a sterile, antiseptic air war waged only against "military" targets. They have done this by: (1) classifying all information about the air war besides overall tonnage and numbers of airmen out of public and congressional reach; (2) coining such euphemisms as "protective reaction" and "limited duration protective reaction" strikes to mask massive and sustained bombing raids; and (3) maintaining time and time again, in press conferences, speeches, and congressional hearings, that civilian targets are never bombed.

Reports are filtering back to the states that the U.S. has begun clandestine bombing in northern Thailand. The reports may or may not be true, but the point is that unless Congress and the press are permitted to investigate such claims, there can be no effective check on the President's power to bomb anywhere, at any time.

THE FUTURE

The Nixon Administration has made it clear on numerous occasions that it has no intention of ending this automated, total, and secret war.

Indeed, all prospects are for further intensification and escalation of the Third Indochina War. In February, 1972, for example, it was revealed that the number of B–52s and aircraft carriers in the Indochinese theatre would be doubled.

By November, 1972, the Third Indochina War will be the second longest in American history (surpassed only by Johnson's ground war). Unless Americans elect a President committed to total withdrawal, there is no end in sight.

The agony of Indochina may have only begun.

DIMENSIONS

The air war continues at a high level. During 1971, 763,000 tons—the equivalent of 35% of all American air ordnance expended during World War II—were dropped on Indochina (DoD). The potential for sudden escalation remains great, as exemplified by the 5-day Christmas raids against North Vietnam and the more than ten-fold increase in strikes within South Vietnam during February.

The Cornell study cites Pentagon plans to continue the air war at the current level. B–52 sorties, for example, down from a peak of 1,600 a month to 1,000 a month, are programmed to continue indefinitely at the current rate. In defending the bombing, Administration spokesmen invariably point to reductions from 1969 levels, thus laying the groundwork for permanent prosecution of an air war at "acceptable levels."

The operational heart of the bombing has shifted from South Vietnam to land bases in Thailand and aircraft carriers in the South China Sea. Already 45,000 of the 73,000 U.S. air personnel directly involved with the bombing are located outside of Indochina proper. May 1, 1972 will mark the first time that the number of American airmen and American ground troops in Indochina will be equal in the history of this war or perhaps any war.

Geographically, the brunt of the bombing has shifted from inside North and South Vietnam to Laos and Cambodia. Under Nixon the bombing of Laos has doubled, and all of the 150,000 tons over Cambodia have fallen since May 1970. Recently, for all practical purposes, the Johnson bombing halt over North Vietnam has ended.

During the last three years the technology of the automated battlefield has escalated and the size of the South Vietnamese Air Force has been increased until it now stands as the sixth largest air force in the world.

SORTIES AND TONNAGES

Sorties 1971

USAF	160,000
VNAF (DoD)	36,000

Tonnages 1971

[In tons]

Allied (DoD)	763,000
South Vietnam*	270,000
Laos*	445,000
Cambodia*	90,000

*Cornell study

Note: Totals for the breakdown tally slightly higher than the DoD figures for total "Allied." Tonnage and sortie figures for "protective reaction" strikes are not included.

Protective Reaction Strikes

1970 (DoD)	21
1971 (DoD)	108
1972 (first 35 days) (DoD)	35

The ¾ million tons of bombs dropped on Indochina in 1971 represent:

(a) The explosive equivalent of 38 Hiroshimas (one Hiroshima=20,000 tons);

(b) 80% of the air ordnance expended during the 3 year Korean War (966,000 tons);

(c) 5 times the tonnage dropped on Japan during World War II (154,000 tons);

(d) 23 times the total tonnage dropped by the British during their successful ten year counter-insurgency in Malaya (33,000 tons).

(Library of Congress Report to the Senate Foreign Relations Committee, *Impact of the Vietnam War*, 6/71, and the Cornell study).

The total of 6.3 million tons of bombs (DoD) dropped on Indochina from 1965–1971 represents:

(a) 250 pounds for every man, woman, and child in Indochina (population 49 million);

(b) 22 tons for every square mile of territory in Indochina (area 284,000 square miles or about the size of Texas);

(c) More than twice the 3.1 million tons of bombs dropped during World War II and the Korean War combined. (*Impact of the Vietnam War*)

The majority of the bombs dropped on Indochina have been dropped since President Nixon took office (3.2 million tons since 1969—DoD). The current bombing rate, 50,000 tons during November and 61,000 tons during December, represents:

(a) More than 2½ Hiroshima a month;

(b) More than 3 million pounds a day;

(c) More than 2,000 pounds or a ton a minute.

The Executive branch has made it clear on many occasions that it intends to wage a prolonged air war:

"I am not going to place any limitations upon the use of air power." (Pres. Nixon, 2/17/71)

"Under the [Nixon] Doctrine," Laird said, "the United States is prepared to provide material assistance and air and sea assistance to our allies and friends in Asia." (*Post*, 1/21/71)

"'U.S. ships and warplanes will remain on duty in Southeast Asia after the last American soldier leaves Vietnam,' Defense Secretary Laird indicated yesterday." (*Post*, 4/4/71)

If necessary, we will "not only continue our air strikes, we will have to step them up." (Pres. Nixon, 11/12/71)

"In the defense report which I made to Congress this year, I tried to point out that we would be continuing air and sea power and the presence of air and sea power in Asia . . . This idea that somehow or other the Nixon Doctrine means that we will not have air or sea power in Asia is a great mistake." (Sec. Laird, "Meet the Press," 11/14/71)

"High level DoD officials say there are no current plans to cut any of these forces [400+ attack bombers in Southeast Asia] . . . The Administration now appears to be approaching the level [of airpower] which will be maintained indefinitely." (Michael Getler, *Post*, 1/14/72)

"Air sorties in southeast Asia will also be stepped up by 50%."

(From a privileged account of a National Security Council meeting; reported by Jack Anderson, *Post*, 1/20/72)

"The buildup reflects what informed officials say is a U.S. intention to use all air assets available."

(*Post*, 2/10/72 on the dispatch of an extra carrier to the Gulf of Tonkin and the readying of additional attack aircraft)

Men, bases, and aircraft

Until mid-February, two aircraft carriers were regularly on station in the South China Sea with 13,000 men and approximately 120–150 attack aircraft. The recent addition of the Kitty Hawk and Constellation has doubled the force, raising it to the peak levels realized in 1968. (CBS News, 2/9/72)

With the addition of the third and fourth carrier to the South China Sea and the activation of 40 additional B–52s, there are now nearly 600 attack aircraft in Southeast Asia. These additions have increased the American bombing force in Indochina by more than 40%.

South Vietnam

As of January 6, 1972 there were 28,000 U.S. airmen stationed within South Vietnam (DOD). Their numbers are scheduled to decline to 16,000 by May 1.

Danang remains a major strike base. Cam Ranh Bay, a majo support base, is where the 7½ ton "Commando Vault" bombs are flown from. Several other bases, including Tan Son Nhut, are used regularly by U.S. aircraft.

Thailand

This is the heart of the air war. There are currently (1/72) 32,000 U.S. military personnel in Thailand (DoD), and 215 attack bombers (Michael Getler, *Post*, 1/14/72) stationed at the following five bases:

(1) Udorn, control center for the air war;

(2) Utapao, home for approx. 45 B–52s;

(3) Ubon, source of most F–4 activity over Cambodia;

(4) Korat, base for the radar planes of the electronic war;

(5) Nakon Phanom (NKP), location of the automated war's computers. (CBS News, 12/71)

AIRCRAFT

The aircraft used in the Third Indochina War are organized in the following manner: aircraft in South Vietnam are under the command and logistical support of the 7th Air Force, headquartered at Tan Son Nhut

Air Base; aircraft stationed in Thailand (with the exception of B–52s) are under the command and logistical support of the joint 7th/13th Air Force, headquartered at Udorn Air Force Base; B–52s, stationed at Utapao Air Force Base, Thailand, are under the command of the 8th Air Force (Strategic Air Command); the aircraft carriers in the Gulf of Tonkin (Yankee Station) are under the control of the 7th Fleet representative in Saigon.

Bases that are under U.S. control, and conduct attack missions are: Tan Son Nhut, Cam Rahn Bay, and Danang in South Vietnam (only Danang flies missions outside of South Vietnam); Udorn, Ubon, Khorat, Nakhon Phanom, and Utapao in Thailand are engaged in the bombing of locations outside of South Vietnam (North Vietnam, Laos, and Cambodia). There are usually two aircraft carriers on Yankee Station at all times. In principle each base or carrier has a tenant Wing, with 75–100 aircraft. The wings are divided into Squadrons, with approximately 20–25 aircraft assigned to each squadron. When necessary, squadrons may be further broken down in Detachments of 5–10 aircraft. In addition to its tenant wing, each base or carrier may have a number of detachments from other wings to carry out specific mission assignments (crash rescue, reconnaissance, base defense, etc.)

A mission (or strike) is a flight by one or more aircraft. A sortie is a single flight by an aircraft.

There are over 300 land based combat aircraft (excluding B–52s) involved in the air war. The number of carrier based combat aircraft fluctuates with the number of ships on Yankee Station at any time.

The aircraft in use in Indochina can be divided into 8 categories:

Fighter-bombers (F–4, F–100, F–105, F–5, F–8), designed for world wide mobility with supersonic speeds. These aircraft are designed for either air-to-air combat or air-to-ground combat roles. These aircraft often fly "cover" for unarmed reconnaissance and cargo flights and B–52s.

Attack aircraft (A–1, A–4, A–6, A–7, A–37, A–3, T–28, and A–26) are generally subsonic aircraft designed specifically for air-to-ground combat. Attack aircraft have the ability to stay over their targets longer, carry more ordnance and deliver their ordnance with more accuracy than fighter-bombers.

Observation aircraft (O–1, O–2, OV–10) are used primarily by Forward Air Controllers (FACs) for spotting targets from the air and directing attacks on them. These aircraft carry white phosphorus rockets for marking targets, and may carry a 7.62 mm mini-gun for strafing.

Gunships (AC–47, AC–54, AC–119, AC–130, UH–1 Huey helicopter, AH–1G "Cobra" helicopter) are flying gun platforms. The primary weapons are the 7.62 mm "Gatling" gun and the 20 mm "Vulcan" cannon. Both types of weapons are capable of firing 6,000 rounds of ammunition per minute, from a single gun. These weapons are designed primarily for close air support or to stalk mobile targets.

Electronic warfare aircraft (EC–47, EC–119, EC–121, EB–57, EC–130, EB–66) act as airborne command centers and relay stations for ground sensors. They can also function as electronic commuter-measures aircraft, jamming radar and producing signals that will mislead detection and gunnery systems on the ground.

Reconnaissance aircraft (RF–4C, RA–5, EC–47, SR–71) utilize camera and radar systems to make photo images and electronic signals for both pre and post bombing analysis. Systems used on these aircraft include: infra-red cameras and radar capable of picking out life by the differences between body heat and jungle heat, side-looking radar capable of transmitting reports to a ground station and making a permanent photo-image simultaneously.

Bombers (B–52 and B–57) are used for both strategic and tactical bombing missions. The B–57 operates at low levels, at the same altitude as a regular fighter-bomber. The B–52 operates at altitudes of 30,000 feet, isolating the aircrew from any chance of seeing their targets or victims.

Support aircraft (C–47, C–54, C–7, C–130, U–3, T–39, etc.) comprise the rest of the almost 1,000 aircraft in the 7th Air Force. These aircraft are used for medical evacuation, cargo and troop transportation, and any other miscellaneous activities that do not require a combat aircraft.

The skies of Indochina are covered with an umbrella of aircraft at any time of the day or night; FACs and observation aircraft at 2,000 feet; attack and gunships at 5,000 feet; fighter-bombers at 7,000 feet; reconnaissance and electronic warfare aircraft at 10,000 feet; KC–135 tankers at 20,000 feet, B–52 bombers at 30,000 feet, and the SR–71 at 70,000 feet.

The brunt of the air war today is being carried out by F–4s, B–52s, and gunships.

"The 7th Air Force has 33,000 military personnel and nearly 1,000 aircraft." (*Air Force Magazine*, 5/71)

"The B–52s bomb these [Ho Chi Minh] trail entrances daily, each dropping as many as 150 bombs of 500 pounds." (Craig Whitney, *NYT*, 12/3/71)

"[AC–47s] can start their deadly circle quickly, and in three seconds cover the area of an entire football field with one bullet in every square foot." (Lt. Col. Thomas Rickelsmen, USAF, *St. Louis Post Dispatch*, 11/24/65)

"When they [gunships] fire their guns, it looks as if a stream of brilliant candy apples is streaking from the aircraft to the ground." (Sgt. Robert Lessels, USAF, *Air Force Magazine*, 11/71)

"The Americans unleashed the terrifying 'Puff the Magic Dragon' [AC–47] and I could visualize the scene below. Men, women, children, caught like rats in a flood . . . No place to hide, no way to plead their case of innocence to the machine in the sky, no time to prepare for death." (Quaker worker, Quang Nai hospital, South Vietnam, *Vietnam*, 1969)

"The Douglas AC–47 'Spooky', the Fairchild-Hiller AC–119 'Shadow' and the Lockheed AC–130 'Stinger' . . . are all fitted with side firing weapons—three 7.62 mm Miniguns in the AC–47, four in the AC–119, and four 7.62 [mm] guns and four 20mm cannons in the AC–130." (Air Force Magazine, 5/71)

"The A–7 makes ground movement after dark a nightmare . . . the devastating accuracy of this aircraft is being applied to an increasing number of night missions." (Vought Aeronautics advertisement, *Air Force* Magazine, 1/72)

"A fighter-pilot who was based at Danang told me, 'We are going four or five hundred knots, and we can't see much ourselves. I've never seen a body or a person yet, and I've been on over a hundred missions. It's virtually impossible to see any movement on the ground. The FAC is the expert. We're only experts in delivery." (Jonathan Schell, *The Military Half*)

". . . I flew with a FAC pilot from Texas . . . The standard FAC plane was a Cessna–1 Bird Dog. It seated two, one in front and one in back; had a single propeller; and was armed with four tubes containing phosphorus rockets, two tubes being mounted under each wing. It could fly as slowly as forty miles an hour, and could hold an extremely tight corkscrew turn when the pilot wanted to look at one small area of ground for a sustained period . . ." (*Ibid.*).

"The converted D models of the B–52 can carry a total of 108 500-lb. bombs . . . This compares with the 51 capacity for either the 500 or 750-lb. bomb of the F versions available here when the aircraft first began operations in the summer of 1965. Total capacity of the D with 750-lb. bombs on board is 66 . . .

"The 750 and 500-lb. bombs continue to be the primary ordnance loads for the B–52's, although a variety of other ordnance currently is being employed." (*In the Name of America*, 1968)

". . . A military spokesman said today that the paratroopers had swept through part of the area of two B52 raids in the Iron Triangle last Friday. He said that 750-pound bombs with instantaneous fuses made craters only about four feet deep but blew down the jungle 300 feet around the crater.

"Delayed-fuse bombs, which go off after penetrating into the ground, left craters fifty feet wide, blew down trees to a distance of 75 feet from the crater rim and collapsed some tunnels 100 yards away.

"One 'complex' of about 25 farm huts was reported '75 per cent' destroyed by the B52s." (*Ibid.*)

"Gen. Talbott: The backbone of our interdiction force has been tactical fighters—primarily F–4s. The F–4s are being used more at night . . . F–4 squadrons have been equipped with a very accurate (deleted) navigation system . . . These sensors are integrated through computers to deliver several types of weapons including laser guided bombs." (Electronic Battlefield Hearings, 11/70)

AIRCRAFT CARRIERS

More than any other weapon system, the attack carrier has been adapted to the kind of conflict with the Third World that has characterized U.S. military intervention since World War II. Once an arm of the fleet, designed to protect naval ships from air attack and to provide a long-range strike force against opposing naval forces, the attack carrier has become a mobile platform from which to launch an air attack against ground targets.

The attack aircraft carrier is today playing a major role in the air war and is likely to play an even more important one in the future as U.S. ground troops and land-based air power is gradually withdrawn from South Vietnam. In February, 1972, three attack carriers were put on station in the Gulf of Tonkin, the largest number since the height of the bombing in 1968, and a fourth was on its way to join them. Though the actual number of combat sorties flown from carrier decks is kept secret, it is known that carriers launched almost half of the combat sorties against North Vietnam between 1965 and 1968 at the rate of more than 4,500 sorties a month. The sortie rate for fiscal 1972 was reportedly budgeted at 3,000 sorties a month.

The role of the attack carrier in Indochina is not surprising. With more than 75 combat planes, a crew of 5,000, and a fully integrated operations system, each attack carrier can maintain full-scale combat operations off the coast of Vietnam for months at a time, free of reprisal from enemy forces and without fear of changes in the political situation in Indochina that might force the withdrawal of U.S. land-based forces. Over the last decade or so the weapons system of the attack carrier has been completely redesigned to fight conventional land wars. Its aircraft, which in World War II could carry at most several hundred pounds of bombs, are now capable of carrying 12–18,000 pounds of bombs, more than the heaviest bombers of World War II. Its radar systems were once designed for operation over water; they have now been redesigned for land operations, including navigation systems that automatically fly planes at ground level over mountainous terrain. Over the last decade the Navy has designed and employed over a dozen types of anti-personnel weapons, useless against ships but very effective for killing and maiming guerrilla forces and the peasant populations that support them.

As a result of these and other changes, the attack carrier has become a major weapon

of counter-revolution. Its main role in the future will be much like its role in the past 25 years. Whether it will be Korea, China, Lebanon, Cuba, Thailand, Vietnam, Dominican Republic, Cambodia, or Laos again, or whether it will be some other country of the Third World in which an American government wishes to intervene, the attack carrier is likely to be the first U.S. force engaged and the last one withdrawn.

Adm. Elmo Zumwalt, chief of the U.S. Navy, said, "American naval operations would continue in the Gulf of Tonkin as long as necessary to protect U.S. troops in Vietnam and that there were no plans to withdraw U.S. aircraft carriers from the waters around Vietnam." (*Post*, 2/27/72)

"Aboard the USS *Enterprise*—Navy Pilots, flying off this huge floating airfield and other carriers in the Tonkin Gulf, are playing a bigger role than ever in the continuing American air war. . . . Virtually all the thousands of strikes (1,700 from the *Enterprise* alone in the last month) flown at the infiltration routes of the Ho Chi Minh Trail system in southern Laos are now launched either from the carriers or from air force bases in Thailand. (*Post*, 1/1/72)

"Officers aboard the 7th Fleet ships off the coast of Vietnam disclosed that Navy strength has been reinforced from an average of 10 ships to 16, including the aircraft carrier *Constellation* and support ships. The US Command made no mention of this or of the report that the manpower of the fleet was now 18,000 to 20,000 men instead of the 13,000 the Command had said. (*Boston Globe*, 2/15/72)

". . . the availability of a fourth carrier in the area will make it possible for the U.S. military command to keep at least three of the big ships on station at all times and available for strikes in the South, against the Ho Chi Minh Trail in Laos, or possibly in new reprisals against North Vietnam.

"Should things be going badly for the South Vietnamese, the United States could also forgo rotating one of the carriers into port for a rest and keep all four on the line." (*Post*, 2/10/72)

"Since we do not have a fortress America strategic concept, the position that our country takes with respect to the rest of the world definitely determines the number of carriers and, for that matter, the entire structure of the Armed Forces . . .

"This new carrier is not associated with particular force levels. It is needed to handle our modern aircraft, and it is needed to give the so-called long legs and mobility that is needed in this modern era. (Testimony before Senate Armed Services Subcommittee on the CVAN–70 Attack Carrier)

"The United States, of course, has a forward strategy. We are a maritime nation. We have operated our forces overseas because we prefer not to have to fight our wars within the United States. Therefore, we have designed our forces—air, Army and Navy—in such a way that they permit us to project power overseas. . . ." (Adm. Thomas H. Moorer, Former Chief of Naval Operations and Chairman of the Joint Chiefs of Staff, April, 1970)

What are the most probable warfare situations for carrier involvement in the future? . . .

"In the next 30 years, which is the lifespan of a carrier, most conflicts in which the United States will become involved will be below the threshold of general nuclear war. . . . Projecting the history of the past 20 years, if we become involved in a conflict it will most probably be a limited war similar to Korea or Vietnam. . . ." (Rear Adm. James L. Holloway, III, Former Chief of Strike Warfare Division, US Navy, April, 1970, CVAN–70 Attack Carrier Hearings)

"Yankee Station has had little or no publicity. Few people in the United States would know what you were talking about if you mentioned it. Yankee Station is not a siding in Back Bay, nor a rock 'n' roll radio station playing Colonial music. It's a position in the South China Sea about 100 miles northeast of Danang where American aircraft carriers cruise around in a methodical pattern and launch and recover fighter and bomber airplanes that are hitting North Vietnam . . ." (Harvey)

"The carrier on Yankee Station is a mobile, privileged sanctuary. It can be replenished from home with whatever it needs to fight. It can go anywhere in the world on short notice. It is immune from sneak missile attacks, since it is always moving. No capricious foreign government can order it closed (as can happen to a land base). The carrier can control its food, water, health and recreation very tightly. There are no mosquitoes to give you malaria. . . ." (*Ibid.*)

"Navy aircraft carriers have now proven their worth in this Vietnam war—and their potential for any wars of similar type that might erupt sometime in the foreseeable future. . . . The *Connie* (note: Constellation) is a sea-going airfield that can move around at 35 knots; houses more than 5,000 officers, men and tech reps; can hurl jets off her four steam cats like shooting beans; carries enough power to flatten targets just as flat as the Strategic Air Command's massive intercontinental bombers and missiles; can launch and recover day or night in very lousy weather; has a flight deck of 4½ acres; carries dozens of planes—fighters, bombers, photorecon, radar picket, onboard delivery and planeguard helicopters." (*Ibid.*)

"Now, for a moment, let's look at the big picture of operations on Yankee Station. The three big attack carriers often work as a team, and the planes from all three ships—more than 200 of them—go off in coordinated waves in strikes against a single target, sometimes going back time after time for days, until that particular target is simply battered to a pile of dust and rubble. . . Raids like this are undertaken, from time to time, when it is decided to eliminate a target for good and all. They are devastating. Their destruction would have to be seen to be believed. Dry-bones communiques detailing numbers of items hit and numbers of sorties flown simply do not tell the story at all." (*Ibid.*)

"Yankee Station happens to be one of the most important offensive bases of operations in this whole war, and nobody even knows the place exists, except for a few experts who follow these matters closely." (*Ibid.*)

"Aboard the 63,000-ton carrier *Coral Sea* . . . 28 fliers in the Sundowners Squadron heard the news that two more of their comrades faced indefinite imprisonment in North Vietnam. . . . The records say that Bob Pearl is 38 years old and that he has had four tours and 400 missions over Indochina since 1965. . . . Were the raids on the North worthwhile? 'All we can see are our losses and no fruits for our efforts. . . . I think people find it hard to agree with the party line about covering withdrawal. . . .' So, it seems that the attack carriers of the Seventh Fleet, doomed to act as floating mail-order houses for high explosives, will sail on and on, Flying-Dutchman-fashion, until—as the joke has it—they run aground on their own accumulated garbage." (John Saar, *Life* Magazine, 2/4/72)

"Before long, the pilots and the planes will be the last warriors and weapons the United States has left in Indochina.

"And barring a breakthrough in efforts to reach a settlement of the war or a reversal of American policy, the U.S. air armada flying from bases in Thailand and as many as three carriers in the Gulf of Tonkin, will remain indefinitely." (*Post* 3/2/72)

CIA AND MERCENARY AIR FORCES

CIA and local Asian air forces are playing a growing role in the air war as the Administration seeks to minimize overt American involvement. There is abundant documentation pointing to the participation of these air forces in opium smuggling as well as in combat. (See *Ramparts*, 4/71 for a fuller account.)

Local Asian air forces—supplied, maintained and directed by American "advisors"—are doing an increasing amount of the bombing. The size of the Vietnamese Air Force (VNAF) has increased dramatically, and the Royal Lao Air Force (RLAF), the Royal Thai Air Force (RTAF), and the Cambodian Air Force at slower rates. Although all the aircraft are piloted by Asians, Americans do everything else, from directing bomb loading to spotting for strikes.

Air America and Continental Airlines, privately owned, profit-making companies, operate under CIA direction and wage much of the supportive air war in Laos and Cambodia. The "charter" companies' planes perform troop transport and supply functions, spot for bombers, and engage in rescue operations for downed pilots. Air Force helicopters, helicopter gunships and giant C–130 cargo planes are "rented" to Air America for $1 a year in Laos.

Asian air forces

American aid to VNAF, FY 1970–72: $922 million.

American aid to RLAF, FY 1970–72: $128 million (DoD, *CR* 8/3/71).

"The Nixon Doctrine . . . was premised on the assumption . . . of increased U.S. military assistance." (Undersecy. of State U. Alexis Johnson, FY 1972 DoD Authorization Hearings.)

"An important factor in carrying out the Nixon Doctrine will be our military assistance program. We are requesting 48 million for development and 70.4 million for procurement of the International Fighter. In addition, we are requesting 10 million for initial spares. This aircraft is needed to provide an air defense capacity for [our] Asian allies." (Secy. of Air Force Robert C. Seamans, FY 1972 Senate DoD Appropriations Hearings.)

Sen. SYMINGTON. "Are we going to continue to put these billions into Southeast Asia? Is that the overall plan in the U.S. today?"

Secy. SEAMANS. "For the forseeable future we are going to continue to spend sizable dollars in Southeast Asia."

Vietnamese Air Force

"South Vietnamese military officers continue to deal in large quantities of heroin and to transport it around South Vietnam in military aircraft." (Rep. Robert H. Steele, House Subcommittee on Europe, 7/7/71.)

"The South Vietnamese Air Force is the sixth largest air force in the world." (Michael Getler, *Post*, 1/14/72.)

VNAF INVENTORY

Year	Fixed wing attack aircraft	Helicopters	cargo, recon.
January 1969	[1] 100	[1] 125	[1] 575
January 1972	(2)	(2)	1,000+
January 1973 [3]	300–400	500–600	1,200

[1] Approximately.
[2] Total fixed wing and helicopter 750+.
[3] Projected (1969 and 1973 figures, Cornell study. 1972 figures, DOD).

VNAF PERSONNEL

1968 (slightly under)	20,000
1972 (January)	45,000
1973 [1]	50,000

[1] Projected (ibid.).

VNAF ATTACK SORTIES

Year	Indochina (per month)	Laos	Cambodia
1968	2,250	None	None
1970	3,150	None	820
1971 [1]	3,490	40	1,100

[1] As of July 1971 (Cornell study).

"Mr. Seamans acknowledged that the Vietnamese 'will never be able to build the capability to do all that the United States Air Force has been doing in Laos. The Vietnamese Air Force . . . does not possess either B–52s or F–4s, the jet planes that do most of the trail bombing, and there are no plans,' Mr. Seamans said, 'to give it any.'" (Craig Whitney, *NYT*, 12/6/71)

"VNAF is being geared to fight a war where it will continue to have complete air superiority." [This superiority will apparently be provided by U.S. aircraft operating from Thailand and carriers in the South China Sea.] (Brig. Gen. Kendall S. Young, chief Air Force officer for Vietnamization)

Gen. RYAN. "They will not be able to supplant the complete U.S. Air Force in South Vietnam."

Sen. CASE. "At any time?"

Gen. RYAN. "That is correct." (Gen. John D. Ryan, Air Force Chief of Staff, Senate FY 1972 DoD Appropriations Hearings)

Asian Blood, American Money

"Lao T–28 bombers have attacked towns, Saravane being a well-known case in point . . . Laos Air Force pilots are . . . paid a bonus for each sortie so that there is an incentive not to adhere strictly to the rules of engagement [forbidding random bombing]." (Senate Foreign Relations Committee Staff Report on Laos, 4/71)

"There is a growing concern of the tendency of Laotian air force pilots from Luang Prabang and Long Cheng to dump their bomb loads on unauthorized targets, which is confirmed by U.S. military personnel. Only minutes after taking off the pilots reportedly hurry home to reload—and collect a dollar bonus for every sortie they fly. The indiscriminate bombing is causing loss of life on the ground and forcing villagers to flee their homes." (D. E. Ronk, *Far Eastern Economic Review*, 9/4/71)

"The VNAF bomb villages indiscriminately. They don't care where they bomb. A lot of times they'll wipe out a village because they or their commander has a grudge against it, maybe it wouldn't make the proper payoffs." (Ronald Ridenhour, former G.I. whose insistent prodding broke the My Lai story, in a PAW interview)

CIA air forces

"There is a large U.S. civilian (paramilitary) fleet operating in Laos run by Air America, Continental Air and Lao Air Transport . . . under contract with AID, although funds are provided by AID, the DoD, CIA, and the State Department. The funding arrangements are worked out in Washington." (Foreign Relations Committee Staff Report on Laos, 4/71)

"Air America is under the management of George Dole, a CIA employee. . . . He is looking to the future, carefully developing the airlift capabilities of other companies he runs for the CIA, such as Southern Air Transport. . . . The sole purpose for the existence of SAT is that the agency be ready for the contingency that some day it will have to ferry men and material to some Latin American country . . . without of course having to contend with the Congress or anybody else." (Victor Marchetti, highest ranking CIA official to "go public," a former participant in CIA daily staff meetings chaired by director Richard Helms.)

CIA-Directed air forces in Laos

Inventory

20 helicopters.
12 C–123s *.
7 C–7As *.
10 Porters.
7 C–46s.
1 Volpar.

Estimated cost

FY 1970: $23 million.
FY 1971: $26.2 million.

Personnel

Air America: 276–415.

(Senate Foreign Relations Committee Staff Report on Laos, 4/71).

"The CIA has changed its rules in an attempt to stop the use of its private airline, Air America, for transport of drugs [opium and heroin] in Laos. Although only two months ago CIA director Richard Helms adamantly denied there had been any agency involvement in this traffic, he is now said to have told a secret Congressional hearing that there was involvement but it has stopped." (Flora Lewis, *Post*, 7/23/71)

"The CIA has involved us in this covert operation, an opium war. The clandestine yet official operations of the U.S. government could be aiding and abetting heroin traffic here at home." (Sen. John Tunney in a campaign speech before the Los Angeles Chamber of Commerce)

"John E. Ingersoll, director of the Bureau of Narcotics and Dangerous Drugs, in testimony before the House Select Committee on Crime, said that middle-level government officials and military men throughout Southeast Asia were deeply involved in the traffic in opium, the product from which morphine and heroin is refined." (Felix Belair, *NYT*, 6/6/71)

AUTOMATED WARFARE

Mechanized war

A giant apparatus of mechanized war—consisting of aircraft, huge airbases and aircraft carriers—has become the centerpiece of American intervention in Indochina. When John Kennedy and Lyndon Johnson chose to escalate, they increased U.S. ground troops; when Richard Nixon escalates, as on the 11th of February 1972, he dispatches more B52s and aircraft carriers.

The goal of this mechanized war is to replace U.S. personnel with machines, so as to reduce dollar costs; reduce domestic dissent occasioned by American deaths; increase combat efficiency by removing American foot soldiers who will not fight; and remove the war from the political arena by making it secret and unsusceptible to congressional or public pressures.

"In Vietnam where artillery and tactical air forces inflict over two thirds of the enemy casualties, firepower is responsive as never before. It can rain destruction anywhere on the battlefield within minutes . . . whether friendly troops are present or not . . . On the battlefield of the future, enemy forces will be located, tracked, and targeted almost instantaneously through the use of data links, computer assisted intelligence evaluation, and automated fire control. With first round kill probabilities approaching certainty, and with surveillance devices that can continually track the enemy, the need for large forces to fix the opposition physically will be less important . . . Today, machines and technology are permitting economy of manpower on the battlefield, as indeed they are in the factory. But the future offers even more possibilities for economy. I am confident the American people expect this country to take full advantage of its technology—to welcome and applaud the developments that will replace wherever possible the man with the machine . . .

"I see battlefields or combat areas that are under 24 hour . . . surveillance of all types. I see battlefields on which we can destroy anything we locate, through instant communications and the almost instantaneous application of highly lethal firepower." (Gen. William Westmoreland, *CR*, 10/16/69)

"For America in the '70s to follow this tactic—to fight a war with this technology and with mercenaries . . . so that we don't see the person we kill—is reprehensible. We kill people with technology because we don't have the will to fight ourselves." (Rep. Paul McCloskey, *National Observer*, 1/8/72)

Although bombers now wage most of the war, Asian ground soldiers still play an important, if secondary, role. Bombers can kill and destroy, but they cannot hold territory; they cannot take refugees or search out enemy supplies; they often cannot locate their targets. These essential tasks are left to U.S.-supported Asian troops.

Vang Pao (CIA-supported Meo leader in northern Laos) would move out, identify the enemy, pull back, and the air power would come in." (Gen. Petit, SSAC, 12/15/71, p. 784)

"They're just using those kids as cannon fodder. The Americans send them out a few klicks so they can find out where the communists are. Then they call the bombers in. The Cambodians don't do anything and they're dying like flies. Sometimes they're even caught in the bombing raids themselves." (Richard Boyle quoted in "Cambodia: Nixon Doctrine Incarnate," *AmRep*, 12/24/71

"As the operations evolved . . . new tactics appeared, calling for the ARVN units to stay mobile . . . They reduced the heavily outnumbered ARVN battalions to the role of live bait. The troops spent their days and nights running and hiding while U.S. airpower struck at the pursuing North Vietnamese Army (NVA). Saigon spokesmen claimed the tactics were very successful, but some Vietnamese called them 'inhuman'." (John Saar, *Life*, 4/2/71)

General WILLIAMSON. "We are making unusual efforts to avoid having the American young man stand toe-to-toe, eyeball-to-eyeball, or even rifle-to-rifle against an enemy that may outnumber him on the battlefield. We are trying to fight the enemy with our bullets instead of the bodies of our young men—'firepower not manpower.'"

Senator CANNON. "In your judgment, will this type of equipment be effective in protecting our logistic and supply installations that will remain after we have substantially completed our Vietnamization program?"

General WILLIAMSON. "I am confident it will." (Electronic Battlefield Hearings, 11/70)

General EVANS. "Besides supporting real-time employment of Commando Bolt F–4s and gunships, sensor intelligence is an input for establishing most of the targets in Laos . . . What is most important, gentlemen, is that we can gather this type of intelligence without exposing one American soldier to enemy action." (*Ibid.*)

The electronic battlefield

The air war in Indochina has served as a laboratory for the development of elaborate and expensive electronic devices as instrumentation for an "electronic battlefield." The goal is automated and computerized warfare, providing an all-weather, day-night capability.

Areas have been seeded with air-dropped devices that can detect vibrations or people; they can listen to sounds; they may be sensitive to metallic objects, to heat radiation, or to chemical emanations from human beings. The information is transmitted by radio to receivers on mountain tops or in continuously airborne manned and unmanned communications aircraft. The signals are then relayed to a central computer in Thailand where the responses of the various sensors are correlated and the decision to strike a certain region is finalized.

A new system recently introduced in Indochina called Pave Phantom is automated to the extent that the pilot need merely punch data on the desired target position in his computer's keyboard, together with information about his chosen weapon, and the computer will steer the aircraft over the target and release the weapon.

The chosen weapon is often another electronic wonder, a "smart bomb." One smart bomb is guided to its target by radar. Another, a laser bomb, homes in on a spot of light beamed from another plane flying at a safer level. The T.V. bomb has a television camera in its nose; "shown" a picture of the target, it homes in on the identical image on the ground.

Technology had made some conventional weapons, such as gunships, even more devastating. The new four-engined AC130E gunship, armed with rapid-firing 40 mm cannon, seeks its prey with infra-red vision devices, see-in-the-dark TV, and sensors that detect electrical noises of trucks' ignition systems. After being directed to the target area by ground computers, the aircraft is placed on the automatic system and the on-board computer takes over, flying the aircraft and aiming and shooting the cannon.

"The code name for the electronic operation is Igloo White. It was designated for fighting a war in hostile territory, offering the enemy absolute control of the surface territory while maintaining air superiority above. The system does not require U.S. ground troops to assure success. It meets restrictions placed on ground operations in Laos." (George Weiss, *Armed Forces Journal*, 2/15/71)

"I personally think it [electronic battlefield] has the possibility of being one of the greatest steps forward in warfare since gunpowder." (Sen. Barry Goldwater, Electronic Battlefield Hearings, 11/18/70)

"We got the Ho Chi Minh trail wired like a pin ball machine. Before, the enemy had two things going for him. The sun went down every night and he had trees to hide under. Now he has nothing." (Air Force officer quoted by George Weiss in "The Air Force's Secret Electronic War," *Military Aircraft*, 1971)

"An Orwellian transformation is taking place in our military policy in Indochina. Due to public pressure American boys are slowly coming home, but they are leaving an automated war behind . . . We intend to turn the land of Vietnam into an automated murder machine. Computer technology and a small number of troops manning aircraft and artillery are creating a U.S. destructive military presence that may literally hover over Southeast Asia for years to come." (Sen. Mike Gravel, *CR*, 10/5/71)

"All these devices and weapons share the same fault. They are indiscriminate. Like the people sniffer they draw no distinction between friend or foe, civilian or soldier, adult or child, and will impartially call down an automated death on all who cross their path." (CCAS, *The Indochina Story*, p. 96)

"Automated warfare has certain 'advantages.' Instruments do not defect. They are not known to take consciousness-expanding drugs. They have no ethical qualms about killing civilians. They do, more or less, what they are told. They represent a cheap mercenary army. In the end we will have the machines fighting the 'gooks' with no human beings involved on either side! We are manufacturing a slave army of mindless machines to police the world; the very existence of such advanced technology will bring strong pressures for its use to counter 'insurgency' all over the world. If unchecked, such a sequence of developments may prove to be the most ominous consequence of American military involvement in Southeast Asia." (Cornell study)

"If ground troops sometimes will not, and usually cannot, distinguish between enemy and innocent in a guerrilla war, we know that aerial bombardment never can. The sensor which detects body heat, the aircraft thousands of feet in the air, the computer complex many miles distant, are completely neutral and indiscriminate. Even the so-called "smart bombs" cannot tell the differences; they destroy everything in their target area." (Sen. George McGovern in a speech, 12/14/71).

Senator CANNON. What happens when you get into the more densely populated areas?

General DEANE. If you get into more densely populated areas you are not going to be able to tell friend from foe so these devices in themselves would not be particularly helpful to you. Now, you could tell that tanks as opposed to passenger cars were passing through the town, but in terms of people you would not know whether they were friendly people, merchants, or soldiers. (Electronic Battlefield Hearings, 11/70)

DEANE. A sensor-aided combat surveillance system consists basically of the following common components: detection devices, called sensors, which pick up the movement of vehicles or troops; a communications link (usual radio) from the sensor to a 'readout' device; the 'readout' device, which receives sensor transmissions and shows when each sensor is picking up a target; and display and processing equipment to assist in counting the targets and in determining their direction and rate of movement. Individual systems may also include special munitions, aircraft, etc., which I shall mention later.

Major ANDERSON. First, the road is cut at a point difficult to bypass, using highly accurate guided weapons. Laser-guided bombs have been performing most of this function. Next, antimateriel landmines are emplaced. . . . Third, antipersonnel landmines are emplaced over the antimateriel mines. . . . Fourth, sensors on both sides of the munitions package determine if truck traffic is getting through the package. Sensors in other locations are used to determine other routes taken by enemy. (*Ibid.*)

Mr. GILLEAS. How do we prevent sensors from killing innocent people versus enemy troops?

General DEANE. You say the sensors won't tell you. And the sensors might give you an indication if over an acoustic sensor you heard voices and determined from the conversation that they were enemy, that is the only way I would know you would be able to tell . . . You could have in Vietnam, for example, a group of woodcutters coming back down the trail that might look like a squad to them; you could make a mistake, I think." (*Ibid.*)

General EVANS. Our current family of sensors . . . was designed specifically for use in Southeast Asia. We believe the system has demonstrated significant potential for enhancing future tactical operations worldwide, and Tactical Air Command has in fact stated a requirement for integration of Igloo White technology into TAC's worldwide operational capacity. To provide this capability, improvements must be made to accommodate present sensor design to the much more severe environmental conditions to be found in many other areas of the world which are of military interest." (*Ibid.*)

Costs of the electronic battlefield

$3.25 billion through FY 1971, exclusive of munitions. (Sen. William Proxmire, CR, 3/23/71, pg. S3618).

Future costs could reach $20 billion in the next decade. (Sen. William Proxmire, *CR*, 7/13/70, pg. S11115).

The sensor program in Indochina with its air and ground weapons and munitions cost $1,680,600,000 through fiscal year 1971. (Electronic Battlefield Hearings, 11/70)

"The Pentagon is concealing essential facts regarding its expenditure of more than $3 billion on the electronic battlefield." (Sen. William Proxmire, *CR*, 3/23/71, pg. S3618)

INEFFECTIVENESS

The employment of massive technology by the U.S. has led to the deaths of many innocent civilians and animals, while its military value is subject to question. The sensors cannot distinguish between friend and foe, animal and human, and the decision to call in warplanes is made without this knowledge. The guerrillas have ingeniously confused the "people sniffers" by hanging pails of urine in the trees. The heat sensors are deceived by small fires and guerrilla signs that warn, "Avoid this area, there are devices that are listening for you" dot the landscape. Every advance in American technology brings new countermoves by the "backward" guerrillas. The organized and determined guerrillas can withstand, and thus defeat, the new technology, but many innocent peasants are caught by American firepower.

"On several occasions after heavy sensor activation the night before, morning patrols sent out in search of enemy bodies found dead water buffalo instead." (A former Army lieutenant, as reported by Sen. William Proxmire, *CR*, 3/23/71, pg. S3621)

"We must guard against mindless applications of new technologies just because it exists, applications which have little or no chance of success." (*Ibid.*)

ORDNANCE

The 2,000 tons of bombs dropped daily on Indochina constitute an unparalleled and sophisticated variety of weapons designed to maim and kill those below. These bombs can be divided into five distinct categories:

1. High explosives, ranging in weight from 250 pounds to the massive "Commando Vault" 15,000 pound bomb. (See also "Environmental Destruction")

2. Anti-personnel bombs are designed for use against unprotected human flesh. According to a paper delivered to the American Association for the Advancement of Science by Prof. E. W. Pfeiffer and Prof. Arthur Westing, at least 50 percent of all bombs dropped on Indochina are anti-personnel bombs:

A. 1,000 pineapple bomblets can be dropped by one aircraft in a single flight. When dropped, the pineapples send 250,000 steel pellets spewing in a horizontal pattern across the land.

B. The Guava can explode on impact, in the air, or with a time delay fuse, with each aircraft throwing 400–500,000 ball bearing pellets in a 360 degree pattern. The guava can inflict casualties on those who are hiding in holes, or in bunker or cave entrances because of this spraying pattern. The equivalent fire power in terms of conventional land war would make the 1,000 pineapples equal to 13,160 infantrymen each firing one clip from an M–16 rifle; the guavas are equivalent to twice that, or 26,320 infantrymen firing a standard clip from an M–16.

C. The Flechette, or "nail" bombs, contain several hundred 1 inch barbed nails in each 3 inch bomblet. The flechette is designed to enter the body, shredding muscles and body organs as it passes through the body, by the path of least resistance, i.e. the ricochet effect. Both pellets and flechettes are difficult to remove, sometimes necessitating exploratory surgery in order to insure removal.

"Often the nails [flechettes] will knife right through the target, although at certain angles they do have a tendency to tumble immediately on impact, and after piercing the skin a tumbling nail can cause a gaping wound."

(Dean Morton, CBS News, 3/29/71)

3. Incendiary bombs, designed to burn their victims, vary as to temperature, adhesiveness, and effective range. These include napalm, super napalm, napalm B, napalm paragel, thermite, magnesium, white phosphorus, and NPT.

A. Napalm variants are characterized by their large range of effectiveness—sheets of flame envelop everything for hundreds of yards.

B. White phosphorus is characterized by the fact that it burns on contact with oxygen. "Willie Peter," as pilots refer to it, cannot be extinguished, which means that it usually has to burn its way to the bone before it goes out, and has a more localized dispersal pattern than napalm.

C. NPT, napalm-phosphorus-thermite, dispersed over a wide area, burns at a high temperature, and is difficult to extinguish. It is a combination of the deadliest characteristics of other incendiary agents.

"In the civilian hospital at Can Tho, I

saw a man who had a piece of white phosphorus in his flesh. It was still burning." (Harvey)

4. Air to ground missiles have come into greater use in recent years. The most common are either laser guided or teleguided missiles, called "smart bombs." Conventional bombs with laser guidance systems are dropped from an aircraft, and then home in on a beam that guides the bomb to its target. Teleguided missiles include the "Walleye" and "Bullpup," which fall on the image projected on the pilot's screen. The latter are used particularly against caves or suspected underground complexes, and are accurate within 6 feet when dropped from 4 miles away.

5. Area denial mines are designed to make large areas of land uninhabitable for human life. These weapons include:

A. The Dragontooth and Gravel mines, which are camouflaged to blend in with the land, and are dropped by the thousands every month. The gravel and dragontooth are designed to blow the foot off the person who steps on it, or the hand off anyone who picks it up, but neither one will destroy a truck tire if rolled over.

B. The Spider mine or the WAAPM (Wide Area Anti-Personnel Mine) has eight fine wires that extend from it. When a wire is tripped, ball bearing-like pellets are thrown for a distance of 60 meters. Unlike other weapons, area denial weapons are not dropped on a specific target, but rather entire areas are flooded with them.

"It (the gravel mine) is purely antipersonnel. If a person steps on it, it will blow his foot off. If a truck rolls over it, it won't blow the tire."

(Maj. R. D. Anderson, USAF, Electronic Battlefield Hearings, 11/70).

EXAMPLES OF ORDNANCE USED IN INDOCHINA

BLU 24/26, Guava bomblets, each holding 260–300 pellets, and 50 grams of explosive. Different fuses determine if the bomblet will detonate on impact, in the air, or with time delay. 360 degree spray pattern when detonated.

BLU 31, 750 pound mine dropped from a plane, armed with a seismatic sensitive fuse. The mine buries itself on impact, and can be detonated by the vibrations from a single truck.

BLU 52, 270 pounds of CS II riot control agent. The chemical CS causes vomiting, nausea, tears, and muscle spasms. It can cause death to the elderly, infants, and the sick.

M–36, 800 pound casing containing 182 incendiary bomblets.

PAVE PAT II, 2,500 pound propane gas bomb, used as an incendiary device.

CBU 28, Dragontooth mine. Anti-personnel, area denial mine.

CBU 34/42, WAAPM, Wide Area Anti-Personnel Mine. WAAPM is an area denial weapon with a spraying pattern of 60 meters.

CBU 24/49, Anti-vehicular bombs. The CBU 24 detonates on impact; the 49 is dropped ahead of a convoy and uses a time delay fuse.

CBU 46, Flechette bomblets. Each bomblet has hundreds of 1 inch barbed "nails" that are designed to enlarge wounds and shred body organs. Hundreds of bomblets can be dropped in a single sortie.

XM–51E, Gravel mine. 3 inch cloth bag containing explosive powder and two plastic pellets. Operation is similiar to the dragontooth. An added feature is the use of plastic, which necessitates exploratory surgery.

(The above data was gathered from the hearings of the Electronic Battlefield Subcommittee of the Preparedness Subcommittee, of the Senate Committee on the Armed Forces, Nov., 1970.)

"Phosphorus has the particularity that inside the wound or burn, it burns slowly. On occasion this slow combustion lasts up to 15 days. At night can be seen the greenish light produced by the material that continues burning the flesh and bones. Besides this, accompanied by the wounds and the profound burns, the victims suffer a severe intoxication produced by the augmentation by three or more times the quantity of inorganic phosphorus in the body."

(Dr. Abraham Behar, [French physician visiting North Vietnam in 1967], quoted by J. B. Neilands, Asian Survey, 1970)

"That white phosphorus is used as an antipersonnel weapon was confirmed in a press report in 1969: 'We killed them one by one with grenades, direct hits with Willie Peter—white phosphorus artillery shells—or with napalm.' This is a statement attributed to a major serving as a commander in the Special Forces' Fifth Mobile Strike Force."

(J. B. Neilands et al., *Harvest of Death*, 1972)

"This is the BLU–52 chemical bomb. It is a standard firebomb case. It becomes a BLU–52 when filled with 270 pounds of CS–1 or CS–2 riot control agent. Its operation is quite simple. After the bomb is released, the thin-skinned bomb case breaks open an impact with the ground, spreading its contents over a wide area . . . CS–1 will last for 3 to 5 days and CS–2 will last for 30–45 days . . . Their effects are nausea, choking, and copious weeping. They have been employed to a very limited degree in South Vietnam on carefully selected targets. [Deleted]."

(Major Anderson, Senate Electronic Battlefield Hearings, 11/70)

COSTS

Conservative estimates place the annual costs of the air war at some $3 billion. Actual costs probably run much higher.

However, in terms of the cost of the air war to the Indochinese people and compared to pre-1970 war costs for the U.S., this is a relatively inexpensive war, intended to be a protracted and perhaps a "permament" war.

Costs have shifted from maintenance of a ground army to military aid and development of electronic counterinsurgency weaponry. "Smart bombs cost . . . $12,500 for the T.V. bomb kit. Conventional bombs cost anywhere from $224 for a 500 pounder to $1,864 for a 3,000 pounder" (AP dispatch in the *Philadelphia Bulletin*, 1/14/72). One Walleye missile costs $25,000. The Pentagon acknowledged that the cost of the sensor detection system alone had reached $1.6 billion by November 1970.

SOME FIGURES

1966–71, total air war costs, $27.5 billion, or approximately ¼ of the war's overall costs. (Cornell study).

1971, $2.79 billion, or approximately $60 per family of four.

Operating costs: $2.2 billion.

Aircraft attrition: $.6 billion (*Ibid.*).

Cost per day, 1971, $7.64 million.

Projected costs, $2 to 4 billion annually (Cornell study).

CHRISTMAS RAIDS AGAINST NORTH VIETNAM

Estimated cost of plane, losses Dec. 17–Jan. 1: $24 million (conservatively tallied at $2 million/plane, 12 planes lost, DoD).

Sortie costs: $8.5 million (based on DoD figure of 1,000 sorties).

PRODUCTION COSTS

1 B–52, $8 million (AP dispatch, 1/9/72).

1 F–4, $4 million (Sec. Seamans, 1972 Air Force Appropriations Hearings).

1 Huey Helicopter, $250,000 (*Ibid.*)

1 Shrike air-delivered missile, $35,000 (CBS News, 1/19/72).

1 aircraft carrier, $960 million (Sen. Allen Ellender, *CR*, 1/25/72).

ELECTRONIC BATTLEFIELD

Total costs, $3.25 billion (Sen. William Proxmire, *CR*, 3/23/71, based on Senate Electronic Battlefield Hearings).

Future costs, as high as $20 billion (Sen. William Proxmire, *CR*, 7/13/70).

DoD acknowledged cost of sensor program, FY 1967–71, $1.68 billion (Senate Electronic Battlefield Hearings, 11/70).

Operating cost of Thai based computers, $625 million (Orville Schell, *AmRep*, 9/24/71).

Developmental cost of Wide Area Anti-personnel Cluster Bomb (WAAPM), $86.3 million (*Ibid.*).

OPERATIONAL COSTS (AVERAGE COSTS)

1 fighter-bomber sortie, $8,500 (*Ibid.*).

1 truck destroyed on Ho Chi Minh Trail, over $100,000 (Sen. Mike Gravel, *CR*, 10/5/71).

COST OF AMERICAN AID TO INDOCHINESE AIR FORCES

FY 1970, VNAF, $245 million, RLAF, $46 million.

FY 1971, VNAF, $350 million, RLAF, $79 million.

FY 1972, VNAF, $337 million, RLAF, $83 million.

(DoD, *CR*, 8/3/71, p. 12938.)

SOME TRADE-OFFS

The cost of one month's 1,000 B–52 sorties would approximate the Administration's 1971 attempted $47 million cutback in the school lunch program, reducing the number of students assisted by nearly 600,000. (PAW)

The cost of one fighter bomber sortie equals the annual salary of one teacher. One week of no fighter bombing would reserve enough funds (approx. $24 million) to reopen the Dayton public schools, and finance for one year the Independence, Missouri public schools, both closed last November for lack of money. (SANE)

The $52.5 million cost of the helicopters lost in the Laos invasion in 1971 equals the cost of 17 local health centers, each treating 40,000 patients annually. (*Ibid.*)

The air war's $350 million helicopter operating costs for 1971 (Cornell study) represent twice the estimated federal outlays in 1971 for the operation and support of the Federal Court System, assistance to state and local courts, and legal aid to low income citizens. (The Urban Coalition)

The fuel for one jet for one hour equals 2½ months of food for a family of four. (*Science for the People*, 11/71)

One aircraft carrier costs the same amount as public housing for 270,000 people. (Sen. George McGovern, *NYT*, (12/6/71)

ON THE OTHER HAND

While the Administration spent nearly $3 billion on the air war in 1971, the President:

(1) Vetoed the $2.1 billion daycare-childcare bill;

(2) Vetoed the Public Works Bill due to its allocation of $2 billion for federally financed jobs in areas of high unemployment;

(3) Called for an OEO cutback of $545 million in its FY 1972 budget;

(4) Called for a cutback of $50 million in aid to elementary and secondary schools in its FY 1972 budget;

(5) Called for a cutback of $88 million for the school milk program in its FY 1972 budget;

(6) Called for a cutback of $28 million in aid to public health centers and clinics in its FY 1972 budget;

(7) Called for $132 million less than Congress had previously authorized for solid waste disposal programs in its FY 1972 budget;

(8) Called for $129 million less than Congress previously authorized for the fight against air pollution in its FY 1972 budget;

(9) Called for $92 million less than Congress previously authorized to combat alcoholism in its FY 1972 budget;

(10) Announced that it had spent only

$422 million of the $1.25 billion allocated by Congress in FY 1971 for the construction of solid waste treatment facilities;

(11) Called for expenditures of $900 million less than recommended by the Urban Coalition for federal assistance to urban areas in its FY 1972 budget.

The above figures are less timely now due to the Administration's recent release of its proposed FY 1973 budget. While this budget contains generally moderate increases for domestic programs, it still allocated only $430 million for the war on cancer. "[The] National Cancer Institute got far less than it felt it needed." (*Post* 1/25/72)

HUD's budget for 1973 was below its 1972 level, containing a $50 million cut in federal subsidies for private apartment rentals.

The FY 1973 budget contained no new money requests for water and sewer grants. Congress has appropriated $850 million since mid-1970, of which only $550 million has been spent by the Executive branch.

IMPLICATIONS—WAR ON THE CHEAP

"A continuing air war, largely conducted and entirely supported by the U.S., will inflict ever-widening costs on the peoples of Indochina while reducing U.S. costs to little more than a normal peacetime readiness level for 'permanent war.' When one takes into account the future technological possibilities for warfare-from-a-distance and when one considers the relative cheapness of this kind of mechanized war for the U.S., there emerge far-reaching implications for the possible future conduct of American foreign policy."

(Cornell study)

CORPORATE INVOLVEMENT

The air war is dependent on the readiness of manufacturing and research companies to seek contracts for the development and production of weapons systems. The war industry is a lucrative one; profits from weapons manufacture are substantially higher than profits from similar size nonmilitary manufacture. The continuing substitution of electronic weapons systems for manpower means, of course, that a higher percentage of war costs go directly to corporations rather than to soldiers, and that the future has become brighter for arms makers.

"The Vietnam build-up virtually assured American businessmen that no economic reverse would occur in the near future." (Pres. Johnson, "Economic Report of President Transmitted to Congress," GPO, 1/70)

"Electronic warfare is our business." (Headline from full-page ad by GTE Sylvania in *Electronic Warfare*, Convention Issue, 1971; see graphics section)

"Systems Specialist Electronic Warfare—A substantial increase in business activities requires experienced systems professionals to join our Applied Research Staff. . . . Areas of responsibility will include: Receivers, Transmitters, Computer Interface, Electro-Optical Devices, Lasers. . . . The Hallicrafters Company, A subsidiary of Northrop Corp. . . . An Equal Opportunity Employer" (Ad from the *Post*, 1/16/71)

"A General Accounting Office survey of 146 military contracts showed a 23.8 percent average profit on total capital investment and 56.1 percent on equity (capital supplied by stockholders). A private study showed defense contractors earning 17.5 percent profits on total investment, compared with 10.6 percent profit for civilian contractors of comparable size, between 1962 and 1965." (*A Rich Man's War and a Poor Man's Fight: A Handbook for Trade Unionists on the Vietnam War*, Washington Labor for Peace, 1971)

"Congress was first informed in November, 1970 of military expenditures for an automated battlefield—expenses that began with the creation of the Defense Communications Planning Group in 1966, and totalled at least $3.25 billion before Congress was informed." (Report of Senate Armed Services Committee on its Electronic Battlefield Hearings, 11/24/70)

"Honeywell's production of fragmentation weapons has greatly increased since Nixon took office and began 'winding down' the war. In 1968, the Army bought 41,987,278 fragmentation weapons. In 1970, it bought 101,001,700—more than twice as many. As measured by corporate production of killing machinery, the war is winding up, not down." (Honeywell Project, "Honeywell: Controllers of Power, Masters of War," 1971)

Contracts of Honeywell, Inc. to produce anti-personnel weapons for use in Indochina:

$50 million for Submarine Tactical Missile, to fire cluster bomb unit-laden missiles from offshore;

$55,000 for research and development on the Dart Bomb whose spinning darts "grind up human flesh;"

$6 million for a Fuel Air Explosive Munition, designed to cause a vast incendiary explosion of vaporized fuel;

Over $100 million for the Wide Area Anti-Personnel Mine.

(*Ibid.*)

"Raytheon Co., largest war manufacturer in Massachusetts, makes 80 percent of all U.S. aircraft borne missiles. Its contracts for the Sparrow and Sidewinder air-to-air missiles, both used in Indochina, have totaled $735 million between 1966 and 1972. The surface-to-air Hawk missile, produced for use in Indochina as well as for sale to Israel and Jordan, has accounted for $730 million in Raytheon contracts in the same period. A GAO study found a 30 percent inefficiency rate in Hawk production." (Richard Krushnic, "Raytheon Company: Heart of the Massachusetts Military Industry Complex," 1971. Contract values are quoted by Krushnic from W. E. Hutton & Co., "Field Report on Raytheon Company," 2/71, p. 16)

These were the leading military contractors for the Indochina War from 1965 to 1970, with total contract values in millions:

McDonnell-Douglas	$3,388.5
Lockheed	1,455.7
Textron	1,210.5
Olin	1,141.4
Ling-Temco-Vought	974.5
Grumman	$950.2
General Motors	780.4
DuPont	681.3
Boeing	646.2
Honeywell	642.4

(Washington Labor for Peace, *A Rich Man's War and a Poor Man's Fight*)

"General Electric supplies the rapid firing 20 mm Vulcan cannon and 7.62 mm miniguns which together can fire over 24,000 rounds of ammunition a minute (from a single AC–130E 'Surprise Package' gunship). Such fire power capability in the air represents the military's answer to an 'enemy' who cannot be seen, and whose presumed territory of activity must be overwhelmed with gun fire.

[GE's other contracts to supply the Indochina War include manufacturing engines for F–4 Phantom jets, Igloo White computer equipment, television guidance systems for the Walleye "smart" bomb, radar jamming systems, the "laser target designator" for laser-guided bombs, and special television equipment designed for night-time bombing. The company's annual military contracts totalled over $1 billion in both 1970 and 1971. 1971 military sales are estimated to have earned $2.60 per share.] (NEARMIC, "General Electric Company," 2/72)

Some of United Aircraft's contracts for Indochina weapons manufacture:

Pratt and Whitney subsidiary: $100 million a year for Navy F–14 and Air Force F–15 jet engines; F–111 engines; $35 million a year for Navy A–4 and A–6 engines;

Hamilton Standard subsidiary: wingsweep actuators for the F–14;

Radar and cockpit display systems, and weapons delivery systems;

Sikorsky subsidiary: CH–53A/D helicopters, $50 million a year.

(Richard Krushnic and Susan Wolf, "More than any other State in the U.S., Conn. is the Warfare State," pamphlet, NEARMIC, 2/72)

"Air Force.—We were pleased to announce, in the May Scope, the winning of the 20 mm SAPHE projectile development project from Eglin. . . . This is one of a family of ammunition programs that we are trying to get under our belt. On the Air Force production side, the big item—the WAAPM air delivered mine—is enjoying a fine reputation in actual use; its performance is very good." (SCOPE, a Honeywell in-house publication, 6/69)

"Our Air Force business continues to grow, and this pattern will continue into 1970. The procurement 'mix,' however, is having some large excursions, creating serious impacts on our factory. In general, FY70 quantities appear to be emphasizing cluster bombs and minimizing unitary warhead bombs and fuzes. This is good for our CBU production at St. Louis Park, but it hurts our bomb fuze production at Hopkins." (*Ibid.*)

"Air Force F–15. Sperry's There! For this nation's newest air superiority fighter—being built by McDonnell-Douglas-Sperry is developing the attitude and heading reference system, the digital air data computer, the multifunction display, and the flux valve." (Sperry Rand Flight Systems ad, *Air Force Magazine*, 7/71)

"Safe. New Proximity Fuze can only be armed after leaving the plane. . . The new SAFE fuze is based on Motorola's experience in advanced and current GP bomb fuzing, dispenser fuzing, missile and rocket fuzing, guided ordnance fuzing, artillery and mortar fuzing, and small caliber projectile fuzing. For more information, write Motorola Government Electronics Division, 8210 E. McDowell Rd., Scottsdale, Arizona 85252." (Motorola ad, *Air Force Magazine*, 1/72)

"Electronics is big business, and getting bigger, both here and abroad. . . The big question is the defense market, now leveling off with the winddown of the war in Southeast Asia. There are indications, however, that new and complex weapon systems, based on advances in technology, will be needed to replace present systems. Such trends could increase defense purchases of electronic equipments and components and halt further decline in defense procurements. Smoothing the industry-government interface in this critical area is one of our main jobs at Electronic Industries Association (EIA)." (V. J. Adduci, EIA president, *Air Force Magazine*, 7/71)

"One thing is clear. . . The military services, and notably the Air Force, are going to depend more and more on electronics for both management and operational requirements. I know I speak for the electronics industry of the United States when I say we stand ready to do our part in satisfy'ng the needs of national defense." (*Ibid.*)

"Goodyear Aerospace Associative Processors can provide significant benefits in other radar, electronic warfare, communications and data base management systems. . . Airborne and ground based electronic warfare and radar signal processing tasks are already under way. You can put this technology to work for you. Save money and improve your system performance. When we say it, we mean it. For further information call Wayne (Brubaker, our Digital Systems Marketing Manager) (216) 749–3631 or write Goodyear Aerospace Corporation, Department 911 VG, Akron, Ohio, 44315." (Goodyear ad, *Air Force Magazine*, 7/71)

POW'S—PAWNS OF WAR

An American has been shot out of the sky and captured or listed as missing in action once every three days since President Nixon took office. Hundreds more were prisoners when he began his administration. None will be freed as long as the air war continues.

There are those in this country who argue that the POWs must remain in prison, rather than be released through some "unglorious" total withdrawal, so that others will not have fought in vain. But this argument assumes that we can "win" some sort of victory that will make our sacrifices in Indochina justifiable.

What if we must at some time withdraw anyway? We will at such a point have subjected these men and others yet uncaptured to more unnecessary years of imprisonment.

It is clear that further air raids will only increase the numbers and prolong the imprisonment of American POWs. One thing is certain: As long as the air war continues, more men now free will be shot out of the sky, killed, wounded, or captured until the bombing ends.

Number of American POWs—January 20, 1972

In North Vietnam:	Totals
North Vietnamese	346
DOD	*385
In South Vietnam:	
NLF	18
DOD	90
In Laos: DOD	5

* Including 20 listed as dead by the North Vietnamese.

"Some wives and parents . . . believe that top-level U.S. policy makers are being deliberately misleading when they denounce the North Vietnamese as liars because the Hanoi officials say they can't produce an accounting of anything like 1,600 men [the total number of prisoners and missing claimed by DOD]. (North Vietnam has produced a list of 339 men [as of 9/30/71] it says have been captured.) These wives and parents suspect that Washington's demand for the accounting is just a throwaway bargaining ploy for the Vietnam negotiations in Paris . . .

" 'I think they're misleading us for their own purposes,' " one Missing in Action mother claims. (*Wall Street Journal*, 9/30/71)

Partisan nature of POW families situation

Congressman Les Aspin, on January 22, 1972, "released documents that showed that the Republican National Committee has become a dominating influence in the affairs of the avowed nonpartisan National League of American Families of Prisoners and Missing in Southeast Asia (the major organized group of relatives of detained and missing U.S. servicemen) . . . The documents disclosed that by April 1971 the GOP National Committee was giving financial advice and political support to the organization." (*Am Rep.* 2/18/72)

"POW/MIA Families for Immediate Release is angry at having to swallow the same story about the President's plan to help American POWs when every time a bill is offered and a door is opened to help us end this war and get out POWs, the administration maneuvers and pressures with scare tactics to their key supporters in the House to slam it.

"President Nixon has blatantly abandoned the prisoners and is creating two residual forces—one in Southeast Asia to continue the war, and one in this country consisting of POW/MIA families who are not going to remain quiet about these defenseless pawns." (Shirley Culbertson, POW sister, *Post*, 11/27/71)

"He talks about a bloodbath," said one ladylike wife, "but he's not kidding us. He's got to choose between President Thieu and my husband, and if he doesn't choose my husband, you can bet he's going to hear from me. We've been polite enough, and we know we've been had." (*Star*, 7/13/71)

North Vietnam's position on release of POWs

"The more Nixon wants to force his terms on the North Vietnamese people by increasing his air attacks, the longer will be the list of U.S. pilots captured in North Vietnam." (North Vietnamese Army newspaper *Quan Doi Nhan Dan* quoted in *NYT*, 12/29/71)

"It is not we who use the prisoners as pawns. It is Mr. Nixon who uses the prisoners as pawns in the political aims. But we should wonder why Mr. Nixon still uses the political problems for his aims. Why does he not make a statement: Now we stop any commitments to the Saigon administration . . . and we will no longer maintain this administration. And then the Vietnamese problems will be very rapidly settled—both military questions and political questions. And then all prisoners, all American servicemen, will go home." (Xuan Thuy, North Vietnamese delegate to the Paris peace talks, *NYT*, 2/7/72)

Treatment of POW's

An interview with a POW (Lt. Commander David Hoffman of San Diego) captured during the recent Christmas raids revealed the conditions of his confinement:

" 'How did they treat you, the people who captured you?' I asked.

" 'I was treated very well. I was taken to a village, their village, and was given dry clothing, food, and medical attention for my broken arm right away, and I was given a place to rest.'

"Lt. Commander Hoffman appeared to be in good health and was amazingly cheerful considering the fact that he was a prisoner. He went on:

" 'Since being brought to the detention camp here I have been treated very well. I was taken immediately to the hospital, the doctors examined my arm and started treatment so that it would heal properly. I have been well-fed and clothed and provided good shelter. My treatment has been very, very good.'

"Vietnamese in Hanoi had told me that captured American pilots are fed more than North Vietnamese soldiers simply because of the difference in their accustomed diets and body size. One senses from the Vietnamese that they recognize the political importance of the pilots and make considerable effort to provide for them within their means. Spokesmen at every level in Hanoi repeatedly stressed that they were committed to repatriating all U.S. pilots, but only after a reasonable settlement of the war, which they insist is contained in the PRG's Seven Point Peace Plan . . ." (Banning Garrett, PNS, 2/9/72)

" 'We are checking every possible lead' and 'run out' every indication that POWs might be released, Mr. Nixon said. But he cautioned against soaring hopes, charging that 'we are dealing with a savage enemy, one with no concern for humanitarian ideals." (*Post*, 9/29/71)

"If I was a prisoner of war, I would rather be captured by the Viet Cong than by the United States Marine Corps. The Viet Cong need prisoners for bargaining purposes and we don't. After beating our prisoners, and torturing them, and having a good time, we killed ours." (Scott Camil, former Marine sergeant with 20 months combat experience in Vietnam and nine medals, *AmRep*, 2/18/72)

"The $13,168,000* requested (FY 1972) for 'Missing in Action and Prisoners of War' covers the pay and allowances of the Air Force officers who are missing in action or prisoners of war . . ." (Gen. Kidd, FY 1972 DoD air Force Appropriations Hearings)

* Note: Total covers only Air Force personnel, not Navy or Marine airmen.

The large majority of POWs are pilots and crews of the air war in Indochina.

U.S. treatment of Vietnamese prisoners

The treatment of American POWs by the Vietnamese may be a legitimate question. It is highly debatable, however, whether any American has the right to raise it. American torture and murder of Vietnamese prisoners has been well-documented for years.

"The commander of the A team, had conjured up a system of electrical torture . . . the captain asked questions of a prisoner, who was stripped naked, and electrodes from these field telephones were attached to the back of his neck, to his armpits, to his genitals, and his feet . . . when the captain didn't like the answer, he gave some kind of signal to the sergeant who gave him an electrical charge and the fellow would jump and scream." (Steve Noetzel, testimony at first Winter Soldier hearings, *CR* 4/6/71)

"At another point, I had identified one of the members of the village committees for VC logistical supply, as I remember. In any case, he was picked up and brought in . . . as a detainee, not a POW, but a detainee. The fellow was put in the same hootch with the four cages . . . and he was forced to lay on the floor with his hands tied behind his back and they would insert . . . a woden peg, a dowel with a sharpened end, into the semicircular canal of the ear, which would be forced into the head little by little as he was interrogated. And eventually, did enter the brain and killed the subject, the detainee . . ." (Bart Osborne, Veteran, testimony before Dellums War Crimes Inquiry, *CR* 3/1/71)

SECRECY—EXECUTIVE DICTATORSHIP

The air war in Indochina is a Presidential war, initiated and directed from the White House. For a period of five years, from 1964 until 1969, U.S. aircraft bombed northern Laos without even the awareness of the Congress, much less its consent. The President has continued to execute the bombing campaigns without once seeking the advice and consent of the Congress.

Traditionally the ultimate power of the legislature has resided in its power of the purse. However, the air war's funding is nonspecific, buried in the general budget of the services and so eludes effective control.

The secrecy over the nature and the extent of the war is maintained by restricting newsmen's movements and access to information. Newsmen are not allowed to go out on bombing raids outside of Vietnam where, since 1969, ⅔ of the tonnage has fallen. All information about the air war except gross tonnages and sorties remains classified.

Although many of the real facts about the bombing have filtered out to a small segment of the public, the Administration's news management of the air war has proved largely successful. The devastation has been taken off the front pages and TV screens. This modus operandi of secrecy has ineffectualized Congress' role in foreign policy decisions, and muffled public dissent, while placing control over the conduct of the war into our nation's privy council.

"The Air Force says that only five men, three of them military officers, are in the regular operational chain of command that selects bombing targets in Indochina: Pres. Nixon; Defense Secretary Laird; Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff; Adm. John S. McCain, Commander of Pacific Forces; and Gen. Creighton Abrams, U.S. field commander in Vietnam." (*Post* 1/17/72.)

Symington: "Are you saying that the President of the United States . . . [by himself] has the right to put U.S. military troops in airplanes over a foreign country over a period and direct the bombing of that country . . ."

Ambassador William Sullivan: ". . . yes, sir." (SSAC 12/70.)

"The carrier is a particularly appropriate instrument of presidential power. Movement

of a carrier requires no prior consent of Congress. It also costs very little, in extra money, so such a movement is virtually outside the congressional control over the purse strings." (*Star*, 12/21/71)

[Sen. J. W. Fulbright complains about Congress not being informed for 5 years about the U.S. bombing in Laos.] Ambassador William Sullivan: "But if there were any direct questions asked of me about U.S. air operations . . ." Sen. J. W. Fulbright: "You see, we did not know enough to ask those direct questions . . . we were not aware of these activities [the bombing] though we had had some hearings on it." (SSAC, 12/70)

"Since February, 1970, we have been using B–52s in northern Laos on a regular basis, a fact the Committee had not been told and that was not made public until . . . May 3, 1971." (James G. Lowenstein and Richard M. Moose, staff assistants, SSAC, 8/71)

". . . there is no real knowledge of what is going on in Laos. We do not know the cost of the bombing. We do not know about the people we maintain there. It is a secret war." (Sen. Stuart Symington, SSAC, 12/70)

". . . the United States is reluctant to place on the public record through the statements of officials precise definitions of what the U.S. involvement or operations in Laos have entailed." (*Ibid.*)

"We made a big thing . . . about stopping the North Vietnam air strikes. But at the same time, we were increasing in secret the air strikes against Laos." (*Ibid.*)

"There is an evident determination among us officials in Laos to prosecute the war with only gradually reduced secrecy . . ." (SSAC, 8/71)

"There is considerable doubt in my mind," Sen. Symington told his colleagues, "whether the Congress, if presented with a straightforward proposal to spend half a billion dollars to carry on such activities [within Laos] would have agreed to do so; but insofar as we can determine, no congressional committee, before this year, was ever given any comprehensive picture of our operations in Laos." (Sen. Stuart Symington, SSAC, 12/30)

"Because of the Vietnam experience, Congress is keeping a tight purse string on Cambodian aid. The Nixon administration has gone behind congressional backs, however, to sneak military supplies into Cambodia through South Vietnam and Indonesia." (*Post*, 1/11/72)

"The only figure the people of the United States know we are putting into Laos is some 50 million in economic aid, but when you add up the figures . . . it is over a billion and a half dollars annually that we are spending." (Sen. Stuart Symington, SSAC, 12/70)

"A strict gray-out is imposed on U.S. operations . . . with little information besides official reports available to the press. Reporters are not permitted to accompany attack and spotter planes as they are in Vietnam. Pilots are under instructions not to talk to newsmen. The Air Attache in Vientiane is similarly inaccessible . . ." (Sen. Mike Gravel, *CR*, 10/5/71)

"American reporters are not permitted to film air bases in Thailand primarily because the Administration does not want the vast installations publicized." (Phil Jones, CBS News, 12/21/71)

"Requests to go to other places were turned down . . . The U.S. still does not admit to all American casualties in Laos. It will give air casualties on U.S. missions originating in Laos, but not from the 7th Fleet, Vietnam or Thailand, and downed in Laos. U.S. air attaches here refuse to talk to the press. Saigon gives some of the U.S. air losses but no details of the sorties. U.S. forward air controllers and combat airmen continue to fly in unmarked aircraft on Laos missions. Skyraiders from Thailand with U.S. pilots, Lao air force TTT 28s sometimes flown by Americans, and Ravens, the forward air controllers, do not carry American markings . . ." (Tammy Arbuckle, *Star*, 2/6/72)

". . . Asked about this change in U.S. air policy, a U.S. Embassy spokesman here said he had 'no information and no comment' on the report . . . Guzowski's statement is the stock answer the U.S. Embassy gives here for any questions on the U.S. air war in northern Laos. U.S. Air Force attaches in the office here with over 90 Americans refuse to give press statements or see the American press . . . The aim of this press policy apparently is to cover up U.S. air involvement in close support actions with Lao, Thai and Meo troops in Laos." (Tammy Arbuckle, *Star*, 12/23/71)

"Military briefings give little or nothing in the way of details. No news reporters accompany the flights. And even the statistics on number of sorties and tonnage of bombs dropped are withheld or lumped together with the figures for Vietnam . . ." (Richard Dudman, *St. Louis Post Dispatch*)

". . . 76% of 96 small villages in northern Laos were destroyed by bombing in 1969. Cluster bombs and white phosphorus were used against the civilian population of a country against whom the United States is not at war. The bombing was done under the direction and control of the State Department, not the U.S. Air Force. Both the extent of the bombing and its impact on the civilian population of Laos have been deliberately concealed by the State Department for at least the past 9 months which have elapsed since the July 10 report." (Rep. Paul McCloskey, SRS, 4/71)

"By 1967 the CIA had become a forceful advocate of bombing population centers in Pathet Lao territory. Unlike Vietnam, where its main function was intelligence-gathering, the CIA has been intimately involved in operations here. It directs the 30,000 man Armee Clandestine, which does the bulk of the fighting. And with its own team of photo interpretors, control of reconnaissance aircraft, and teams of local ground observers the CIA plays a key role in targeting sessions as well. As the Armee Clandestine began suffering reverses on the ground, the CIA held that heavy bombing of the Pathet Lao civilian infrastructure was necessary." (Fred Branfman, *Boston Globe*, "Air War: Laos," 12/70)

"The Pentagon is concealing essential facts regarding its expenditure of more than $3 billion on the electronic battlefield." (Sen. William Proxmire, CR, 5/23/71)

INEFFECTIVENESS

The bombing does not stop guerrilla advances on the ground or significantly impair the flow of supplies. It is militarily and politically counterproductive because of its tendency to alienate civilians and assist insurgent recruitment.

The guerrilla nature of the fighting neutralizes much of the traditional combat role of air power. American planes can rarely locate enemy forces who move in small groups by night under the cover of the forest. The number of stationary "military" targets in a guerrilla war are relatively few and strategically unimportant. Those that are struck are quickly repaired. DoD statistics indicate that less than 10 percent of all sorties are flown in close air support of embattled troops. The vast majority of the raids involve "harassment and interdiction" missions against an unidentifiable enemy and elusive logistical networks.

Efforts at interdiction have proven extremely costly and ineffective, undermined by the very low level of externally supplied materials necessary to fuel the insurgency and by the willingness of the Russians and the Chinese to provide the level of aid necessary to replace any losses. The DoD has estimated that the insurgency requires only 15–30 tons daily of imported material to maintain a moderate level of activity. This amount of supplies can be transported in 10–15 trucks or on 75–150 bicycles each fitted with an A-frame. As Dr. Marvin Golderberger, director of the 1966 DoD evaluation of the air war, has pointed out, it is impossible to prevent 150 bicycles from moving through the jungle.

General ineffectiveness

"Half of the bombs dropped miss their target areas for purely technical reasons." (Cornell study)

"These strikes provided the enemy with about 27,000 tons of dud bombs and shells, more than enough to make all the mines and booby traps which were thought to have killed over 1,000 U.S. soldiers that year [1966]." (*Ibid.*, p. 4–8)

"Just as the senseless brutality of the Battle of Britain, designed to break the British will, as psychologically counterproductive, so the use of air power in Indochina may have a similar consequence. Such a reverse effect, though difficult to determine with certainty, has been attributed to U.S. air power in Indochina by several studies.

As one civilian strategist put it, the best weapon for fighting a guerrilla is a knife, the worst a bomber." (*Ibid.*, p. 1–8)

"All bombing does is chain you deeper to the war. Bombing doesn't work. There is not a shred of evidence that it works." (Leslie Gelb, director of the DoD task force that prepared *The Pentagon Papers*, 2/4/72)

Hansen: "F–105s dropped 654 bombs and 32 Bullpup missiles in over 100 sorties against a bridge in North Vietnam [Thanh Bridge] . . . Five aircraft were lost and the bridge never did collapse."

Sen. Young: "With all those bombs they never got near the bridge?"

Hansen: "That is correct. The delivery accuracy was so poor that even though a large number of bombs were dropped and several planes were lost in the effort, there were not enough bombs that were put on the precise points that they had to be to blow out the bridge." (Asst. Secy. of the Air Force Grant Hansen, Senate DoD Appropriations Hearings, 4/27/71)

Gen. Tompkins: "Most H. & I. [harassment and interdiction] fire is utterly worthless. What you are doing is map-type fire at likely assembly areas, crossroads and trail, and you hope you will bong somebody. It is a great waste of ammunition."

Sen. Cannon: "Is there any way you could provide us with the cost effectiveness of H. & I. fire, or is that impossible?"

Gen. Tompkins: "Unless you are blessed with the luck of the devil, I would say it is zero return on H. & I." (Maj. Gen. R. McC. Tompkins, former commanding general, Third Marine Division, Vietnam; Electronic Battlefield Hearings, Senate, 11/19/70)

Ho Chi Minh Trail interdiction

"The air war is not even militarily effective. Secretary of Defense McNamara revealed in 1968 that it could at best reduce the flow of supplies along the Ho Chi Minh Trail by only 10–15 percent, at a cost over $100,000 per truck destroyed. Former Under Secretary of Defense Townsend Hoopes has pointed out that in the history of bombing campaigns, only when the sources of production are attacked can the logistical flow of supplies be effectively impaired. In this case that would involve strikes against China and the Soviet Union." (Sen. Mike Gravel, *CR*, 10/5/71)

"The North Vietnamese continue to be able to get the supplies to Cambodia and South Vietnam they require." (Senate Foreign Relations Committee Staff Report, 4/71)

"One reason why there is some skepticism about truck kills claimed by the Air Force is that the total figure for last year greatly exceeds the number of trucks believed by the Embassy to be in all of North Vietnam (*Ibid.*)

"I don't care how many trucks they [the Air Force] claim, they just aren't doing it. . . . We're getting about 10 percent, maybe 20 percent; we can't stop them. Never could.

This goes back a long way, too. You just cannot stop an army by air bombing." (An American military intelligence officer "with long experience monitoring supplies over the Ho Chi Minh Trail," in a dispatch from Vientiane, DNSI, 10/11/71)

Ineffectiveness in South Vietnam

"The U.S. bombing effort in both North and South Vietnam has been one of the most wasteful and expensive hoaxes ever put over on the American people." (Former Marine Commandant David Shoup, *The Atlantic,* 4/69)

The U.S. has dropped over 4 million tons of bombs on South Vietnam, two times the tonnage that was absorbed by Europe and the entire Pacific theater during World War II. Yet there is no evidence that the bombing has achieved any significant objectives. The most dramatic example of this was the 1968 Tet offensive in which massive bombing throughout the country failed to offer any barrier to free NLF movement around the country, including the American Embassy. While wholesale flattening of South Vietnamese cities and towns is considered a factor in American retrenchment after the offensive, the overall effect of the bombing was probably counter-productive to American ends by hastening disaffection in the cities. (PAW)

NLF Recruitment Rates

1961	35,000
1962	31,000
1963	30,000
1964	46,000
1965 (first year of intensive U.S. bombing)	120,000

(Roger Hilsman, *To Move a Nation,* 1969.)

Ineffectiveness in North Vietnam

"Thus in spite of an interdiction campaign costing at least $250 million per month at current levels, no significant impact on the war in South Vietnam is evident." (Secy. of Defense McNamara, *Pentagon Papers,* 11/17/66)

"I don't believe that any amount of bombing within practical limits would have substantially reduced . . . infiltration." (McNamara, *Quotations, Vietnam: 1945–1970,* ed. by William Effros, 1/67)

"Twenty-seven months of American bombing have had remarkably little effect." (CIA bombing study, 5/67, in *NYT* account of the *Pentagon Papers,* p. 535)

"We do not believe that renewed U.S. bombing of North Vietnam (short of unthinkable massive civilian attacks) will have any measurable effect on Hanoi's ability to mount and support military operations in the South at past or current levels." (Twelve spokesmen for the Federation of American Scientists, including Leslie Gelb, director of DOD task force that prepared the *Pentagon Papers;* Morton Halperin, former Deputy Asst. Secy. of Defense 1967–69; Townsend Hoopes, Deputy Asst. Secy. of Defense, 1966–67 and Undersecy. of the Air Force, 1967–69; Dr. Marvin Golderberger, Chairman JASON Division of the Institute for Defense Analyses and director of 1966 DOD review of the bombing; 2/4/72)

"The indirect effects of the bombing on the will of the North Vietnamese to continue fighting, and on their leaders' appraisal of prospective gains and costs of maintaining the present policy have not shown themselves in any tangible way. The bombing clearly strenghtened popular support of the regime by engendering patriotic and nationalistic enthusiasm to resist the attacks." (Institute for Defense Analyses study for DoD, 1966)

Laos and Cambodia

In Cambodia, guerrillas now control from 70–90 percent of the territory, despite a bombing campaign of some 150,000 tons since May, 1970. (PAW)

In Laos, the bombing campaign since May, 1964 has included over 500,000 sorties, 1.5 million tons of bombs, and installation of a $3–5 billion electronic targeting network in the south. Restrictions on bombing of civilians have been lax. Yet guerrilla forces control more territory than before the bombing began. (PAW)

"Despite the application of massive U.S. air power, the Pathet Lao now control more territory than ever before . . . We can only conclude that the widespread American bombing has on balance had a clearly counterproductive effect." (Cornell study, p. 11–5)

"As the bombing increased the Pathet Lao forces started getting more volunteers, whose attitude was 'better to die a soldier than to stay home waiting for the airplanes to kill you.'" (*Monitor,* 3/14/71)

"The bombing raises enemy morale and alienates civilians. Pathet Lao defectors indicate that before the heavy bombing of Laos the communists managed only a 30 percent rate of voluntarism among their forces. However, after the massive attacks of late '68 the figure jumped to almost 100 percent." (Sen. Mike Gravel, *CR,* 10/5/71)

"Life in the caves has its inconveniences for the peasants. It is even more serious for the political and administrative people who have to rule an immense mountainous country, stretching from China to Cambodia, where distances are counted less in kilometers than in days and nights of marching. Nevertheless, the people work on without any sign of giving in. 'Owls by day, foxes by night' goes the Laotian proverb. During the day the owl goes to earth in the shadow, but, at night, the fox comes out." (Jacques Decornoy, "Owls in the Grotto," *Le Monde,* 7/4/68)

Christmas raids

"What disturbed some pilots most about the decision to go back over North Vietnam was the feeling that political rather than tactical considerations governed the timing of the strikes. A solid cloud screen laid by the northeast monsoon blanketed North Vietnam. Phantoms without remote bombing systems were as reliant on planes with target-acquisiting radar as blind men are on Seeing Eye dogs. And the overcast, the pilots claimed, left them especially vulnerable to SAMS, a costly lesson learned five years ago at the price of many lives. Said an angry veteran, 'If you can see the ground you can pick them up easily at launch. When they come through cloud the booster is burned out and they're almost impossible to see. In 1967 we stopped bombing through overcast because there was no way of avoiding a fast-moving SAM. It's crazy to go through it all again.'" (John Saar, *Life* Magazine, 2/4/72)

Secret Jason study conclusions

"As of October 1967, the U.S. bombing of North Vietnam has had no measurable effect on Hanoi's ability to mount and support military operations in the South. North Vietnam supports operations in the South mainly by functioning as a logistic funnel and providing a source of manpower, from an economy in which manpower has been widely under-utilized. Most of the essential military supplies that the VC/NVA forces in the South require from external sources are provided by the U.S.S.R., Eastern Europe, and Communist China. Furthermore, the volume of such supplies is so low that only a small fraction of the capacity of North Vietnam's flexible transportation network is required to maintain that flow. . . .

"Despite heavy attacks on NVN's logistic system, manufacturing capabilities, and supply stores, its ability to sustain the war in the South has increased rather than decreased during the Rolling Thunder strikes. It has become increasingly less vulnerable to aerial interdiction aimed at reducing the flow of men and materiel from the North to the South because it has made its transportation system more redundant, reduced the size and increased the number of depots and eliminated choke points.

"The second objective of the bombing, to raise South Vietnamese morale, had been substantially achieved. There had been an appreciable improvement in South Vietnamese morale immediately after the bombing began and subsequent buoyancy always accompanied major new escalations of the air war. But the effect was always transient, fading as a particular pattern of attack became a part of the routine of the war. There was no indication that bombing could ever constitute a permanent support for South Vietnamese morale if the situation in the South itself was adverse.

"The bombing campaign against NVN has not discernibly weakened the determination of the North Vietnamese leaders to continue to direct and support the insurgency in the South. Shortages of food and clothing, travel restrictions, separations of families, lack of adequate medical and educational facilities, and heavy work loads have tended to affect adversely civilian morale. However, there are few if any reliable reports on a breakdown of the commitment of the people to support the war. Unlike the situation in the South, there are no reports of marked increases of absenteeism, draft dodging, black market operations or prostitution. There is no evidence that possible war weariness among the people has shaken the leadership's belief that they can continue to endure the bombing and outlast the U.S. and SVN in a protracted war of attrition."

(Pentagon Paper summary of 1967, Gravel edition, reprinted in F.A.S. newsletter, 2/72.)

IMPERSONALITY-WARFARE FROM A DISTANCE

The United States in Indochina is attempting a revolution in warfare, massively increasing firepower while placing the individual fighting man far from the consequences of his actions. The gun-toting foot soldier of yesterday is being replaced by the technician who monitors computer printouts of enemy troop movements hundreds of miles away and by the bomber pilot who programs strikes on an unseen "enemy" thousands of feet below. Killing becomes impersonal. The new soldier need not confront dying men and mangled corpses. Instead, he fills out damage assessment reports and computes "kill ratio" probabilities.

"Some pilots may have occasional qualms about dumping thousands of pounds of bombs, rocketry and napalm on an unseen enemy, but these doubts appear to be easier to overcome. . . . Aboard ship there is nothing that distinguishes the identity of the allies or the enemy. The maps would be different, but the carrier might as well be off the coast of Nicaragua or New Guinea." (Peter Osnos, *Post,* 3–2–72).

"When I was bombing the North, I knew there were houses down there. I could see buildings and houses and structures. You know there are people in those things. But at the same time I see them shooting at me and you see all this stuff coming up at you and it's a matter of survival." (Lt. Cdr. Bill Townsend, F–4 pilot on USS Constellation, fourth combat tour, quoted by Peter Osnos, *Ibid.*)

"Sometimes, when you're not flying you can sit down and think about the morality of the war, the morality of killing. But you've got to recognize one of the big differences between what we do and what your standard Joe Smeddley, a private in the Marine Corps does. "He's down there on the ground slogging around with these guys. He's sitting there with somebody maybe 15 feet away from him and they're both emptying their guns at each other. "He sees much more, as far as killing each other or being injured or whatever, than we ever see. It's an antiseptic situation in that airplane. You never get closer to the ground than maybe 5,000 feet." (Lt. J.G. Bart Flaherty, F–4 pilot on USS Constellation, to Peter Osnos, *Post,* 3–2–72)

"Several of us went to the roof about 3 a.m. The Americans unleashed the terrifying 'Puff the Magic Dragon,' a DC3 that spews forth 5000 machine gun bullets a minute. As I watched it circle overhead last night, silhouetted against the low clouds in the light of the flares, flinging indiscriminate bolts of death earthward, I could vividly visualize the scene below. Men, women, children and animals, caught like rats in a flood. No place to hide, no way to plead their case of innocence to the machine in the sky, no time to prepare for death. The beating the civilians are taking in this war is beyond adequate description. . . .

"The cold, mechanical, compassionless way that monster circled around and around and around, ruthlessly pursuing an unseen 'enemy,' stabbing viciously earthward again and again, probing, searching, killing and maiming all in its path. . . . Man's inhumanity to man has reached its climax in Vietnam."

(A Quaker worker in Quang Ngai, 2/69, in "Vietnam 1969," quoted in NARMIC, *Weapons for Counterinsurgency*, 1970)

[Note: The newest version of Puff the Magic Dragon, the A–130E "Surprise Package," fires 24,000 rounds per minute.]

"They seemed to fire whimsically and in passing even though they were not being shot at from the ground nor could they identify the people as NLF. They did it impulsively for fun, using the farmers for targets as if in a hunting mood. They are hunting Asians." (Description of helicopter gunship attack in Quang Ngai by *Asahi* correspondent Katsuichi Honda, quoted in CCAS, *The Indochina Story*, 1970, p. 99)

"He learns how it feels to drop bombs on human beings and watch huts go up in a boil of orange flame when his aluminum napalm tanks tumble into them. He gets hardened to pressing the firing button and cutting people down like little cloth dummies, as they spring frantically under him. He gets his sword bloodied for the rougher things to come." (Harvey)

"Decision makers in Washington remain isolated, both geographically and imaginatively, from the effects of their decisions. The culture and traditions of Indochina remain strange and remote, as does the historical and political background of the present conflict. The people themselves are pictured as pawns who count their own lives cheaply and respond like marionettes to manipulation from Peking or Moscow. . . .

"The U.S. nas never suffered aerial bombardment. Suppose the North Vietnamese had been in a position to carry out occasional air raids in retaliation for the bombing of their country, say against Seattle, who can doubt that the tenor of the bombing discussions would have changed radically? The decision to bomb or not to bomb would have quietly taken on an added dimension of reality." (Cornell study, p. 11–7)

"The technology of the war has changed dramatically. Our planes now kill, from 30,000 feet, the brothers and sisters of the same civilians Lieutenant Calley gunned down from thirty feet." (Harvey Cox *NYT*, 12/2/71)

"Gunship pilots were absolutely the most gung ho killers. 'You killed 24? Well, I got 28.' This sort of competition was rampant. They were gung ho to get as many as they could. They reminded me of the Nazi SS, the stories we heard in the sixth grade, homicidal maniacs . . . The services encourage them by not acting to stop them." (An American pilot to Fred Branfman)

"In those 61 missions in which I flew, all my targets were listed as 'suspected' troop concentrations, 'suspected' truck farms, 'suspected' bunker areas. Always 'suspected.' I never saw any of my targets." (Capt. Ron Knappy, former B–52 crewmember)

"This little beauty here will deliver 6,000 rounds per minute. What I do is I roll in there with guns blazing, hose down the place, jinking and rolling around, then I release the CBU's out the back, pull out of my dive. So I get them from the front with my guns and the back with my CBU's!" (Pilot of Detachment 2, 56th Special Operations Wing, Danang Air Force Base, to Fred Branfman, 11/70)

"I'll be frank. I'm trained to kill people. I don't like it particularly—but when the time comes I'm prepared to do it. It's just like your experts in the political or economic field are allowed to do their specialties. When it's in the military phase I feel I should be allowed to employ my expertise. I mean, I guess you could say I want to be allowed to employ my expertise just like Eichman or something." (F–4 pilot, Saigon, to Fred Branfman, 11/70)

"The overall mood is hard to gauge precisely since, whatever their personal feelings, most fliers feel obliged to obey commands from above with maximum efficiency and minimum discussion. In the presence of outsiders they button up tighter than a self-sealing fuel tank . . . Still . . . years of confusion, compromise and ambivalence over the Vietnam war have sapped the gung-ho spirit which flowed from the conviction of right and might. . . . The dangerous missions go on, but the motivation to defeat a detestable enemy is gone. The fliers find their satisfaction in the superlative execution of flying, which is both passion and profession for most of them, and perhaps the chance to test their skills against a MIG. Of anger or vengeance I found none." (John Saar, *Life* Magazine, 2/4/72)

"At breakfast a lone Phantom pilot is scaling a mound of grits with a fork. 'Going back and bombing the North? There are strong feelings for and against. I think it was dumb, but I'm not going to tell you what I really feel because I signed on. Either you do what they want,' stabbing the air with the fork, 'or you go turn in your wings.'" (*Ibid.*)

"The distance technology places between the killer and his act has resulted in a basic psychological change in the nature of warfare. . . . Navigators plot bombing raids on coordinates, not villages; pilots pull levers from 5,000 feet up, not triggers at human forms 100 yards away; photo interpreters see bomb craters and destroyed 'enemy structures,' not headless children or napalmed grandmothers; and to the extent the general public is informed, it is to read of 'tactical air support, against enemy fuel dumps, arms depots, and troop concentrations. . . .

"Men are freed from the hatred, doubts, greed or rationalization that killing usually entails. The issue of guilt becomes meaningless. Conscience and morality are irrelevant. One does not set out to kill and therefore, psychologically, one does not." (Fred Branfman, *Liberation*, 2/4/71)

" 'No, I mean, you can't let it get to you, or you couldn't go on,' Major Billings objected. 'It gets completely impersonal. After you've done it for a while, you forget that there are people down there.' 'Yeah, everything looks so calm up where we are,' Major Nugett said. 'We can't even tell when we're getting shot at. We forget what's going on down on the ground . . .'

". . . Captain Reese sang rapidly; 'Strafe the town and kill the people, drop napalm in the square, get out early every Sunday and catch them at their morning prayer.' At dinner . . . that evening . . . the pilots began to make jokes in which they ridiculed the idea that the bombings they guided were unnecessarily brutal . . . The joke-tellers appeared to bring out their remarks with considerable unease and embarrassment . . . All the jokes seemed to deal, indirectly, with the conflicts of conscience that had arisen in the conversation . . ." (John Saar, *Life* Magazine, 2/4/72)

LIFE UNDER THE BOMBS

Right now tens of thousands of Indochinese peasants are huddling together in caves, holes and trenches, hiding from the 2,000 tons of bombs which continue to rain down upon Indochina daily.

Most of the air attacks are currently occurring in the guerrilla-controlled portions of Indochina, subjecting several million people to bombing at any time of the day or night. By American Embassy estimates, 800,000 people in Laos and 1.4 million people in Cambodia inhabit these zones. Project Air War estimates that over a million people from both Vietnams live under less intense attacks.

The bombing has been responsible for the complete disruption and breakdown of civilian life in many areas under bombardment.

"During 1967 and 1968 most moved into the forest in the vicinity of their villages. They constructed small bamboo shelters near caves, dug trenches into hills or camouflaged holes by sticks and leaves. . . . It took four people about a month to dig a trench or hole suitable for a family. . . . Older people and children form an unusually high percentage of the victims. This was because the children were the most likely to become afraid and fail to find shelter during a raid. Older people 'could not run fast enough' or did not react quickly due to the disabilities of age. . . . They worked on their fields mainly at night, with the aid of small kerosene lamps. . . . The danger of lighting fires is also often mentioned. Smoke by day or fire by night tended to attract the bombers. People were often afraid to cook, and found it difficult to bear the cold during the freezing dry season nights. . . . The refugees interviewed are in some ways relatively fortunate—they are out of the firing line." (Fred Branfman, *Far Eastern Economic Review*, 2/27/71)

(*We Promise One Another*, poems from an Asian war. Published by Indochina Mobile Ed. Proj.)

Fruit of War

Give me the pellet-bomb "fruit",
A militia woman says softly.
—Why is it you seem beautiful as
a sparrow
Yet kill people so terribly!

Her eyebrows wrinkle, frowning.
—It is like this, isn't it:
You are really ghouls,
Savoring the fine taste of death!

You've become so refined—
Guava bombs, then pineapple bombs.
Death: it's a profitable business,
It, too, needs a beautiful facade.

—*Huy Can.*

"The refugees commonly described the killing of their water buffalo, and the fact that they had to live in holes or caves, farming only at night when the bombing became so intensive in 1969." (Rep. Paul McCloskey, SRS, 4/71)

". . . During the bombing, her [Ban Na Ngu] life was difficult. She had to live in a small hut in the forest and did the cooking only one time a day in the early morning." (USIS Laotian interviews, SRS, 4/71)

"99% of the people [interviewed] said bombing made life difficult for them; two thirds holding that it made earning more than a bare subsistance living impossible in its intense periods." (SRS, 4/71)

"Due to the bombing, the PL [Pathet Lao] advised the woman . . . to move to a shelter in the bush . . . Cooking was a problem: she had to make a stove and no smoke from it could be allowed to be seen. Clothes had to be dried inconspicuously lest they become bomb targets." (SRS, 4/71)

[Tens of thousands of inhabitants from the Plain of Jars were forced by the bombing] . . . "to move out of their homes and into trenches, caves and bunkers, . . . by all ac-

counts the situation has been somewhat similar for the estimated 192,000 people living in Sam Neua Province . . . One Western diplomat reported whole communities living underground." (Daniel Southerland, *Monitor*, 5/14/70)

"Refugees from the Pathet Lao zone all tell harrowing tales of entire villages living in caves and holes in the ground, farming their rice by night in order to escape the bombing." (Hugh Greenway, *Life*, 4/3/70)

"In talking to refugees we heard what days and nights under bombardment are like. Refugees tell of being forced to live in holes and caves, of having to farm at night, of the systematic destruction by U.S. war planes of the human basis for society." (James Malia, former IVS volunteer in Laos)

"On each side of the road there are heaps of scrap metal, pieces of aircraft, the containers of anti-personnel bombs, empty munitions casings, detonated anti-personnel mines . . . You sink up to your knees in an impalpable dust, the earth having become dust under the impact of bombs and incendiary weapons . . . nothing lives in this dust, not even crickets. Only men resist." (Jacques Decornoy, *Le Monde*, 3/13/71)

(Refugee stories collected by Fred Branfman, Project Air War. Graphic section contains sketches by the following five storytellers).

"The person in this picture was hit by a napalm bomb and burned. This was the first time I had seen such a bomb; at that time no one knew that there were firebombs. We hadn't been very careful. In all the years of my life, up to now, I only have seen bullets from the planes. But never burned like this. If someone is hit by napalm, you can't go to help him. If someone went to help, he also would catch on fire. I thought about this when I was in the hills. In our lives now we didn't know which day we would be troubled or which day we would die. Every day we just stayed in the holes in the forest without seeing the sunlight. It was like that until there weren't so many airplanes. Then I fled to live on the side of the government which helps us get food. But forgetting the village of my birth is impossible. All the time my thoughts go back to my home." (Male: 32 years old)

"One friend of mine went to the village to get rice for his mother and father to eat. He crossed the field to the hill and the airplanes saw him and shot and killed him so that you couldn't even see his body. It was scattered all over the field." (Boy: 12 years old)

"In the earlier time my village had a school which was built by the strength of the villagers. But it was really just an ordinary school. This school was built in a level field. There were students who would assemble there to study. I myself studied at this school many years ago. But then it came to the year 1967, and this school was struck by the airplanes until it was level. Nothing was left. Many planes had shot around it. It made us lack for a school in which to learn our lessons." (Author: 23 years old)

"In my life it was the first time I saw a person die. One time in the year 1967, as was her custom, my old aunt prepared things to sell in the market. That day she arose at six in the morning, put fruit in her basket, then walked out of the village on her way to the market. Just as she arrived at a place where there was a small stream, and she stopped to rest, an airplane saw her and shot a smoke bomb at her. She was afraid but before she could run away, her body was hit. Blood came out everywhere. She tried to return to the house but just as she arrived, she died. Before she could say any last words. Her children and her husband were most angry that they had lost her so. Everyone was disconsolate. After that day no one went to the market anymore.

But truly at that time there were many dangers. Like when the planes dropped bombs and napalm burned the village and people died. Some people ran into the holes and were hit. No one had courage enough to help the people who were hit by napalm. They just screamed until the end, and died. I am overcome with pity and my tears fall. I do not lose the thoughts of those people who lost their lives. That is when we had to flee from our villages." (Author: 20 years old)

"In my village there was one man who was 22 years old. He went to graze his buffalo in the forest. The airplanes dropped bombs and killed the buffalo. He ran away from that place, but not in time. He was hit in the waist—cut right in two. For two days you could see him like that." (Man: 22 years old)

Refugee comments collected by Fred Branfman, Project Air War

"The planes came like birds and the bombs fell like rain"

". . . just stayed in my cave. I used to repeat, please don't let the planes come, please don't let the planes come, please . . ."

"When I left my village all I saw were the holes of the bombs and the burning houses and the people who had died so pitifully."

"Our lives became like one of the animals who search to escape the butcher."

"We would try and find places where we thought the planes wouldn't bomb but in the end they bombed everywhere."

"I asked the Major how he distinguished members of the Vietcong from the rest of the population. 'If they run is one way,' he said. 'There are a lot of ways. Sometimes, when you see a field of people, it looks like just a bunch of farmers. Now you see, the Vietnamese people—they're not interested in the U.S. Air Force, and they don't look at the planes going over them. But down in that field you'll see *one* guy whose conical hat keeps bobbing up and down. He's looking, because he wants to know where you're going. So you make a couple of passes over the field, and then one of them makes a break for it—it's the guy that was lookin' up at you—and he's your V.C. So you look where he goes, and call in an air strike.'" (Jonathan Schell, *The Military Half*)

"Sometimes you see the V.C.s hiding by plastering themselves against the wall of one of those paddies. One trouble is, aside from these rockets, we don't have any weapons. But once I about ran a guy to death. I caught him out in the open, and I'd make a pass and he'd run for it, and then I'd make a pass in the other direction and he'd run the opposite way. Then he'd hide in some trees, and when I'd make a pass at him he'd make a break for it. I must have chased him for about an hour before I got some planes to put in a strike." (*Ibid.*)

"'Say, do you want those two churches down there?', Major Billings asked the ground commander. 'That's affirmative,' the ground commander replied. 'O.K., here goes,' said the Major . . . a bomb hit the back of one church directly—the church with the white flag on the pole in front . . . When the smoke cleared, the church was gone except for its facade, which stood by itself, with its cross on top. The white flag still flew from its pole . . . Several of the rockets from the next volley hit the other church, obliterating its back half and leaving two holes the size of doors in the roof of the front half . . . On my way back [days later] . . . I had an opportunity to talk for fifteen minutes or so with several members of a group of about a hundred civilians . . . I discovered that a group of people who had lived around the two bombed churches in Thanh Phuoc were present . . . I asked the group around me where they had gone when the bombing began, and I received a hail of answers. 'We went in our caves.' 'We didn't come out for three days. We ran out of food'. 'I want to go back to find my sister.' 'My house was bombed.' 'We don't have anything to eat here.' 'Three people were killed.' 'Can I have some rice?' 'We don't have any blankets here.' 'All the houses were bombed.' 'We hid in the caves and brought the children.' 'We couldn't bring any possessions.' I asked whether they had been able to reach the camp with their families intact. 'I am thankful to say that all my children are here.' 'I don't know where my daughter is.' 'My daughters are here, but my son is gone.' 'My husband isn't here.' 'We couldn't bring anything.' 'I want to go back and find my father.'" (*Ibid.*)

Q. In Sub-district Khat, how many villages are there?

A. . . . there are 21 villages total. . . .

Q. . . . among those 21 villages, are there still any houses left?

A. Now, among those 21 villages, there is not a single house left.

Q. Why is there not a single house left?

A. The airplanes bombed them. . . .

Q. Now, the airplanes came since 19 hundred and what?

A. The airplanes bombed from 1965 until 1967; they didn't bomb much. But from 1968 until 1969 the airplanes bombed heavily. . . .

Q. During the day they came?

A. Yes. During the day a lot came, at night a few came. And in 1969 during the day a lot came and during the night a lot came also. . . .

Q. Now, in 1968–9 were the villagers inside the village, or did they go outside?

A. During 1968 and 1969 the villagers went out to live in the forest in holes . . . 1969 the villagers were no longer in the villages, they all went out to live in the forest. . . .

Q. When they were out in the forest, were there also villagers who died?

A. While they were out in the forest, there were also villagers who died . . . the airplanes bombed and hit villagers. . . .

Q. When the airplanes came, how did you feel?

A. When the airplanes came the people felt that they were afraid the airplanes would see and bomb them; were afraid the airplanes would think they were soldiers of the North Vietnamese Army. For that reason, the people wanted to save their lives, so they entered into the trenches to hide in order to protect themselves.

Q. Now, when the airplanes came to bomb you what kind of bombs did they use?

A. They used 100 kilo bombs; 1000 kilo bombs; anti-personnel bombs; small bombs; and 250 kilo bombs.

Q. Only those bombs?

A. No. There were also napalm bombs, burning bombs, as well as destructive bombs.

Q. Which kind of bomb were there the most of?

A. The anti-personnel bombs were the most, together with the 500 kilo bombs. There were also many napalm bombs. . . .

Q. Did they ever drop napalm in villages?

A. They did drop napalm in villages. . . .

Q. Now, as you said, "villagers died": the majority were of what age? . . .

A. . . . The majority were old people and children.

Q. Why?

A. They moved too slowly. When the airplanes came, they couldn't run quickly, they couldn't make it. (Tape transcript of interview with refugee Subdistrict chief, from Sub-district Khat, on the Plain of Jars. SRS, 4/71)

CIVILIAN CASUALTIES

The air war causes a high degree of civilian casualties

The heavy civilian toll taken by the bombing in the past has been well-documented, though the Department of Defense said in April, 1971 that it had ever attempted to study the number of civilians wounded or killed by American bombing. Although there is no way of knowing actual numbers of

killed and wounded at the present moment, we may assume that they are quite high. There are still several million civilians living in areas under bombardment, and still 50,000 tons of bombs falling monthly. The drop in monthly bombing tonnages which has taken place under Nixon does not reflect a decline in civilian casualties. His Administration has switched the focus of the bombing to Laos and Cambodia, where there are even fewer military targets than in Vietnam.

A recent Government Accounting Office report shows that the air war has been a major factor in producing nearly 2 million refugees in Cambodia, or one-third of the population. The Cornell study shows that the U.S. has dropped 140,000 tons on Cambodia, compared with over 1.5 million tons on Laos, where nearly a fourth of the population, or 700,000 have been refugeed.

The air war causes far more civilian than military casualties

U.S. bombers cannot locate guerrilla soldiers who sleep by day and move through the forest at night in small groups. Bombers usually wind up striking at the only signs of human life they can see from the air: fires, cultivated fields, footprints, cut or trampled grass, etc. These are located in and around villages. They are most often produced by civilians, who are tied down by their families and cannot live a life on the move. Those fixed targets designated as "military"—roads, ferry crossing, bridges—are precisely where the highest concentrations of civilians are. In rural lands such as Indochina, it is the roads, bridges and ferry crossings which attract civilian concentrations.

"The Defense Department maintains that air activities are conducted under a rigid policy of avoiding civilian targets. All the same there is ample visual evidence of the civilian toll—even though our own authorities don't include them in the body counts. And we know that one purpose of the bombing has been to accomplish economic and social destruction in areas deemed controlled by the enemy. But I fail to see how such debates are relevant to the victims. Their suffering is no less if we explain that they were hit by accident instead of design. Their injuries are no less painful if we tell them we tried to avoid them but could not, because our sophisticated weapons just are not that discerning. It makes little difference to the dead that they happened to be living in a militarily important part of their own country." (Press release from the office of Sen. George McGovern, 12/14/71)

"Our studies indicate that for every military casualty we get [from the bombing], we cause 50 civilian casualties." (Sen. Mike Gravel, *CR*, 10/5/71)

"Most Lao civilians learn very quickly that bombing necessarily follows the North Vietnamese." (Ambassador to Laos, William Sullivan, written reply to SRS question)

"The weight of air-drop munitions deployed by the U.S. in the years 1965–69 was more than 200 times the total weight of all types of munitions used by the insurgents during the same period." (Cornell study)

An American once intimately involved in U.S. bombing operations in Laos says an erosion of safe-guards against indiscriminate bombing there has taken place during the Nixon Administration. According to Mr. Jerome J. Brown, a reserve Air Force Captain and former Senior Air Force Photo Reconnaissance expert attached to the Vientiane Embassy, 1966–68, restrictions on American Air Force operations have been quietly relaxed while control over the air war by the American Ambassador in Vientiane has been reduced. (PAW)

"The rules of engagement were strictly adhered to from 1966 to 1968, but for all practical purposes after Ambassador William Sullivan left (in March, 1969) they appear to have been discarded and are only cited to placate congressmen in Washington," Brown said. (Michael Morrow, *Am Rep.* 12/3/71)

"There just aren't any villages in northern Laos anymore or in southern North Vietnam either, for that matter." (Aerial reconnaissance pilot in interview with Rep. Paul McCloskey, SRS, 4/71)

"A strategic target is any installation, network, or group of buildings, or the like, considered vital to a country's war making capacity, and singled out for air attacks." (USAF ROTC Manual)

In Laos, "Cluster bombs and white phosphorous were used against the civilian population of a country against whom the United States is not at war . . . both the extent of the bombing and its impact on the civilian population of Laos have been deliberately concealed by the State Department." (Rep. Paul McCloskey, SRS, 4/71)

"A hooch destroyed is a 'military structure'; a sampan is a 'waterborne logistic craft' . . . There are no spaces on bomb-damage forms for reporting civilian damage." (Cornell study)

"In Indochina the flow of refugees and the occurrence of civilian war casualties continues. In Vietnam nearly all indicators—including official reports to our government—document that the situation among the people continues to deteriorate. For them the war is not winding down. The monthly flow of refugees continues at a high level, some 100,000 by official count, during the first five months of this year. Civilian casualities are also on the increase . . . "(SRS 7/71)

"The technology of the war has changed dramatically. Our planes now kill, from 30,000 feet, the brothers and sisters of the same civilians Lieutenant Calley gunned down from thirty feet." (Harvey Cox *NYT*, 12/2/71)

"In this year, 1971, more civilians are being killed and wounded in the three countries of Indochina, and more made refugees, than at any time in history. Most of the casualties are caused, and people made refugees, by American and allied military activity." (SRS, *NYT* 4/3/71)

Laos

"The bombing contributes to at least 75% of the refugees, who number more than 700,000 of Laos' less than 3 million population." (Sen. Ted Kennedy, Chairman, SRS, 4/71)

"The intensity of the bombing was such that no organized life was possible in the villages . . . jet planes came daily and destroyed all stationary structures . . . the villagers lived in trenches, holes or in caves." (UN Advisor George Chapelier, from a paper on life in the Plain of Jars, SRS, 4/71, Appendix IIA)

"There used to be about 20,000 persons living in the town (Sam Neua) and adjacent villages. Today not a soul lives in the town. Not a single dwelling was spared by the American bombing. The destruction was more than any I had seen in N. Vietnam." (Richard Ward, UPI release, 8/2/71)

"The bombing is clearly the most compelling reason for moving. 95% of the respondents indicated their village had been bombed, 49% could not count the number of times, 61% had seen a person killed." (USIA survey of 200 refugees from nearly 100 villages in the Plain of Jars, cited SRS, 4/71)

"Until recently the area (Plain of Jars) provided a living for a population of more than 20,000. Now it is empty and ravaged, a striking example of what less than 3 years of intensive U.S. bombing can do." (T. D. Allman, *Newsday*, 1/17/72)

Cambodia

"The bombing is a 'very significant cause of refugees and civilian casualties.' More than 2 million of Cambodia's less than 7 million population have become refugees since the May '70 invasion and the beginning of U.S. and VNAF bombing." (U.S. GAO Study, *NYT*, 12/5/71)

"Inevitably the familiar pattern of Vietnam and Laos—in the destruction of the countryside, the generation of refugees, and the occurrence of civilian war casualties—is being repeated in Cambodia." (Staff report of SRS, 9/70)

"The town is destroyed. But you have to expect that." (Lon Non, younger brother of Lon Nol, commenting on the use of air power to retake a Cambodian town, *Star*, 12/12/71)

"Cambodia is the Nixon Doctrine in its purest form." (Pres. Nixon, 12/12/71)

South Vietnam

"Aerial bombardment . . . (has) contributed significantly to civilian casualties, mass movements of people and the destruction of forests and farmlands. For the period from 1965 to April, 1971, the estimate of civilian casualties in South Vietnam is 1,050,000, including 325,000 deaths, while over 6 million of the population is thought to have become refugees. These figures mean that there is hardly a family in South Vietnam that has not suffered a death, injury, or the anxiety of abandoning an ancient homestead." (Cornell study)

"South Vietnam has been devastated by an alien air force that seems at war with the very land of Vietnam." (A former South Vietnamese Minister of Information, from *At War With Asia* by Noam Chomsky)

"More than 90% of the air strikes within South Vietnam are classed as interdictory. Guerrillas cannot readily be interdicted without assaulting the civilian population at the same time." (Cornell study)

North Vietnam

"Despite elaborate civil defense measures taken by the North Vietnamese, the civilian impact of the bombing was very heavy. In 1966 there were more than 23,000 casualties, 80% of them civilian. In 1967 the civilian noncombatant casualty rate was quoted at 1,000 per week." (Cornell study, based on estimates by the CIA and DoD)

The bombing of North Vietnam is strategic bombing. "Targets in a strategic bombing campaign are situated near predominantly civilian areas." (Cornell study)

"A military target is any person, thing, idea, entity, or location selected for destruction, inactivation, or rendering nonusable with weapons which will reduce or destroy the will or ability of the enemy to resist." (USAF ROTC Manual, 5/61)

"The concept of pinpoint bombing is clearly a gross idealization . . . to offset bombing inaccuracy many more bombs are dropped than are in principle necessary to destroy the target . . . (best illustrated by the saturation bombing of the B–52s) . . . more than half of the ordnance delivered falls outside the intended target zones because of purely technical factors . . ." (Cornell study)

Before he resigned as Secretary of Defense in 1977, Robert S. McNamara warned Lyndon Johnson: "There may be a limit beyond which many Americans will not permit the U.S. to go. The picture of the world's greatest superpower killing or seriously injuring 1,000 noncombatants while trying to pound a tiny, backward nation into submission on an issue whose merits are hotly disputed, is not a pretty one." (Clayton Fritchey, *NYP*, 1/10/72)

"Our pilots have never cared about being accurate in Laos. No one has any scruples except for one guy. Every strike out of here drops, but only about 1 in 10 are on target.

"The thing is the pilots don't care what they bomb. For example, in Cambodia there was this civilian caught out in the open. One of our pilots was cruising overhead with 8 CBU 46 bombs; the CBU has about a mile range. The son of a bitch just went in and dropped all 8 of them to get this one guy, who was killed. When they later told him it was a civilian, he didn't give a ——. All he had to say was 'too bad he got in the way.' "

(From a confidential interview with a pilot, PAW)

"The FAC pilots . . . said that we could not destroy an area until we had cleared the action with the Province Chief . . . [later] I asked Colonel Tho [Note: the Province Chief] what his role had been in the planning of Operation Benton . . . I learned that his method of giving clearance in an American military operation was not to review the targets of individual air strikes or shellings but to give the American ground commander a blanket clearance before the operation was launched . . . he said, 'I got a report this morning that V.C.'s blew up two churches,' I said that I had seen American planes bomb the churches. The Province Chief laughed for several seconds, and said, 'Well, in the fighting you cannot always tell what is happening, and you cannot always tell the difference between just regular houses and church." (Jonathan Schell, *The Military Half*)

ENVIRONMENTAL DESTRUCTION

The air war not only continues to kill human beings, but is destroying the land and ecology of Indochina as well.

The bombing continues to add to the millions of craters that have ruined much of the land surface of Indochina, and produced a multitude of malaria-breeding ponds. Millions of unexploded bombs and mines add to the difficulties of the peasants in reclaiming the land for farming.

The aerial spraying of vast areas of Indochina's crops and forests has deprived hundreds of thousands of people of their livelihoods, in Laos and Cambodia, as well as in South Vietnam. Although the spraying program has been discontinued, its effects are still felt today by those whose land has been defoliated, and even more tragically, by those who have borne deformed babies due to ingestion of chemical substances.

Today, land-clearing is accomplished by the "Cheeseburger" bomb which flattens everything within an area the size of two football fields, and the "Rome Plow," a giant tractor, in what has been called "the most intense land-clearing program known to history."

The most recent material available on ecological damage in Indochina has been prepared by two U.S. scientists who have done considerable research there, Dr. E. W. Pfeiffer, zoologist from the University of Montana, and Dr. Arthur H. Westing, botanist from Windham College, Putney, Vermont. Their most recent trip took place in August, 1971.

EFFECTS OF BOMB EXPLOSIONS

A. Craters and Unexploded Ordnance.

Number of bomb craters in Indochina: 20 million, (*Post*, 12/28/71).

Number of bomb craters in South Vietnam: over 10 million, (Pfeiffer, *Environment*, 11/71).

Craters caused by the standard 500-pound bomb dropped by B–52s are 20 to 50 feet wide and 5 to 20 feet deep. "The [crater] holes alone would cover a combined area of about 325,000 acres." (*Ibid*)

"The water-filled craters breed mosquitos and other disease carriers. MACV [Military Assistance Command Vietnam] Information Pamphlet 6–70 stated: 'Malaria has been causing increasing concern in Vietnam . . . Up until recently it only affected regions of I and II Corps, but has now spread to other areas throughout the country' . . .

"We tentatively conclude that those cultivated areas hit heavily with conventional high explosives will be very difficult, if not impossible, to recultivate . . . The immediate problem of greatest concern is the vast number of unexploded mines, bombs, rockets, and so forth that must be removed if the land is to be resettled. Since the Department of Defense reports that approximately 1 to 2 percent of our air and ground munitions fail to explode, there are several hundred thousand of these randomly buried throughout Indochina." (*Ibid.*)

"Boun Than [11 year old Lao boy] stepped on a bomb while taking a bath . . . One or two country people are brought to Luang Prabang hospital almost every day with wounds of bombs that did not go off when they were supposed to . . . It is easy to understand the villagers' complaints that they can no longer tend their bananas, plant hill rice, or let their children out to play freely." (Michael Morrow, DNSI, in *AmRep*, 1/21/72)

B. Cheeseburger Bomb

The power of the BLU–82/B "cheeseburger" or "Daisy cutter" bomb 'is surpassed only by that of a nuclear bomb." It weighs 7.5 tons, has an 11-foot length, 4.5 foot diameter, and is dropped by parachute from the huge C–130 aircraft. It produces a mushroom cloud that rises 6,000 feet in the air. (Westing, *Environment*, 11/71)

"The Daisy Cutter is, in the words of one military officer we met in Vietnam, 'a super bomb with a super punch.' MACV has been using these bombs on a steady basis for more than a year and a half now, apparently with no mention of them in the official daily, weekly, or monthly war news summaries. One senior Seventh Air Force officer explained to us, 'They have such a devastating effect that we hate to give them much publicity.' " (*Ibid.*)

More than 150 cheeseburger bombs were dropped in 1971. (*Post*, 12/28/71).

LAND-CLEARING OPERATIONS

A. Bulldozers: Land-clearing is accomplished with herbicides and 20-ton Caterpillar tractors with 2.5 ton, 11-foot wide "Rome Plow" blades and 14 tons of armor. The tractors have levelled over 750,000 acres so far and continue at the rate of 1,000 acres a day. This is "the most intense land-clearing program known to history." (Westing, *Environment*, 11/71).

B. Herbicides: 100 million pounds of herbicides have been sprayed on Vietnam. (*Impact of the Vietnam War*)—20 percent of South Vietnam's forest area has been sprayed. (*Bioscience*, 9/1/71).

Over 5 million acres, 12% of South Vietnam have been sprayed with defoliating chemicals. A Japan Science Council report (1967) claimed that "anti-crops attacks have ruined 3,800,000 acres of arable land in South Vietnam." (Stanford Biology Group, "The Destruction of Indochina").

"The AAAS Herbicide Assessment Commission that visited South Vietnam last summer concluded that an estimated 6.5 billion board feet of lumber and other forest products have been destroyed at an estimated loss exceeding $500 million. Enough rice and other crops to feed 600,000 persons for a year were ruined in the 9 years of spraying, and soil nutrients lost after spraying will not be restored for at least 20 years." (Pfeiffer, *Science*, 2/19/71).

"Herbicides can cause genetic damage. Within the last two years, there have been numerous reports of increasing birth abnormalities throughout South Vietnam, and photographs of grotesquely deformed babies have begun to appear in Vietnamese newspapers." (*The Indochina Story*, p. 114).

C. Napalm: "Today, black is the dominant color of the northern and eastern reaches of the Plain [of Jars]. Naplam is dropped regularly to burn off the grass and undergrowth that covers the Plain and fills its many narrow ravines. The fires seem to burn constantly, creating rectangles of black. (T. D. Allam, "Plain Facts," *Far Eastern Economic Review*, 1/18/72, p. 16).

FOREST DESTRUCTION

35% of South Vietnam's 14 million dense forest acres have been sprayed.

6 million board feet of lumber have been destroyed, equivalent to:

30 years of Vietnam's lumber supply
$500 million in tax revenue

Half the mangrove forests in South Vietnam are "totally destroyed." (Cornell study)

"Land destruction involves 80% of the timber forests and 10% of all the cultivated land in the nation [South Vietnam]." (Sen. Gaylord Nelson, press release, 1/29/72)

"Before the war, more than 25 million acres of South Vietnam were covered by forest, representing about 60 percent of the country's total area of 43 million acres. So far, the war has claimed at the very least 3 million acres of the forest cover. The herbicide program has accounted for somewhat more than a third of this, the bulldozing somewhat less than a third, and the bomb, rocket and shell craters (plus damage from other munitions) the remainder." (Westing, *Environment*, 11/71)

"Only We Can Prevent Forests." (Sign above Operation Ranch Hand headquarters, Tan Son Nhut Airbase, Saigon).

". . . On certain days aggressor aircraft in three formations sprayed toxic chemicals over this road . . . The fire, consuming the dry leaves, burned endlessly for more than one month. The fire burned the branches and sometimes a fire-engulfed branch fell down . . . I felt [the area] was desolate, boundless and wide open . . . around the control point there was no longer a green leaf or an undamaged tree trunk . . . All hills and mountains look like immense brown shoals and everything is brown, from high mountain crests to the bottoms of valleys . . . Resin from bombs was spread over the roadway. The burned resin was as black as buffalo excrement and the unburned resin looked like dried frog saliva . . . a gust of wind blew. Dust flew like smoke over the hills . . . When we first arrived, mango trees blossomed in January and February and chestnut trees blossomed in the rainy season. How fragrant it was! Today nothing remains, nothing other than the strong odor of the overturned soil." (Khanh Van, from 15-part series in Nhan Dan, reprinted in "Life Along the Ho Chi Minh Trail," by Robert Keatley, *Wall Street Journal*, 12/1/72)

WAR CRIMES

The air war violates international law in several respects. Among the most extensively documented violations is the continued bombing of unprotected villages and hospitals, augmented by our illegal failure to aid civilian bombing victims. Similarly, there is no question about the increasing use of outlawed anti-personnel weapons specifically designed to maim their victims. Another example involves the Geneva Convention prohibition of "forcible transfers" of civilians. American bombing in free fire zones (now called "specified strike zones") offers peasants the grim choice between evacuation and life under the constant threat of death. When guerrilla forces command the support or tolerance of an area's populace, the Air Force's unpublicized policy is to treat civilians as military targets. The air war and the resulting exodus of refugees have virtually destroyed whole societies such as the Meos of Laos and the Montagnards of Vietnam in apparent violation of the international Genocide Convention.

"The attack or bombardment, by whatever means, of towns, villages, dwelling, or buildings which are undefended is prohibited," (Hague Convention, 1907, Article 25)

"A military target is any person, thing, idea, entity or location selected for destruction, inactivation, or rendering nonusable with weapons which will reduce or destroy the will of the enemy to resist."

USAF manual, *Fundamentals of Aerospace Weapons Systems*)

"95 percent of the respondents indicated their village had been bombed, 49 percent could not count the number of times; 68

percent had seen someone injured and 61 percent had seen a person killed."

(United States Information Service survey of 20 refugees from the Plain of Jars, 1970)

"The Army Field Manual says that it is illegal to attack hospitals. We routinely bombed and shelled them. The destruction of Vietcong and North Vietnamese Army Hospitals in the South Vietnamese countryside was announced at daily press briefings, the Five O'Clock Follies, by American military spokesmen in Saigon."

(Neil Sheehan, "Should We Have War Crime Trials?" *NYT Book Review*. 3/28/71)

"The bombers used 500 pound bombs, CBU anti-personnel bombs and napalm for the destruction of hooches. It was not unusual to destroy villages. To my knowledge no requests for approval of destruction of villages were ever denied by higher authority."

(Veteran of 20th Tactical Air Support Squadron, 504th Tactical Air Support Group of 7th Air Force, quoted by Joe Nicholson, Jr., DNSI, 1/3/72)

"Persons taking no active part in the hostilities shall in all circumstances be treated humanely . . .

"To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever . . .:

"(A) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture." (Geneva Convention, 1949, Article 3)

"In August, 1969, the jets bombed. Nang Pha Sli, my daughter-in-law, was in a trench. A bomb landed nearby, killing her father and wounding her mother and two other villagers. She was killed, shielding her year-old baby with her body. Soldiers? Oh, they didn't come near the villages. They knew they'd be bombed.

(Plain of Jars refugee quoted by Fred Branfman in "The Era of the Blue Machine," *Chronicle*, 10/15/71)

"Reports from South Vietnam suggest that indiscriminate firing on civilians from helicopters is not an uncommon practice. In a letter to the *New York Times* (June 3, 1971), William J. Simon, an adviser to the People's Self-Defense Forces in the Mekong Delta region during 1970, wrote: '. . . it cannot be denied that individual commanders of helicopter assault units either encouraged their subordinates or turned their heads at the practice of shooting at whatever moved in many areas. Responsible military officers and civilian officials at the highest level constantly registered complaints of indiscriminate rocket fire from Bird Dog observation planes and "joyrides" by helicopter pilots that turned into massacres of peasants.' Veterans have also testified to similar practices they call 'mad minutes' during which everything that moves is fired at." (Cornell study, p. 2–15)

"The wounded and sick shall be collected and cared after." (Geneva Convention, 1949, Article 3, Sec. 2)

"The new American aid program for Cambodia contains no funds specifically marked for civilian medical relief." (Neil Sheehan, "Should We Have War Crime Trials?" *NYT Book Review*, 3/28/71)

"The consignment of Vietnamese civilian war wounded to provincial hospitals that were little better than charnel houses has been a national scandal for the United States. The reports of the Kennedy Subcommittee [on refugees] describe the scenes of two wounded to a bed, no sheets or mattresses, no showers, filthy toilets, open sewers and swarms of flies spreading infection. In contrast the United States military hospitals are models of modern science. Given the wide publicity the deplorable conditions in these Vietnamese civilian hospitals have received over the years, would it be possible for the responsible leaders of the United States to contend that the neglect was not deliberate?" (*Ibid.*)

"It is specifically forbidden— . . .

"(E) to employ arms, projectiles, or material calculated to cause unnecessary suffering." (Hague Convention, 1907. No. IV, Annex, Art. 23)

"Most of the victims of anti-personnel bombs are not killed, rather they are maimed. The pellets from anti-personnel bombs are designed to cause irregular and hard-to-cure wounds. This sreves two functions. First, it means that instead of a single man dead and withdrawn from military production, six to ten people (as well as facilities and supplies) must care for him. Secondly, the sufferings of badly wounded victims tend to have greater demoralizing effect on the remaining population than the dead." (NARMIC, *Weapons for Counterinsurgency*, 1/15/70)

"A recent model of the fragmentation bomblet uses plastic pellets and casings, rather than steel. The reason for this is that these pellets are 'invisible' to x-rays, so doctors canot find them to remove." (Honeywell Project, "Honeywell: Controllers of Peace, Masters of War," 1971)

The dragontooth mine "is purely anti-personnel. If a person steps on it, it could blow his foot off. If a truck rolls over it, it won't blow the tire." (Maj. Raymond Anderson, Tactical Div., Air Force Directorate of Operations, before the Senate Electronic Battlefield Subcommittee, 11/19/70)

"Finally, there are the incendiary weapons, the most famous being napalm. Developments in this area include new delivery systems to involve more people, and new incendiary agents which will not wash out of the flesh but will keep burning long after the attack." (CCAS, *The Indochina Story*, 1970)

"Individual and mass forcible transfers . . . are prohibited, regardless of the motive." (Geneva Convention-Civilians, 1949, Art. 49)

"In Laos, the Plain of Jars, once the home of approximately 150,000 persons, has been almost completely evacuated in the course of the little-publicized war there. In January, 1970 about half of the 30,000 Laotians still remaining there were evacuated in a CIA-directed project." (CCAS, *The Indochina Story*)

Plans are reportedly underway to move up to 330,000 refugees to new camps hundreds of miles away from their homes. The move is called voluntary. South Vietnam's Minister of State, Dr. Phan Quan Dan, said, "When the refugees are moved out of their camps, the Government can turn much of the land into a free-fire zone. Then it will be much easier to fight the Communists." (John Isaacs, *NYT*, 1/28/72)

"The contracting parties confirm that Genocide, whether committed in time of peace or in the war, is a crime under international law which they undertake to prevent and to punish." (Genocide Convention, 1949, Article 1)

"In the present convention, Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

"(a) Killing members of the group;

"(b) Causing serious bodily of mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part." (Genocide Convention, 1949, Article 2)

"Bombings were aimed at the systematic destruction of the material basis of the civilian society." (U.N. advisor Georges Chapelier, Plain of Jars: Social Changes Under Five Years of the Pathet Lao Administration")

The Plain of Jars held the first society in history to be completely destroyed by total, automated war." (*Chronicle*, 10/15/71)

The Americans are formulating, without appearing to do so, a demand which the Vietnamese cannot satisfy. They do offer an alternative: Declare you are beaten or we will bomb you back to the stone age. But the fact remains that the second term of this alternative is genocide . . .

"The genocidal intent is implicit in the facts. It is necessarily premeditated. Perhaps in bygone times, in the midst of tribal wars, acts of genocide were perpetrated on the spur of the moment in fits of passion. But the anti-guerrilla genocide which our times have produced requires organization, military bases, a structure of accomplices, budget appropriations. Therefore, its authors must meditate and plan out their act." (Jean Paul Sarte, "On Genocide," *Crimes of War*, Falk *et al.*, ed.)

"I remember asking one of the most senior American generals in the late summer of 1966 if he was not worried by all the civilian casualties that the bombing and shelling were causing. 'Yes, it is a problem,' he said, 'but it does deprive the enemy of the population, doesn't it?'" (Neil Sheehan, *NYT Book Review*, 3/28/71)

"U.S. Chief of Staff General Westmoreland could be convicted and hanged if the standards established after World War II were applied to his conduct of the war in Vietnam . . . By the same logic, the top civilian leaders of the U.S. could be convicted of the same offense." (Brig. Gen. Telford Taylor (ret.), chief U.S. prosecutor at Nuremberg, in *Nuremberg and Vietnam: An American Tragedy*)

GENERAL

"Is there any significant difference between killing a babe-in-arms by a bomb dropped from a high-flying aircraft, or by an infantryman's point-blank gunfire? . . . The by now voluminous reportorial literature on the Vietnamese war leaves little doubt that air strikes are routinely directed against hamlets and even single habitations . . . in reliance on information of varying reliability. Obviously, these tactics are a response to the nature of guerrilla warfare, and the difficulty of sifting out the 'enemy' in a society where there are many shades of inimical activity, and friend and foe are not readily distinguishable. Making full allowance for these difficulties, however, it is clear that such reprisal attacks are a flagrant violation of the Geneva Convention on Civilian Protection, which prohibits 'collective penalties' and 'reprisals against protected persons,' and equally in violation of the Rules of Land Warfare." (Telford Taylor, Chief U.S. Prosecutor at Nuremberg, in *Nuremberg and Vietnam*)

" 'In the mountains, just about anything that moves is considered to be V.C.,' an Air Force major told Jonathan Schell . . . And so, helicopters and small observation planes go 'squirrel-hunting' for individuals observed in the devastated areas, using machine-guns from the helicopters, and calling in air strikes—'sniping with bombs.' This is using the aircraft for the same purposes that the infantryman uses his gun, and the pilot ought to be held to the same standards of distinguishing combatants from non-combatants . . . this certainly is not the method of dealing with civilians suspected of hostile activity which is required by the laws of war, and is unlawful for the same reasons that the Son My killings were unlawful." (*Ibid.*)

"Other specific policies applied in South Vietnam are clearly open to question. These include the free-fire zones which would certainly have been roundly condemned by America if any other country has established them; these must be violations of the Geneva Convention.

"The use of bombing to produce refugees so as to create these free-fire zones seems an especially cruel 'deportation and other inhuman act' as referred to in the Nuremberg Principle.

"The widespread indiscriminate treatment of 'suspected' Viet Cong agents—a term applied to virtually everyone caught up in conflict—seems a thin effort to circumvent the Geneva Convention of 1949 ('Persons taking

no active part in the hostilities . . . shall in all circumstances be treated humanely').

"There have been widespread reports of torture (or handing prisoners over to the South Vietnamese for torture) which would seem to violate the Nuremberg Principles and the Geneva Convention.

"The general bombing of villages and hamlets would seem to violate the Hague Convention, Articles 25 and 26 on bombardment of undefended towns and unannounced assaults. And the use of anti-personnel weapons and napalm might well violate Article 23—the use of arms calculated to cause unnecessary suffering.

"In Laos especially, the use of bombing to dry up the 'sea' of peasants in which the Pathet Lao 'swim' would be, if proved, especially criminal by all three standards." (Federation of American Scientist Newsletter, 2/72)

THE SPIRIT OF RESISTANCE

The main reason for the military failures of the air war is the spirit of resistance of the Indochinese peoples.

The Indochinese peoples struggling against the Americans have an astonishingly uniform and strong belief in their cause. They believe that they are fighting a just war for freedom and independence from foreign domination; that just wars will be won; and that people are more important than weapons. They see the United States as an invader who has come from far away to destroy and kill and try to stop a social revolution. They believe that it is their duty to throw out the western intruders and their collaborators.

The air war, far from stemming this spirit of resistance, has intensified it. At first, a large portion of the population was simply shocked and confused by surprise bombings which occurred while they were tilling their fields or walking to market. Why would such "iron monsters" wish to annihilate them? Their confusion soon turned to anger and even hatred. The massive and indiscriminate bombing branded the Americans clearly as aggressors—with no further proof needed. A peasant's only choice was fight or join the aggressors and their collaborators.

Blanket bombing has also forced the Indochinese to be more self-reliant, more imaginative at the local level. They have mobilized resistance from the village upward, sharing supplies, repairing roads, creating medical facilities, and dispersing children and old people to safer locations. Where the bombing is heaviest, the people overcome the threat by living and working underground in caves. In northern Laos, for example, it is common to find factories, schools, and clinics complete with electricity, underground. In all areas subject to U.S. bombing there is a strict and well-rehearsed discipline that promotes cooperation and minimizes casualties.

The Indochinese have even found ways to utilize the debris of U.S. bombing. Pots and pans are made from napalm cannisters; oil lamps from defused pineapple bombs; rings, bracelets, combs and surgical tools from the wreckage of U.S. planes.

The Indochinese do more than passively resist the air war. There is a well-planned strategy to shoot down the war planes. Peasants throughout North Vietnam and the liberated zones have small arms which have taken a heavy toll of aircraft. The small arms fire forces the attacking planes to a higher level where they are vulnerable to antiaircraft artillery and surface-to-air missiles. Although such air defenses are primitive and ineffective by American standards, more than 1,500 U.S. war planes have been downed and hundreds of pilots captured.

Confident that just wars can be won, and that people are ultimately more important than weaponry, millions of Indochinese have joined the struggle. Aircraft are to be feared, without question, but human ingenuity is a powerful antidote when there is adequate organization and the will to prevail. Constant movement at night, willingness to undergo severe privation, the ability to judge risks and potential, unending patience, and a near-mystical faith in indigenous traditions and culture—these are what have rendered the bombers militarily ineffective in the long run.

Out of the battlefronts of Indochina, the war today is only partially one of ideologies and national interests. For those under the bombs, it is most immediately an epic struggle of the human spirit against a barbarous and unfeeling technology. So far the human spirit is winning.

William S. Turley, Center for Vietnamese Studies, Southern Illinois University, in *Indochina in Conflict*, 1971: "Political participation in the Democratic Republic of Vietnam . . . is extended to virtually all citizens . . . the people take part in political activities that affect their lives, such as publicly criticizing local party cadres, electing village leaders, deciding when to move to a higher stage of collectivization, coordinating the use of collectively owned tools, deciding whether to introduce a new local industry or not and how to contribute to militia training and recruitment . . . repeated exercise of a degree of political participation never allowed in the pre-Resistance Vietnamese village is fairly convincing to the poor peasant that the regime is just and its rule good."

Konrad Kellen, Rand corporation, in *Indochina in Conflict*, 1971: "Few NVA soldiers seem to regard themselves as Communists. They see themselves as defenders of their country against yet another western intruder who can be made to desist."

Ibid: "Prisoner interrogations have revealed that, despite some problems between (insurgent) soldiers and the population as a result of the long war, the bond between them has remained close enough to provide physical and emotional support to the soldiers. The explanation seems to be that despite the rigors of the war, the soldiers continue to treat the local population with respect and otherwise attractive behavior."

Ibid: "The North Vietnamese government is perhaps one of the most genuinely popular in the world today. The 20 million North Vietnamese like it there, find the system just and their labor rewarding."

Ho Chi Minh, *Vietnam Courier*, April 28, 1966: "They are . . . mistaken in thinking their bombs and bullets can shake the determination of our people."

Ibid: "The war of resistance against U.S. aggression may drag on. Our people may have to face new sacrifices of life and property. Whatever happens, we must keep firm our resolves to fight the U.S. aggressors until total victory."

Taylor's Briefing of Key Officials on the Situation in November 1964, Document No. 87, *NYT* Version of Pentagon Papers: "The ability of the Viet Cong continuously to rebuild their units and to make good their losses is one of the mysteries of this guerrilla war. We are aware of the recruiting methods by which local boys are inducted or compelled to join the Viet Cong ranks and have some general appreciation of the amount of infiltration personnel from the outside. Yet taking both of these sources into account, we still find no plausible explanation of the continued strength of the Viet-Cong if our data on Viet-Cong losses are even approximately correct. Not only do the Viet-Cong units have the recuperative powers of the phoenix, but they have an amazing ability to maintain morale. Only in rare cases have we found evidence of bad morale among Viet Cong prisoners or recorded in captured Viet Cong documents."

Dr. Pham Ngoc Thach, Minister of Health, DRV, *North Vietnamese Medicine Facing the Trial of War*, 1967: "It is a moving, and at the same time comforting spectacle to see the children, on hearing an air raid warning, calmly slip into their shelters. Moving, because of the daily threats to their lives, and comforting, because it shows that even kiddies have learned how to defend themselves."

Dan Southerland, Monitor, 3/14/70: "As the bombing increased, the Pathet Lao forces in the district started getting more volunteers, whose attitude was 'better to die a soldier than to stay home waiting for the airplanes to kill you' . . . the bombing tended to heighten the fighting spirit of the Pathet Lao."

DRV, Vietnam #144: "A new wave of bombs caused heavy damage to a stretch of road. That night, an important convoy was to pass. The road ought to be mended before dusk. On hearing this, the ten girls of the fourth squad then working a long distance away offered to do the job . . . and the fourth squad kept its pledge. But at 17:20 hours, as soon as the road was repaired, the bombers came again and one of the blockbusters obliterated the shelter where the ten girls were taking refuge. All the girls died a heroine's death just as they had fulfilled their mission.

"In memory of those who had fallen, the girls of the brigade retained their names in their squads and they worked twice as much to do the job of the deceased. 'One more basket of pebble, one more rock in the name of our ten girls.' This slogan was written everywhere at the road repair site, even on the road."

Arthur Dommen, *Conflict in Laos*: "It is well, in this age of guided missiles and computerized war games, to recall once again what makes men fight in the Philippines, or in Indochina. What makes youth in their teens, with sharpened bamboo spears and homemade revolvers, pit themselves against French tanks? What makes a squad of guerrillas who have lived for a week on a handful of rice a day brave machine-gun fire to assault a fortified outpost?

"The State Department's characterization of Ho Chi Minh as 'the mortal enemy of native independence in Indochina' did not quite ring true with young men and women who at this moment were defending their villages against French flame-throwers and napalm bombs. It is not difficult to see why."

Robert Keatley, *Wall Street Journal*, 12/1/71: "Earlier this year a North Vietnamese journalist named Khanh Van presented a remarkable account of life along [the Ho Chi Minh Trail] many truck trails. The account appeared as a 15-part series in Nhan Dan, Hanoi's official newspaper, and was presumably designed to rouse patriotic fervor back home . . . But it also tells more. It makes clear that trail workers are human beings—not just abstract targets for high-flying U.S. jets—and that they too can hurt and bleed. It tells of suffering and pain, seemingly endless hard work and constant danger. It reminds an American that the war is grim on both sides of the battlefield. And it prompts wonderment at the tenacity of Hanoi's forces, and questions of why they believe this unrelentingly militant road to political power is still so necessary . . . . the account makes clear that the men on the trail are not only mortals but, specifically, Vietnamese mortals—with a culture quite different from that of the attackers above."

Ibid.: "Elsewhere Mr. Van meets a soldier who recalls that his ninth grade teacher, a Miss Kim Chi, told his class: 'If ever you become soldiers, no matter in what armed branch you may be, you must maintain an imposing appearance and a romantic quality. . . . For instance, a signal combatant shows his imposing appearance by braving bomb smoke in order to reconnect the wire, and he has a romantic quality when he installs the wire on trees so that birds can perch on it and sing.' It's difficult to imagine GIs getting similar guidance."

George Smith, *P.O.W.: Two Years with the Vietcong:* "The bombing got more and more intense. First they were coming a

couple of times a week, then every morning, then twice a day, three times a day, sometimes all day long. . . . It really began to wear on me. Every day! Every day! I'd get up and try to eat my breakfast, and the first bomber would arrive before I'd finished. I became very nervous about the whole thing. . . . Every day was unnerving. Your adrenalin was constantly flowing. I could never figure out why they'd [Note: their NLF captors] construct a camp at ground zero of a bomb range, unless they felt that . . . nobody would ever suspect anybody of building a camp at the end of a dive path. On those terms I suppose it would be safe. It made me nervous as hell, but we never got hit . . .

"I talked with Little King. [Note: one of his NLF captors] He'd been with them about as long as I had. I asked him why he'd joined the NLF. He said that his family had been very poor, but that didn't prevent the Diem regime from coming and taking away every damned thing they had. He knew that his family was just one of many. . . . He felt that they were the people who should be in control of the country, that they were *his* people. He seemed very sincere. Nobody was forcing him to stay there. He was very pleased with the life he had taken up and was very definitely motivated to winning the war. . . . I regretted not knowing more about each of them. They'd never told us much about themselves, but then we'd never asked. We just lay on our beds feeling superior . . . Gradually I had changed. I had learned humility, I believe . . . I changed from my arrogance and nastiness to liking people, from my superiority to feeling that the Vietnamese were pretty good people. Some of the honest culture of an oppressed people must have worn off on me."

Fred Branfman, *Washington Monthly*, 7/71: "Interviews with Pathet Lao defectors indicate that far from breaking the enemy's will, the bombing strengthened it. 'Before, maybe only 20–30 percent of the young men would volunteer to join the Pathet Lao army," explains one defector. 'But by 1969, 90 percent and more wanted to join.' "

Former Pathet Lao soldier, interviewed at Sayaboury defector camp. Fred Branfman, *Liberation*, Spring, 1971: "I was once up on the Iron Mountain for four months . . . famous throughout Pathet Lao territory. . . . the mountain guarded the approach to the Plain of Jars. It was very important. We held it from 1964. The Americans did everything they could to get us off it. But they never could. We called it the Iron Mountain because the Americans bombed it so much. The whole top part had been leveled off. . . . It was really desolate up there. There were no civilians, no animals or livestock, just we soldiers sleeping in our bunkers. We even had to carry our food and water all the way up. Sometimes we would go for days without eating.

"Was I unhappy? Oh no. That was the happiest time of my life. You see, we knew we were protecting the people from the Americans.

"We were proud to be there.

"The planes came over all the time. We would crouch down low until they got close, then we would let loose. It was really a good feeling to be up there on the mountain, shooting at the airplanes.

"If they had only come to shoot me, I wouldn't have cared so much. After all, I was a soldier. Also, we had our methods for hiding and they rarely killed any of us.

"But they had been trying to kill all the villagers in our region for years. The villagers are just farmers, they just grow rice. They didn't do anything against those pilots. I am a Lao man. Those villagers are Lao, my people.

"I wasn't afraid of the planes at all . . . when they came low we would shoot them down. When they stayed up high, they could not do so very much damage because they didn't know where we were.

"The man who pilots the plane is a man just like me. He eats food just like me. He has a brain just like me. If he comes to shoot me, I will shoot back.

"I wasn't afraid.

"He is only another human being, just like me. . . ."

RESOURCES

Groups

Following is a list of groups from which materials can be obtained:

American Friends Service Committee (AFCS), 160 N. 15th St., Phila., Pa. 19102.

American Report Radio (ARB), 133 Mass. Ave. N.W., Rm 101, Washington, D.C. 20005.

Campaign to End the Air War, 339 Lafayette St., NYC 10012.

Center for the Study of Power and Peace (CSPP), 110 Maryland Ave., N.E., Washington, D.C.

Clergy and Laymen Concerned (CALC), 627 West 125th St., NYC 10007.

Community Video Center (CVC), 1411 K St., N.W., Washington, D.C.

Computer People for Peace (CPC), The Dolphin Center, 137 A West 14th St., NYC 10011.

Congressional Hearings (CH). Free upon request to appropriate committee. Also obtainable through local Congressman or Senator.

Congressional Record (CR). Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Dispatch News Service International (DNSI), 1826 R St., N.W., Washington, D.C. 20009.

Earth Magazine (E), The Agricultural Building, Embarcadero at Mission, S.F., Ca. 94105.

Earthlight Video (EV), 354 Broadway, Cambridge, Mass. 02139.

Glad Day Press (GDP), 308 Stewart Ave., Ithaca, N.Y. 14850.

Honeywell Project (HP), 529 Cedar Ave. South, Minneapolis, Minn. 55401.

Indochina Resource Center (IRC), 1322 18th St., N.W., Washington, D.C. 20036.

Liberation (L) 339 Lafayette St., NYC 10012.

National Action Research on the Military Industrial Complex (NARMIC), 160 North 15th St., Phila., Pa 19102.

National Council of Churches, Office of Resource Studies (NCC), 475 Riverside Drive, NYC 10027.

New England Free Press (NEFP), 791 Tremount St., Boston, Mass. 02110.

New Hampshire Peace Action Coalition (NHPAC), 28 Profile Ave., Portsmouth, New Hampshire.

Non Violent Action (NVA), 2143 Market St., San Diego, Calif. 92102.

Pacific Studies Center (PSC), 1963 University Ave. East, Palo Alto, Calif. 94303.

Project Air War (PAW), 1322 18th St., Washington, D.C. 20036.

Ramparts (R), 2054 University Ave., Berkeley, Calif. 94704.

Raytheon Project-University Christian Movement (RP–UCM), 474 Center St., Newton, Mass., 02158.

St. Louis Project (SLP), 4372 Westminster Place, St. Louis, Mo. 63108.

Stanford Biology Study Group (SBSG), Box 3724, Stanford Calif. 94305.

Unsell (U), 637 West 125th St., NYC 10007.

War Resisters League (WRL), 339 Lafayette St., NYC 10012.

West Coast Video Project—Cosmic Productions (WCVP–CP), c/o Ed Rasen, 9 Sutter St., #300, S.F., CA 94704.

ARTICLES AND REPRINTS

Abbreviations below refer to resource groups listed on page 45.

Another Mother for Peace. "Automated Battlefield Producers and their Consumer Products". (NARMIC) 10 cents.

Branfman, Fred. "The Era of the Blue Machine". *Washington Monthly*, 7/71. Excellent overview of the air war. Pamphlet illustrated with drawings depicting the bombing by Laotian refugees. (PAW) 20 cents, 15 cents—10 or more, 10 cents bulk.

Branfman, Fred. "The New Totalitarianism". *Liberation*, Spring, 1971, 4 page glossy. Shorter, more general than "Blue Machine". (PAW) 15 cents, 5 cents bulk.

Branfman, Fred. "Life Under the Bombs". Collection of articles from *American Report* based on interviews with Lao refugees. Electrostencilled. (PAW) 15 cents, 5 cents bulk.

Branfman, Fred. "A Visit to a Refugee Camp". *Liberation*, Spring, 1971. Electrostencilled. (PAW) 5 cents, 3 cents bulk.

Branfman, Fred. "A Lake of Blood". *New York Times* Op Ed Page, 4/7/71. Electrostencilled. Air war in Laos and civilian casualties. (PAW) 5 cents, 2 cents in bulk.

Branfman, Fred. "Laos No Place to Hide". *Bulletin of Concerned Asian Scholars*, Fall, 1971. 30 page essay emphasizing air war in Laos. (PAW) 35 cents.

Branfman, Fred. "Air War Laos". *Boston Globe*, 1/26/70. Pamphlet emphasizing CIA role in targetting and air war policy decisions. (PAW) 20 cents, 10 cents in bulk.

Browning, Frank and Garrett, Banning. *Ramparts*, 5/71. "The New Opium War". The role of VANAF, RLAF, and the CIA's private airlines in transporting the opium harvest in Southeast Asia. (R) $1 back issue, 40 cents bulk.

Center for the Study of Power and Peace. "Air War in Indochina Fact Sheet". 12/71. 4 page glossy. (CSPP) 20 cents, bulk rates on request.

Clergy and Laymen Concerned. "Air War Fact Sheet". January, 1972. 4-page basic primer, including such items as definitions of "tactical air strike", "sortie", etc. (CALC).

Chomsky, Noam. "Destroying Laos". *N.Y. Review of Books*. Incisive presentation of the war in Laos and the role of air power. (GDP) 25 cents.

Committee of Responsibility. "They Survived: Sample Case Histories of Victims of American Bombing in Laos". Contains 16 case histories; photos. (PAW) 20 cents, 15 cents in bulk.

Computer People for Peace. "The Technological Warlords". Specifically IBM, Litton and Honeywell; their air war electronic battlefield contracts. (CPP).

Decornoy, Jacques. "Laos The Forgotten War". *Le Monde*, 7/68. One of the few Western eyewitness accounts of the destruction and ongoing life under the bombs within guerrilla controlled zones, by a Southeast Asia Desk Editor of *Le Monde*. (NEFP) 15 cents.

Dickson, Paul and Rothchild, John. "The Electronic Battlefield—Wiring Down the War". *Washington Monthly*, 5/71. (NARMIC) 10 cents.

Haseltine, William. "The Automated Air War". *New Republic*, 10/16/71. 4 page glossy. (NARMIC) 10 cents.

Honeywell Project, "A Practical Guide to the Honeywell Business World". Honeywell's air war production: anti-personnel weapons and general input into the electronic battlefield. Entire packet of materials also available. (HP)

Indochina Resource Center. *"Indochina Chronicle #6 and #7."* Booklet containing Branfman's "Blue Machine" and "The Air Force's Secret Electronic War" by George Weiss. The latter being a pro-war account from a military magazine. Also a 2 page fact sheet. (IRC).

Indochina Resource Center. "Summary of the Cornell Air War Study". Fall, 1971. An excellent 8 page overview and statistical summary. (IRC) 20 cents, 15 cents—10 or more, 10 cents bulk.

Morgan, Terry. "Bombing Aircraft of the U.S.". Arco Publishing Company, 1968.

McReynolds, Dave. "The Banality of Evil". *WRL News*, Jan–Feb 1972. 1 page. (WRL).

National Peace Literature Service. "War Crimes Bibliography and Comment". Includes Neil Sheehan's "Should We Have War Crimes Trials?" (AFSC).

NARMIC. "Ho Chi Minh Trail—Two Viewpoints". Contains 2 articles, one from a military journal and one distilled from North Vietnamese accounts of the Trail bombing. (NARMIC) 10 cents.

NARMIC. "Summary of NARMIC Background Report on the Automated Battlefield". 20 page glossy detailed overview of the automated war. No photographs. (NAR MIC).

NARMIC. "Corporate Complicity Packet". Includes such items as: "The Components and Manufacturers of the Electronic Battlefield," Aug., 1971, 10 cents; "Information on Researching Local War Industries," 10 cents; "The Pentagon's Top 100 Contractors, FY 1971"; "Movement Guide to Stockholder's Meetings," 50 cents; a list of local war contracts awarded in your community, county, and state, $3 per county.

NARMIC. "Weapons for Counterinsurgency". Excellent 100 page booklet, well illustrated, including listing of corporations involved in weapons production. Unfortunately, currently out of print.

NARMIC. "Domestic Electronic Battlefield". Includes "War Toys for Adults". Barkan. *New Republic*. and "Science Fiction—or Tomorrow's U.S.?" Pacific News Service. 5 cents ea.

Nicholson, Joseph. "Bombing of Lao Villages Revealed". 25 page well documented article. (DNSI) 50 cents, bulk rates available.

Raytheon Project-University Christian Movement. "Raytheon Company—Heart of the Massachusetts Military Industrial Complex". (RP–UCM).

Robinson, Chris. "Electronic Battlefield". List of manufacturers of the components of the electronic battlefield.

Scott, Peter Dale. 'Air America Flying the U.S. into Laos". *Ramparts*, 2/70. Expose on the CIA's private enterprise air force. (NEFP) 10 cents.

Schell, Orville. "Better Killing Through Electronics". *Earth Magazine*, April, 1972. Excellent. Entire magazine is useful. (EARTH) 75 cents.

Schell, Orville. "Electronic Weapons Replace U.S. Troops as Killing Continues". *American Report*, 9/27/71. One page with WSP ITT boycott information on back. (NARMIC).

Siegel, Lenny. "Vietnam's Electronic Battlefield". Good overview. (PSC).

Stanford Biology Study Group. "The Destruction of Indochina: A Legacy of Our Presence". 9/10/71. (SBSG) 24 cents, 20 cents—21 or more, 15 cents—100 or more.

Van Dyke, John. "Prisoners of War in Vietnam". (GDP). 25 cents.

Vietnam Veterans Against the War, Inc. "Winter Soldier Investigation". *Liberation*, Spring, 1971. Entire *Liberation* issue very useful. (L) 75 cents back issue price.

Watson, Will. "Attack Carrier: The Constellation Papers". (NVA).

Westing, Arthur and Pfeiffer, E. W. "Land War". *Environment*, March 1971. Excellent booklet on the ecological effects of the bombing, well illustrated. (IRC) 25 cents, 20 cents—10 or more, 15 cents bulk.

SUBCOMMITTEE REPORTS

A) Senate Subcommittee to Investigate Problems Connected with Refugees and Escapees:

May 7, 1970 Hearings;

September, 1970 Staff Report;

April, 1971 Hearings;

July, 1971 Hearings.

Very useful background material on the bombing's generation of refugees and responsibility for civilian casualties. Extremely valuable appendices ranging from dozens of selected press articles to official government documents. The material is surprisingly readable.

B) Senate Foreign Relations Committee:

Impact of the Vietnam War, June, 1971;

"Hearings on Chemical and Biological Warfare," 1969.

Excellent summary of war statistics including refugees, cost, etc. in *Impact of the Vietnam War*.

C) Senate Subcommittee on United States Security Agreements and Commitments Abroad of the Committee on Foreign Relations:

October, 1969 Hearings on Laos;

April, 1971 Staff Report on Laos.

Very useful material. Especially effective in revealing Congress' lack of involvement in the decision-making process surrounding the air war. Also useful for indexing the dimensions of the air war.

D) Preparedness Investigating Subcommittee of the Armed Services Committee:

Air War Hearings, 1967;

Tactical Air Hearings, 1968.

The 1967 hearings contain some useful documentation of the bombing's ineffectiveness. Best source for North Vietnam air war failure, though, is the Pentagon Papers.

E) Electronic Battlefield Subcommittee of the Preparedness Investigating Subcommittee of the Committee on Armed Services, U.S. Senate: November, 1970 Hearings.

Though highly censored, some useful information on the automated battlefield.

F) DoD Appropriation Committee, U.S. Senate: Hearings, FY 1972.

CONGRESSIONAL RECORD

October 5, 1971: Senate debate surrounding the Gravel amendment to limit the bombing in Indochina. (S15874–82, *CR*, 25 cents)

October 4, 1971: Senate debate surrounding military spending in Laos. (S15762–82, *CR*, 25 cents)

July 12, 1971 (H6540–63) and July 13, 1971 (H6672–78): Congressman McCloskey vs. Congressman Gubser. House debate over the nature of the American air war and specifically the degree of civilian casualties in Laos. Excellent posing of the issues. (*CR*, 25 cents)

BOOKS

Branfman, Fred (ed.). *Voices from the Plain of Jars*. Harper and Row, to be published Spring, 1972. A collection of drawings and essays by Lao refugees, describing life under years of American bombardment. Introductory essay by Branfman analyzes American bombing policy.

Broughton, Colonel Jack. *Thud Ridge*. Lippincott Company, 1969. A pro-war bomber pilot's account. Some insights into day-to-day operations and the minds of the men involved.

CCAS. *The Indochina Story*. Bantam, 1970. Excellent background. Explores war crimes, chemical and biological warfare, antipersonnel weapons, and political context.

Cornell University Center for International Studies. *The Air War in Indochina*. 200 pages. The most comprehensive and current analysis of the air war. First edition is completely exhausted. A second edition will go to press this spring. Contact the Indochina Resource Center.

Council on Economic Priorities. *Efficiency in Death: The Manufacturing of Anti-personnel Weapons*. Harper and Row, 1970. $1.50. Excellent.

Harvey, Frank. *Air War: Vietnam*. Bantam, 1967. 75 cents. Somewhat dated; readable, simple.

Klaire, Mike. *War Without End*. Random House, to be published Spring, 1972. Discusses the planning and technology of future American counterinsurgency efforts.

Luce, Don, *et al. We Promise One Another: Poems from an Asian War*. Approx. 100 poems. $2 or $1.20 in bulk. (IRC)

Neilands, J. B., *et al. Harvest of Death: Chemical Warfare in Vietnam and Cambodia*. Foreword by Gunnar Myrdal. The Free Press, 1972. The most comprehensive and objective study of American use of herbicides and toxic gases.

Schell, Jonathan. *The Military Half*. Vintage, 1968. $1.65. Somewhat dated but good background. A personal account of the destruction caused by the bombing.

Smith, George. *Two Years with the Vietcong*. Ramparts Press, 1971.

Taylor, Telford. *Nuremberg and Vietnam: An American Tragedy*. Quadrangle. An indictment by the Chief U.S. Prosecutor at Nuremberg.

OTHER

Slide shows

The NARMIC Slide Show on the Automated Air War. Excellent. 140 slides, with numbered script carefully footnoted. Running time 35 minutes. $50 plus $5 shipping and handling. Can be rented from the Indochina Resource Center at $15 for three days.

Air War Slide Show. From the New Hampshire Peace Action Coalition. 150 slides and tape soundtrack. Well done.

Films

"U.S. Technique in Genocide in Vietnam". Made in North Vietnam by the Commission on War Crimes. Depicts anti-personnel weapons and their effects. 20 minutes. B.W. $25 for a 3 day rental. $60 purchase. Add $5 for shipping and handling. (IRC)

"Chemical Warfare". Made in North Vietnam. Depicts the extent of use and effects of herbicides and CS gas. 30 minutes. B&W. $25 for a 3 day rental. $60 purchase. $5 shipping and handling. 1971. (IRC)

"The Big Bomb" DoD film. 5 minutes. Color, 16mm. Depicts the effects of the 7½ ton Cheeseburger bomb. $10 rental, $25 purchase. Add $5 for shipping and handling. (IRC)

Film depicting interviews with the workers laid off from McDonnel-Douglas—the contractors for the F–4. Includes footage of aerial destruction in Southeast Asia. 27 minutes. B&W. $30 rental, $200 purchase. (SLP)

Video tapes

Boston Winter Soldier Hearings. (EV) Overview—60 minutes. The Electronic Battlefield—60 minutes. The Air War—30 minutes Half-inch video tape in the Sony AV or CV format. $54 per hour, $30 per ½ hour, rentals somewhat less.

Fred Branfman Air War Talk. With pictures and other visual effects. 30 minutes. $30 purchase. Rentals possible for less. (CVC)

Honeywell War Crimes Hearings. (HP) 50 minutes. Rent approx. $20. $50 purchase. (flexible)

Indochinese War. Available Spring '72. Approx. 25 minutes. Possibly to be made into a film. (WCVPCP)

Radio spots

Approx. 10 short talks. Speakers include Fred Branfman—Journalist who interviewed over 1,000 refugees fleeing American bombing, Randy Floyd—former Marine bomber pilot who flew missions over North Vietnam, and air war humorist John Henry Falk. (ARR) Free

Anti-air war advertising

Unsell

Buttons and posters

Campaign to End the Air War

Military-industrial air force trade journals

Aviation Week and Space Technology (P.O. Box 503, Hightstown, N.J.)

Air Force Times (475 School Street, S.W., Washington D.C. 20024)

Air Force Magazine (Air Force Association, Suite 400, 1750 Penn. Avenue, Washington D.C. 20006)

Pentagon

The DoD can be called directly for certain informational requests such as the most recent tonnage statistics, etc. (202) 697-2873

CAPTIONS FROM BOOKLET

EC-121 are used throughout Indochina to relay the signals sent by the ground sensors. Other aircraft are used in this phase of the air war, including "drone" aircraft which require no pilot or air crew. These aircraft relay the signals to giant computer systems on the ground.

Thousands of sensors, such as those in this photograph, are planted throughout all of Indochina. The vibrations transmitted by the walking of a man or an animal are enough to cause the sensor to send a signal to an airborne relay station.

The IBM 360 computer system takes the information from the relay aircraft and the ground sensor, and integrates it with information stored in the memory bank. An image of the sensor net is displayed on a cathode tube [similar to television], and an Air Force officer monitors the sensor net. The computer prints a read out that is sent immediately to the command center.

Fighter-bombers, alerted by the command center, are dispatched to the area of the sensor signal. Guided by the computer read outs, the area is located without any effort on the part of the pilot, and the bomb load is dropped on the location designated by the computers.

Among the bombs used in Indochina are Cluster Bomb Units, large "mother bombs" loaded with hundreds of smaller bomblets. As the "mother bomb" casing breaks, the smaller bomblets tumble to the earth. Each of the "mother bombs" can carry as many as 500 smaller bomblets. Each of the smaller bomblets is loaded with hundreds of ball bearing shaped pellets.

As the bomblets fall through the air, the rotation causes the fuse inside the bomblet to arm. The guava bomblets [left] use three different types of fuses. One fuse will cause the bomblet to explode on contact with the ground. The second fuse has a time delay device in the fuse, allowing it to rest on the ground undetonated. The third fuse will explode the bomblet in the air, throwing ball bearing pellets in a 360° pattern for 60 meters. The 360° pattern makes anything above ground, or in holes and caves, a target.

The U.S. Air Force has defoliated an area of South Vietnam equal to the size of Massachusetts. The first regrowth is usually bamboo, which provides excellent cover for guerrilla actions; the program was recently terminated.

Laser and teleguided bombs, called "smart" bombs, can be directed to a target by the pilot that drops them. These bombs are accurate within six feet of a target when dropped from an altitude of four miles.

The pineapple [left] and the guava [right] both contain steel ball bearing like pellets that are useless against structures but can kill or wound a human being.

The majority of bombs dropped on Indochina have been dropped since President Nixon took office in 1969.

Other types of ordnance dropped on Indochina include incendiary bombs (napalm, thermite, white phosphorus and a combination of all three, NPT) and high explosive bombs (ranging in size from 250 pounds to the giant 15,000 pound "Commando Vault" or "Cheeseberger" bomb).

An A1-E attack aircraft drops a white phosphorus ("Willie Peter") bomb on a night mission. The pilot releases the bomb while traveling at a speed of several hundred miles per hour.

High explosive 750 pound bombs are dropped at altitudes of up to 35,000 feet [by B-52s] or as low as 3,000 feet [fighter-bombers].

The XM-41E "gravel mine" is used as an area denial weapon. The mine is dropped in the same fashion as other CBU bomblets, but it has no specific target. The mine rests on the ground until a person or animal steps on it or attempts to pick it up.

CBUs such as this BLU-66 contain flechettes instead of the ball bearing pellets. A flechette is a one-inch barbed nail, resembling a miniature arrow. When a flechette enters the body, its fins lacerate the muscle tissue and body organs. Flechettes usually lodge in a blood vessel.

The "dragontooth" (MK-36 system) is similar to the gravel mine in purpose and operation. It is dropped by the thousands over a target area and remains inactive until disturbed. Neither it nor the gravel mine has the power to destroy a truck tire, but will blow off a human foot if stepped on.

THE ONGOING CIVILIAN TOLL (AS OF AUGUST 1971)

	South Vietnam [1]	Laos [2]	Cambodia	Total
Killed	335,000	100,000	([3])	450,000
Wounded	740,000	250,000	([3])	1,000,000
Refugees	5,695,300	1,000,000	1,600,000	8,295,300
Total	6,770,300	1,350,000	1,600,000	9,755,300

[1] Kennedy Subcommittee on Refugees.
[2] Project Air War.
[3] Tens of thousands.

Note: Killed, wounded, and refugeed under Johnson (1964-68) 5,655,300; monthly civilian toll under Johnson (1964-68), 95,000; killed, wounded, and refugeed under Nixon (1969 to August 1971), 4,100,000+; monthly civilian toll under Nixon (1969 to August 1971), 130,000.

BUDGET DISTRIBUTION, BY SYSTEMS

[In millions of dollars]

	Fiscal years—					5-year total
	1967	1968	1969	1970	1971	
Conventional barrier system	15.6	16.9	2.3	.3	4.3	39.4
Air-supported system	137.4	182.4	175.6	92.4	181.8	706.6
Ground tactical system		12.1	174.2	81.1	128.8	396.2
Munitions [1]	177.0	212.6	59.6	39.2	50.0	538.4
Total	330.0	424.0	411.7	213.0	301.9	1,680.6

[1] Associated with air-supported system.

Source: Cost of sensor program from hearings before the Electronic Battlefield Subcommittee, U.S. Senate, November 1970.

I myself studied in this school many years ago. But then it came to the year 1967, and the school was struck by the airplanes until it was level. Nothing was left. Many planes had shot around it. It made us lack for a school in which to learn our lessons. Author: Lao man, age 23.

One friend of mine went to the village to get rice for his mother and father to eat. . . . He crossed the field to the hill and the airplanes saw him and shot and killed him so that you couldn't even find his body. It was scattered all over the field. Author: Lao child, age 12.

The person in this picture was hit by napalm and burned. . . . If someone is hit by napalm, you can't go to help him. If someone went to help, he also would catch on fire. I thought about this when I was in the hills: in our lives now we didn't know which day we would be troubled or which day we would die. Every day we just stayed in the holes in the forest without seeing sunlight. Author: Lao child, age 12.

In my village there was one man who was 22 years old. He went to graze his buffalo in the forest. The airplanes dropped bombs and killed the buffalo. He ran away from that place, but not in time. He was hit in the waist—cut right in two. For two days you could see him like that. Author: Lao man, age 22.

There was a wat on the hill right next to my village. The airplanes shot it and started a fire. Two monks were killed there together. On account of the war. The planes thought that there were soldiers in the wat, so they shot it. But there weren't any. Only the monks died. Author: Lao man, age 29.

Three jets came, dropping bombs. . . . We went to count the bombs and the holes of the bombs that had fallen on the wat and found that there were 28. Any many bullets which had also hit. The wat was lost completely. . . . After that, we didn't know if we should build another wat. If we built again, we were afraid it would be bombed again. Author: Lao man, age 69.

My village was hit often by bombs from airplanes and anti-personnel bombs. My house was hit and I lost everything. I knew the war and was very afraid. But I could not flee. Author: Lao school teacher, age 22.

But truly at that time there were many dangers. Like when the planes dropped bombs and napalm burned the village and people died. Some people ran into the holes and were hit. No one had the courage to help the people who were hit by napalm. They just screamed until the end, and died. I am overcome with pity and my tears fall. I do not lose the thoughts of those people who lost their lives. That is when we had to flee our villages. Author: unknown.

This was another occasion of lakes of blood from the war planes' coming. These people were going together into the cave, but at that moment a bomb came without any knowledge of its having been dropped. . . . Anyone who knows these things is filled with pity or empathy by the hundreds. Author: Lao artist, age 20.

Sao Toun's Mother: Sao Toun was one of my two daughters. She was 12 years old. One morning, about 10 a.m., in July 1969, a group of "T" planes came over our village. Sao Toun was hiding in a trench. But when she heard the noise of the plane she became afraid. She jumped out of the trench and began running. Then the planes dropped their bombs and she was killed. I only have one other daughter left. I . . . I . . . I . . .

(N.B. The interview could not be continued as Sao Toun's mother broke into tears.)

Nang Khammaa's Mother: Nang Khammaa was 20 years old. She was married and had two children. One day in June, 1968, about 5 p.m., Nang Khammaa went out to fetch our buffalo. Suddenly she heard the jets coming. She dropped to the ground and began trying to crawl back into a trench about 10 meters away. But before she could make it a bomb fell near her and she died from the explosion. The bombs were dropped by American jets. I don't know where the two children are now. Perhaps they are with their father on the other side.

Sao Doummaa's Mother: Sao Doummaa was my youngest daughter, the one I loved the most. She was 25, married, and had 2 children. One day in June, 1969 we were in our shelter when the planes came over. Sao Doummaa was nursing her 7-month-old. She jumped up to try to make it to a trench. But she was hit at the door by the bombs, and fell to the ground crushing her baby beneath her. . . . One other thing. This is a wedding photo of my daughter. She was 18. It's all I have to remember her by. I want to make a copy for her husband. Could you help me?

A Mother: I lost two daughters in a bombing raid in August, 1969. They were in a shelter a few hundred meters outside the village. The jets came overhead and dropped their bombs all around us, about 11 a.m. Some of the fragments from a bomb hit one of my daughters, aged 9, in the head. Other fragments hit another of my daughters, aged 4, in the side. They both died soon after.

Neighbors: This is a 13-year-old novice monk. He is from Ban Na O. He was playing around near his home about 5 p.m. one day in 1968. Suddenly planes came over and dropped napalm. He was burned.

Village Chief: This girl is 3 years old. In March, 1969, jets came over our village. This girl was being carried by her 9-year-old sister. It was about 9 a.m. The jets came over suddenly. The older sister began running for a trench carrying her little sister. But she didn't make it. A big bomb exploded and the little girl was hit by the fragments. She was wounded in her chest, stomach and abdomen.

Thao Siphan's Father: This is my son, Thao Siphan. He is six years old. He lost the fingers of his hand in a jet bombing raid on July 1, 1969. We were hiding in a shelter out in the forest. The jets, four of them, bombed about 11 a.m., dropping 24 bombs. Some of the bombs fell nearby and my son was hit, together with four others. Two of them were wounded. And two, a 56-year-old man, and a 7-year-old girl, were killed. My son is still terribly scared of Americans. He's afraid they'll hurt him again.

Mr. GRAVEL. Mr. President, I also ask unanimous consent to have printed in the RECORD an article published in today's Washington Post entitled "Five Saigon Defense Aides Fired After Probe of Soldiers' Fund"—which is on the point I made earlier.

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

FIVE SAIGON DEFENSE AIDES FIRED AFTER PROBE OF SOLDIERS' FUND

(By Peter Osnos)

SAIGON, March 23.—South Vietnam's Minister of Defense, Nguyen Van Vy, has submitted his resignation and five of his closest aides have been fired in a potential scandal involving the possible misuse of millions of dollars in a servicemen's fund.

The five officials—four colonels and a civilian—were the administrators of the Mutual Aid and Savings Fund for Soldiers, which draws 25 cent involuntary allotments from each soldier's paycheck.

The fund, established after the Tet offensive in 1968, has a total value approaching $10 million.

Vy himself has not been accused of any wrongdoing, but informed Vietnamese sources said he offered his resignation to President Nguyen Van Thieu at a meeting this morning after learning that his subordinates had been sacked.

It was not clear tonight whether the resignation will be accepted. Vy has been Defense Minister since Nov. 9, 1967.

No specific charges have been filed against the five Defense Ministry officials, but they have been subjected to bitter criticism recently in the local press, including an official army newspaper, for their handling of the fund.

The Mutual Aid and Savings Fund for Soldiers is intended to benefit the low-paid soldiers by putting their money to work in businesses and a bank controlled by the army as well as investing it in private business and financial institutions.

The fund has established a Bank of Industry and Commerce, which is to be housed in an impressive skyscraper under construction in downtown Saigon and has invested in, among other things, construction and canning companies.

Plans are for the returns to be used in social welfare programs for the families of the 1 million men in uniform and provide them with a sum of money if the soldiers are killed, disabled or discharged.

In addition, the investments are supposed to stimulate sluggish Vietnamese industry and eventually provide the jobs that will be necessary when the war ends and hundreds of thousands of men are demobilized.

"Basically it's a good idea," commented an official at the American embassy. "The Vietnamese are anxious to get the economy out of the hands of the local Chinese and remember, a lot of these officers would be in business if it weren't for the war."

Thus far, however, the soldiers complain they have not benefitted from the fund although some money—it is not known how much—has been distributed to orphans, widows and the severely disabled.

For the most part, the soldiers asserted through the press, their monthly contributions have been used to bring profits to a small number of people that manage the investments.

The soldiers also claim that they have no say in how their money is being used.

For example, they say they are not getting the best interest rate available from the banks. Last year interest for the soldiers was 10 per cent, compared to the 20 per cent offered depositors at commercial banks.

Even this money is not available to the soldiers until they are released from the army and so long as the fighting goes on few of them will be unless they are badly wounded.

"Soldiers are told they will share the profits," one Vietnamese journalist wrote tonight, "but up to now they have not done so."

The complaints have become so insistent that Vice President Tran Van Huong, who is conducting the Saigon government's latest anti-corruption drive, earlier this month ordered the mandatory contributions suspended pending the outcome of the investigation.

One suggestion made by American officials, who acknowledge they are not fully informed on the situation, in that the sacking of the defense ministry officials are related more to differences in policy than to direct evidence of graft.

"These fellows may just have been moving too slowly in getting the money turned around," one source said.

Beyond the question of how the fund is being handled is the issue of whether the military should be involved in business at all. Some critics have said that the army already plays too large a role in Vietnamese life without taking a growing part in the economy.

Mr. GRAVEL. Mr. President, it is clear that we do not have to be privy to Pentagon documents or secrets. Just read the daily newspapers, such as this article by Peter Osnos. The five Saigon defense aides were fired after a probe of a soldier's fund, which shows the corruption that exists within the Army of South Vietnam, corruption which is in a sense caused by the American taxpayers, because they pay this money.

Mr. President, let me close by mentioning that the bill which has just been introduced will also be introduced in the House today, concurrently with this one, by 30 or more Representatives who are joining us in this effort.

As a result of the rules of the Senate of this parliamentary body, 34 Senators could stop this war.

Mr. President, from the feasibility point of view, the war could be ended if 34 Members of this body chose to end the war.

As was so ably stated by my colleague from Minnesota, Mr. MONDALE, what is going on is carnage, a carnage in a proportion that some of us find difficult to believe and difficult to see why it is not understood by the leadership of this country and something done about it. This body could do it. A minority of this body could do it. I hope that this piece of legislation introduced today will discipline, in this election year, all of those seeking office. So often, in the course of 2-year, 4-year, or 6-year term, actions take place and people vote on something, and there is no accountability because the election is far distant. This piece of legislation will be here to act as a tool of accountability.

I hope that those Americans throughout the country who are concerned about the immorality of the collective action of this Nation will attend political meetings wherever there is a politician or wherever there is a candidate, and ask them this very simple question, "Do you want to end the war?" Put aside the rhetoric of presidential power. Put aside the rhetoric of convenience. Put aside the rhetoric of ego and put aside the platitudes and pontifications. Ask them the very simple question, "Do you want to end the war?"

If we do want to end the war, then we have got a chance in this piece of legislation to do it.

Ask them, "How do you stand?" If the candidate does not stand for ending the war as provided by this simple and clear proposal, then I would hope that those Americans who do choose to end the war will not vote for those individuals, because they do not deserve to occupy a high position in the government of this country.

By Mr. ALLOTT (for himself, Mr. STAFFORD, Mr. TOWER, and Mr. CRANSTON):

S. 3410. A bill to amend chapter 5, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes. Referred to the Committee on Armed Services.

UNIFORMED SERVICES SPECIAL PAY ACT OF 1972

Mr. ALLOTT. Mr. President, 9 months ago we were involved in a divisive debate about what was at that time an unpleasant necessity—the conscription of young American men into the armed services. One year from now we may be on the brink of another such divisive debate.

I hope that can be avoided. I think it can be, if we act sensibly now.

If we act now to anticipate and solve the problems of transition to an all-volunteer Armed Force, there is a good chance that we can end the draft when the current draft law expires June 30, 1973. For that reason today I am sending to the desk a bill, the Uniformed Services Special Pay Act of 1972.

This act has been drafted in close consultation with the Department of Defense. More than 2 months of staff work has gone into refining this act.

The Secretary of Defense, Mr. Laird, supports this act. In a letter to me he says:

I consider the bill to be a sound approach for addressing the personnel supply needs of the Department of Defense as we move to an All-Volunteer Armed Force.

And he adds that—

We wholeheartedly endorse it.

I ask unanimous consent to have Mr. Laird's letter of support printed in the RECORD at the conclusion of my remarks.

In addition, I have discussed this act with Mr. George Shultz, the Director of the Office of Management and Budget. I ask unanimous consent to have this letter of support for this act along with a copy of the bill printed in the RECORD at the conclusion of my remarks.

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

(See exhibits 1, 2, and 3.)

Mr. ALLOTT. Mr. President, the various measures incorporated in this act will cost $198.7 million in fiscal year 1973. Fortunately, the money is at hand, because the new budget contains $376.4 million to finance pay increases along the lines of last year's second Allott amendment.

I propose to use $198.7 million of that to finance the measures incorporated in this act, and to urge that the remaining $177.7 million be saved.

It is with great satisfaction that I report my conclusion, arrived at after much deliberation, that we can effect a substantial saving while making substantial progress toward ending the draft. To understand why this is so, one must understand where we are, and where problems remain.

THE AIM OF THE ACT

The Uniformed Services Special Pay Act of 1972 is the second and, we may hope, the final step in achieving a zero-draft environment.

Last year the Congress took a giant step toward creating conditions under which we can responsibly rely on volunteerism to meet our manpower needs. It did this by voting a $2.4 billion increase in military pay. This increase raised the previously underpaid ranks into a position of near parity with comparable civilian employees.

Senators will recall that last year both bodies voted pay increases in excess of $2.7 billion. There was some dispute about the wisdom of some of the cuts whereby the conference committee resolved the differences between the House and Senate pay plans. Some of us questioned the cuts because, at that time, the President had not decided to grant the January 1, 1972, cost-of-living increase to the military.

Fortunately, the President did grant that increase. As a result, compensation for all ranks now is very close to what would have been achieved last fall had the second Allott amendment—designed to restore the roughly $380 million cut by the conference—prevailed. As a result of the cost-of-living increase, compensation now is very close to the original Gates Commission recommendations, and the objectives sought by the Allott amendment as of last November 14 have been almost totally achieved. Only at the E–1 level—a position retained for less than 4 months generally—and the O–1 and O–2 levels is the pay now lower—and only slightly—than what the Allott amendment stipulated. Thus, it is now possible to change the focus of our efforts at encouraging volunteerism. Across-the-board pay increases, designed to increase the level of enlistments across the board—unselectively, are no longer crucial.

Last year's pay raise has been effective. The increase in the rate of enlistments, combined with the gratifying decrease in the total manpower needs of the Armed Forces, now leaves us with a different task. This new task, while much less expensive, is every bit as crucial. This is the task of providing cost-effective means of anticipating and preventing shortrun shortfalls in particular areas and regarding particular skills.

This task will be especially crucial during the vital transition period. Assuming that the draft ends June 30, 1973, we can expect this period to come during fiscal year 1974. At that time we can expect draft-motivated enlistees to leave the services at a high rate during the next year. Increased compensation and improved quality of service life will not have reached full effectiveness in attracting volunteers. For these and other reasons, we can expect the transition period to be one in which the services will need an effective means of adjusting to some short-falls. The four programs incorporated in this act are designed to provide this effective means.

In addition, these programs will be useful and necessary beyond the transition period. Even when the all-volunteer Armed Forces is firmly established, there will still be certain skills and professions which demand a premium because they are in short supply in both the military and civilian sectors. This is a dynamic problem. Over time, skills requiring a premium will change as well as the level of the premium necessary for a specific skill. In order to satisfy its requirements in competition with other claimants for the Nation's manpower, the DOD needs several kinds of incentive programs to attract and retain members with special qualifications and skills.

The incentives most suitable are special pay programs directed toward specific volunteers who give a service commitment for a stipulated number of years. Such special pay should be viewed as a prepaid wage differential based on the qualifications of the individual and the needs of the Armed Forces.

Such pay will be attractive to the individual. It will provide him a guaranteed amount, offered in a lump sum, of sizable amount. In addition, special pay best suits the DOD's needs because it is cost effective. It can be readily started, stopped or modified to meet changing needs of the Armed Forces for quantity, quality, and experience level of members in specific skills. Special pay programs are a traditional military compensation tool, and recent experience with variable pay administered in the manner envisioned for the future has proven very successful.

The following are the four special pay programs which the DOD will need to satisfy its manpower needs in a zero-draft environment:

First. Enlistment special pay: Expand the current legislative authority to include volunteers for skills other than the combat elements.

Second. Special pay for Selected Reserve Forces: Authorize payment for enlistment and reenlistment for members of the Reserve Forces.

Third. Special pay for officer retention: Authorize payment to officers in special skills or professions who are in critical supply. One payment authority is designed for members of the Medical Corps and a second and lower payment authority is designed for officers in other skills or professions.

Fourth. Selective reenlistment payment: Amend present legislaton to authorize a more cost-effective use of current enlisted retention incentive by offering special pay in selected skills only, increasing the ceiling on payment amounts, and permitting payments to be paid at other points in an enlisted career in addition to the first reenlistment.

COST ANALYSIS

The special pay principle offers the most cost effective means of meeting the anticipated selective manning requirement problems because of the inherent flexibility of its provisions. It may be varied in amount, skill, point of application. In addition it may be readily terminated. The following table provides a comparison of cost estimates for the special pay programs and the alternative basic pay package:

Cost comparisons of proposed payment package and alternative basic pay proposal, fiscal year 1973

[In millions of dollars]

Special pay program cost in addition to present program costs:	
Enlistment special pay	46.5
Reserve Forces special pay	82.2
Officer retention special pay for—	
Health professions	28.0
Lawyers, nuclear trained officers, new skill categories	27.0
Subtotal	55.0
Selective reenlistment special pay	15.0
Total	198.7
Alternative basic pay proposal	376.4
Difference	177.7

At this point it will be useful to examine in more detail the nature and cost of the four programs.

1. ENLISTMENT SPECIAL PAY

This will involve amending the relevant provisions of the recently passed draft act to expand entitlement to special pay to those additional volunteers who enlist for at least 3 years in skills other than combat elements. This amendment would remove the existing limitation which allows only those individuals in combat elements to receive a payment of up to $3,000.

Existing pay rates will attract most of the volunteers required to man most military skills. However, certain selected skills may require an additional incentive to attract the necessary volunteers. The skills requiring special pay, and the amount of pay required, will vary over time. Since it is not possible to predict the attraction incentive required, a cost effective program will involve varying the amounts of special pay, and the skill categories to which it attaches.

The cost will vary depending on the

critical shortages faced by the Armed Forces. It is estimated that for fiscal year 1973 an additional $46.5 million will be required to allow payment to selected critical skills other than combat elements.

2. SPECIAL PAY FOR RESERVE/GUARD FORCES

This will provide enlistment and reenlistment incentives for qualified volunteers in the Selected Reserve of the Guard and the Reserve. The enlistment or reenlistment payment ranges up to a maximum payment of $1,100 for a 6-year enlistment or reenlistment for individuals in non-critical skills. The enlistment or reenlistment incentive would be selectively offered to satisfy critical skill shortages, ranging up to a maximum payment of $2,200 for a 6-year enlistment or reenlistment. Payments would be graduated on a percentage of years of reenlistment contracted. The lifetime sum of payments per individual would be limited to $3,300. The incentive is directed at prior service personnel as well as completely new volunteers in this program.

Under the total force concept the Reserve and Guard will be the initial and primary sources for augmentation of the active forces in any future emergency. Consequently, full manning of the Selected Reserve units is critical to the national security, and termination of the draft will make this objective more difficult to attain. Early indications of shortfalls in the strength of selected reserve units are causing concern to the DOD, and the leading military authorities in the Congress. Therefore, these financial incentives are needed if the DOD is to achieve its manpawer goals.

It is estimated that the fiscal year 1973 cost of this proposal is $82.2 million, of which $59.2 million would be spent on the reenlistment bonus and $23 million on the enlistment special payment.

3. SPECIAL PAY FOR OFFICER RETENTION

This will provide special pay to an officer of the several services possessing a special skill designated vital and scarce by the Secretary.

It may be paid in addition to other pay and allowances to which that officer is entitled in an amount not to exceed $4,000 for each additional year beyond his initial service commitment that he agrees to remain on duty except in the case of a medical, dental or other health specialist who may be paid an amount not to exceed $17,000 for each additional year.

We need a more cost effective application of monetary retention incentives to meet the selective officer manning problems anticipated in the all-volunteer force environment. The zero-draft environment will require alert, precise responses to acute officer retention problems.

On occasion we have required officers desiring to depart from active duty to continue past their period of obligation to man our nuclear submarines and strategic aircraft. This is not an adequate solution to such problems. The 1971 Quadrennial Review of Military Compensation revealed that there is no question that improvement is necessary to meet our requirements in the medical field. In addition, prior to the review shortages in other officer categories had been identified by the DOD. This act would allow the Secretary of Defense to respond immediately to the retention problems at any career point in the medical, legal, nuclear-trained submarine officer, or other high-cost training investment skill. As a selective retention problem is alleviated the payment amount may be reduced or terminated immediately by the Secretary of Defense.

If the Secretary of Defense used the maximum payment in the medical field, the average annual cost would approach $110 million. However, it is estimated that offsetting costs through termination of the present continuation pay—$20 million annually—and strength reductions would result in a first-year incremental-cost increase of $28 million. Additional average annual cost of implementing the proposed payments for law specialists approaches $4 million.

There would be no additional cost for nuclear-trained submarine officers in fiscal year 1973 since they are presently receiving retention payments at an annual cost of about $3 million. Problems in other officer skill categories could potentially arise in the zero-draft environment resulting in cost modifications.

4. SELECTIVE REENLISTMENT PAYMENT

This will combine the regular reenlistment bonus and the variable reenlistment bonus—VRB—payments into a selective reenlistment payment. This payment will go to reenlistees in critically manned skills at the problem reenlistment point. The maximum payment will be $15,000.

The regular reenlistment bonus is paid to all reenlistees. Approximately 25 percent of this bonus is paid to reenlistees serving in skills manned in excess of 100 percent of requirements. This accounts for an annual waste of about $40 million. The variable reenlistment bonus, although paid only to individuals serving in undermanned skills, can be paid only for the first reenlistment. Since many reenlistment deficiencies occur beyond the first reenlistment, the VRB does not effectively solve the DOD's retention problems. By combining both these retention incentive programs into a selective reenlistment payment, the DOD can selectively place the proper incentive amount in critically manned skills and at the problem reenlistment point. This will allow for the maximum return on the retention dollar spent.

Additionally, the implementation of the selective reenlistment payment will allow for an attractive second reenlistment incentive to solve critical retention problems similar to those presently experienced by the Navy in the area of nuclear-trained petty officers.

The fiscal year 1973 retention program composed of the regular reenlistment bonus and the variable reenlistment bonus is budgeted for $419.7 million. By inaugurating the selective reenlistment payment, the regular reenlistment bonus program would be phased out. This phaseout would shift retention dollars from a less effective retention incentive to a more efficient program. This improved efficiency would satisfy the immediate DOD retention needs of an all-volunteer environment. Therefore the only costs involved in implementing the selective reenlistment payment would be approximately $15 million for transition costs.

CONCLUSION

Mr. President, this is the program which the Department of Defense wants, which the Office of Management and Budget endorses, and which the country needs. It is easy to understand why this is so.

The DOD is under the gun from two directions. It has a mandate to achieve the capability to meet its manpower needs without conscription. And its budget is under intense pressure. Thus the DOD, from the Secretary on down, has been happy to cooperate with us in arriving at a cost-effective program that will help it fulfill its mandate while easing budgetary pressures. We want to thank all those at the DOD who have been responsive to us while we were working on this bill.

The OMB is the world's foremost authority on all kinds of budgetary pressures. It is the storm center of the keen competition for our scarce resources. Naturally the OMB is pleased with any improvement in cost effectiveness. It is anxious to achieve the administration's goal of an all-volunteer armed force, which itself promises substantial long-run savings. In addition, the OMB is pleased to find an implicit savings of $177.7 million involved in submission of this act.

Finally, Mr. President, this is an act which the Nation needs. There is no subject on which there is more widespread agreement than the desirability of ending the draft. Young men, their parents and loved ones, in every section of this Nation, desire a return to the traditional American reliance on volunteerism.

I have said repeatedly that I do not know if we can achieve an all-volunteer armed force now. But I also have said repeatedly that we owe it to our young people—and to ourselves—to try.

Too often we find ourselves responding to events. This is our chance to master events. If we pass this now, we shall all have a more pleasant time in the spring and summer of 1973.

The Uniformed Services Special Pay Act of 1972 is the right measure, at the right time, for the right objective. I hope it will receive prompt attention, broad support, and swift passage.

EXHIBIT 1

THE SECRETARY OF DEFENSE,
Washington, D.C., March 22, 1972.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: I have reviewed your proposed bill, the "Uniformed Services Special Pay Act of 1972," which was drafted in close consultation with the Department of Defense.

I consider the bill to be a sound approach for addressing the personnel supply needs of the Department of Defense as we move to an all-volunteer Armed Force. It would provide the authority and flexibility needed to meet our principal manning problems, both in the active forces and in the Reserve components.

With the passage of P.L. 92–129 which amended the Military Selective Service Act of 1967, the Congress provided military pay rates reasonably competitive with pay in the civilian economy. By its action the Congress eliminated the serious inequities previously identified with Service pay, particularly for the first-term personnel.

Your bill would enable us to deal more effectively with the critical personnel shortages in the National Guard and Reserve Forces, which are 50,000 below the strength levels mandated by the Congress. There is no indication that these shortages can be overcome, or further supply shortages in the Reserve Forces avoided, without the special pay authority provided in your bill.

In addition, your bill reflects recognition of the fact that certain skills and professions may command a premium at any time because they are in short supply. The skills requiring such a premium will change over time, as will the level of the premium necessary to attract a sufficient supply of qualified candidates.

The incentive most suitable for Department of Defense needs is a flexible special pay authority paid to specific volunteers in return for a service commitment for a stipulated number of years. In this light the special pay may be viewed as a prepaid wage differential based on the qualifications of the individual and the needs of the Armed Forces.

As you know, there is under consideration a bill to provide a significant system of Sea Pay. Such a program is needed to compensate enlisted and officer members for long deployments at sea. Legislation in support of this program will be considered separately.

We appreciate the opportunity to comment on your proposed bill, and we wholeheartedly endorse it.

Sincerely,

MELVIN R. LAIRD.

EXHIBIT 2

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 23, 1972.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: The Office of Management and Budget has reviewed the proposed Uniformed Services Special Pay Act of 1972 which you have prepared with the assistance of the Department of Defense.

We consider it to be a desirable approach to providing the legislative authorities required to fill the gaps we anticipate will occur in the manning of the Armed Forces as we move away from the draft toward an All-Volunteer Armed Force.

We believe that in the consideration of this bill by the Congress, special attention should be given to the officer retention bonus for the health professions. Although the all volunteer principle requires that compensation recognize the higher income enjoyed by health professionals in the private sector, it is nonetheless important in determining the amount and incidence of the bonus to consider its impact on the supply of health professionals to the rest of the Federal Government and on the health services component of the President's economic stabilization program.

Enactment of your bill would be in accord with the program of the President. The costs of this measure are well within the amounts planned in the FY 1973 budget for volunteer force legislative proposals.

Sincerely yours,

GEORGE P. SHULTZ,
Director.

EXHIBIT 3

S. 3410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Uniformed Services Special Pay Act of 1972".

SEC. 2. Chapter 5 of title 37, United States Code, is amended as follows:

(1) Section 302 is amended to read as follows:

"§ 302. Special pay: physicians and dentists

"An officer of the Army or Navy in the Medical or Dental Corps, an officer of the Air Force who is designated as a medical officer or dental officer, or a medical or dental officer of the Public Health Service, who is on active duty for a period of more than 30 days is entitled, in addition to any other pay or allowances, to special pay at the following rates—

"(1) $100 a month for each month of active duty if he has not completed two years of active duty in a category named in this section; or

"(2) $350 a month for each month of active duty if he has completed at least two years of active duty in a category named in this section.

The amounts set forth in this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay."

(2) Section 308 is amended to read as follows and the analysis item for that section is amended to correspond with the revised catch-line:

"§ 308. Special pay: reenlishment

"(a) A member of a uniformed service who—

"(1) has completed at least 21 months of active duty (other than for training);

"(2) is designated as having a critical military skill; and

"(3) reenlists or voluntarily extends his enlistment in a regular component of the service concerned for a period of at least three years;

may be paid a sum of money, not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years or the monthly fractions thereof, of additional obligated service, not to exceed six years, or $15,000, whichever is the lesser amount.

"(b) Payments authorized under this section may be made in either a lump sum or in installments.

"(c) For the purpose of computing the reenlistment payment in the case of an officer with prior enlisted service who may be entitled to a payment under subsection (a) of this section, the monthly basic pay of the grade in which he is enlisted, computed in accordance with his years of service computed under section 205 of this title, shall be used instead of the monthly basic pay to which he was entitled at the time of his release from active duty as an officer.

"(d) A member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a payment was made to him under this section shall refund that percentage of the payment that the unexpired part of his enlistment is of the total enlistment period for which the payment was made.

"(e) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy."

(3) Section 308a is amended to read as follows and the analysis item for that section is amended to correspond with the revised catch-line:

"§ 308a. Special pay: enlistment

"(a) Notwithstanding section 514(a) of title 10 or any other provision of law, a person who enlists in an armed force for a period of at least three years, or who extends his initial period of active duty in that armed force to a total of at least three years, may, under regulations to be prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, be paid an amount prescribed by the Secretary concerned, but not more than $3,000. The payment may be paid in a lump sum or in equal periodic installments, as determined by the Secretary.

"(b) Under regulations approved by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a payment was made to him under this section shall refund that percentage of the payment that the unexpired part of his enlistment is of the total enlistment period for which the payment was made."

(4) Section 311 is amended to read as follows and the analysis item for that section is amended to correspond with the revised catch-line:

"§ 311. Special pay: continuation pay for physicians and dentists of the Public Health Service who extend their service on active duty

"(a) Under regulations to be prescribed by the Secretary of Health, Education, and Welfare, a medical or dental officer of the Public Health Service who—

(1) is serving on active duty in a critical specialty designated by the Secretary;

(2) has completed his initial active duty obligation; and

(3) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay at the rate applicable to him when he executes that agreement for each additional year that he agrees to remain on active duty. Pay under this section shall be paid in equal annual or semiannual installments as determined by the Secretary in each additional year covered by an agreement to remain on active duty. However, in meritorious cases, the pay may be paid in fewer installments if the Secretary determines it to be in the best interest of the officer.

"(b) An officer who does not serve on active duty for the entire period for which he was paid under this section shall refund that percentage of the payment that the unserved part of the period is of the total period for which the payment was made.

"(c) The Secretary shall submit a written report each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by subsection (a) of this section and, whenever such special pay program is to be continued in operation, such report shall include the justification for continuing such program. The report under this section shall be made on a calendar year basis and submitted not later than April 1 of the succeeding calendar year."

(5) The following new section is added after section 311 and a corresponding item is inserted in the analysis:

"§ 311a. Special pay: officers of armed forces in health professions who execute active-duty agreements

"(a) Under regulations prescribed by the Secretary of Defense, an officer of an armed force who—

"(1) is qualified in a critical health profession;

"(2) is determined by a board, composed of officers in his profession, under criteria prescribed by the Secretary of Defense, to be qualified to enter into an active duty agreement for a specified number of years; and

"(3) executes a written agreement to re-

main on continuous active duty for the numbers of years specified;
may, upon acceptance of the written agreement by the Secretary concerned or his designee, and in addition to any other pay or allowances to which he is entitled, be paid an amount not to exceed $17,000 for each year of the active duty agreement. Upon acceptance of the agreement by the Secretary concerned or his designee, and subject to subsection (b) of this section, the total amount payable becomes fixed and may be paid in annual, semiannual, or monthly installments, or in a lump sum after completion of the period of active duty specified in the agreement, as prescribed by the Secretary concerned.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary concerned, or his designee, may terminate, at any time, an officer's entitlement to the special pay authorized by this section. In that event, the officer is entitled to be paid only for the fractional part of the period of active duty that he served, and he may be required to refund any amount he received in excess of that entitlement.

"(c) Under regulations prescribed by the Secretary of Defense, an officer who has received payment under this section and who fails to complete his agreed period of active duty may be required to refund the amount received.

"(d) This section does not alter or modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

"(e) The Secretary of Defense shall submit a written report each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by this section. The report shall be on a fiscal year basis and shall contain—

"(1) a review of the program for the fiscal year in which the report is submitted; and

"(2) the plan for the program for the succeeding fiscal year.

The report shall be submitted not later than May 13 of each year, beginning in 1973."

(6) Section 312 is repealed and the corresponding item in the analysis is stricken.

(7) The following new sections are added after section 311a and corresponding items are inserted in the analysis:

"§ 313. Special pay: officers of armed forces who execute active-duty agreements

"(a) Under regulations to be prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of an armed force who—

"(1) is entitled to basic pay;

"(2) has completed at least two, but not more than 11 years of active service;

"(3) is designated by the Secretary concerned as an officer possessing skills in a critical shortage specialty and whose retention on, or voluntary recall to, active duty would be of benefit to the United States;

"(4) is not receiving special pay under Section 302, 302a, 303, or 311a of this title; and

"(5) executes a written agreement to serve on continuous active duty as an officer in that specialty for a period of not less than one year, but not more than six years, in addition to any other period of active duty for which he is obligated;

may be paid, in addition to all other compensation to which he is entitled, a sum of money not to exceed $4,000 for each year of the active service agreement.

"(b) The total amount payable under subsection (a) of this section may be paid in either a lump sum or in installments over the life of the agreement. However, if an agreement is made before the expiration of the officer's initial period of obligated service, he may be paid at the beginning of—

"(1) the last year of that period; or

"(2) the fourth year of that period, if he has an obligated period of four or more years.

"(c) An officer who voluntarily, or because of his misconduct, does not serve on active duty for the entire period for which he was paid under this section shall refund that percentage of the payment that the unserved part of the total active-duty period for which the payment was made.

"(d) This section does not alter of modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

"§ 314. Special Pay: participation in the Selected Reserve of the Ready Reserve of an armed force

"(a) A person is entitled to special pay computed under subsection (b) of this section if—

"(1) he—

"(A) has not previously been a member of an armed force or a Reserve component thereof; or

"(B) has served in the armed forces—

"(i) on active duty (other than for training) for at least two years unless sooner released because of a reduction in force; or

"(ii) on active duty (for training or for other than training) for a period which, when added to his period of satisfactory participation in the Selected Reserve of an armed force, would qualify him for discharge or transfer from the Selected Reserve of that armed force; and

"(2) he is accepted for enlistment, reenlistment, or extension of enlistment in a unit of the Selected Reserve of an armed force, and if a former member of an armed force or a Reserve component thereof is in a pay grade above E–2; and

"(3) he agrees to remain a member of the Selected Reserve of an armed force for a period of not less than—

"(A) three years, if he has not previously been a member of an armed force, or a Reserve component thereof; or

"(B) one year, if he has previously served in the armed forces under any of the conditions specified in clause (1) (B) of this subsection.

"(b) The amount of special pay to which a person covered by subsection (a) is entitled is—

"(1) for those possessing critical military skills, as determined by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy—

"(A) up to $2,200 for a six-year enlistment, reenlistment, or extension of enlistment period; or

"(B) for a lesser enlistment, reenlistment, or extension of enlistment period, 10 percent of the total for one year, 22 percent of the total for two years, 37 per cent of the total for three years, 54 percent of the total for four years, or 75 percent of the total for five years; or

"(2) for those not covered by clause (1) of this subsection—

"(A) up to $1,100 for a six-year enlistment, reenlistment, or extension of enlistment period; or

"(B) for a lesser enlistment, reenlistment, or extension of enlistment period, the same formula as that prescribed in clause (2) (B) of this subsection.

"(c) A person may not enlist or reenlist in the Selected Reserve of an armed force for the purpose of receiving special pay under this section for a period of more than six years at any one time.

"(d) Special pay authorized under this section—

"(1) may be paid in a lump sum or installments;

"(2) is in addition to any other pay or allowance to which the person is entitled;

"(3) is payable for any period of enlistment, reenlistment, or extension of enlistment in a unit of the Selected Reserve of an armed force which, when added to the person's initial period of military service as described in subsection (a) (1) (B) (i) and (ii) of this section, does not exceed a total period of 12 years of service computed under section 1332 of title 10; and

"(4) may not exceed a total of $3,300.

"(e) A member who voluntarily, or because of his misconduct, does not complete the period of service for which he received special pay under subsection (b) of this section shall refund that percentage of special pay that the unexpired part of his reserve enlistment or reenlistment is of the total period of service for which a payment was made.

"(f) This section shall be administered under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy."

SEC. 3. Notwithstanding section 308 of title 37, United States Code as amended by this Act, a member of a uniformed service on active duty on the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308(a) or (d) of that title, as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this Act.

SEC. 4. Notwithstanding the repeal of section 312 of title 37, United States Code, by section 2(6) of this Act, an officer of the naval service who was entitled to special pay under that section on the day before the effective date of this Act, and who has received installment payment thereunder, shall continue to receive the remaining special pay installments due under that section, if he remains in active submarine service for the period stated in the agreement. An officer of the naval service who has executed a written agreement to remain in active submarine service, and who has not received payment under that section, may be paid under that section, or section 313 of that title, as added by section 2(7) of this Act.

SEC. 5. Section 207 of the Career Compensation Act of 1949, as amended (70 Stat. 338), is repealed.

SEC. 6. This Act becomes effective on July 1, 1972, except that section 314 of title 37, United States Code, as added by section 2(7) of this Act, becomes effective on the date prescribed by the Secretary of Defense, but not earlier than April 1, 1972.

Mr. STAFFORD. Mr. President. In 15 months and 8 days, the President's draft authority will expire and we will have an all-volunteer Armed Force. This Nation will have achieved a goal for which we have been working since 1967.

I say this, not in unrestrained optimism, but in near certainty. Both Congress and the administration have taken strong measures to end reliance on the draft. And while there may be slight difficulties recruiting special categories of men, I am convinced that this Congress and the administration will take whatever steps are necessary to insure the success of the volunteer Armed Force. The bill we are filing today is one of those steps.

In addition, I expect the President

and the Department of Defense to take those steps necessary at the operational level to insure that every effort is being made to meet our goals of attracting and retaining sufficient numbers of the highest quality manpower to meet the needs of national defense. With a fair effort there will be no need to extend the draft beyond June of 1973.

Mr. President, I would like to take a few moments to discuss some of the efforts made by this administration to end reliance on the draft, and some of the current operational difficulties we are facing. I will then put into perspective the need for the legislation we are filing today.

AN ENERGETIC GOVERNMENT

Led by the project volunteer task force in the office of the Assistant Secretary of Defense, the services have initiated a broad range of programs designed to improve service life and to attract true volunteers into the military.

Assistant Secretary of Defense for Manpower and Reserve Affairs, Roger Kelley recently noted several signs of progress. He indicated that:

Seven out of 10 enlistees were true volunteers in the last 6 months of calendar year 1971, compared to a ratio of 6 out of 10 a year ago, and 5 out of 10 2 years ago.

In the final 6 months of last year 25,000 more true volunteers enlisted than in the same period in 1970.

The mental abilities of enlistees as measured by the results of the Armed Forces qualifications tests, were better in 1971 than in 1970. Also, 12 percent more high school graduates enlisted than in 1970.

Combat arms enlistments in the Army increased from a monthly average of 250 in the last half of 1970 to 3,000 in the last half of 1971—an increase of 1,200 percent.

While it is still too early to measure the response to the pay raises passed by Congress last November, early indications are that true volunteer enlistments are up approximately 30 percent.

Some of the success shown by these figures must be attributed to the initiatives of the services—actions which cover a wide area. Education is a prominent one, for instance. We have known for some time that the opportunity for education and training has been the foremost attraction for a large proportion of true volunteers. And inservice training rebounds to the services in a more highly skilled technician and a better trained soldier.

The fiscal year 1973 budget provides funds for an increase in the Navy and Marine Corps associate degree program, Air Force's inservice tuition aid and counseling, and Air Force senior NCO professional military education. Funds in the past have been spent on expansion of offduty educational programs and increased use of educational counselors.

One of the most innovative actions taken to date has been the development of the "Community College of the Air Force" which will function to gain regional recognition and accreditation of the service's technical training courses by the associations of colleges and universities, thus giving the individual a head start upon his return to the civilian sector. When the other forces follow this initiative, the educational opportunities of the services will be even more attractive.

Contract hire of civilians for detail, custodial or KP activities has been an extremely successful initiative. Not only has it permitted additional training time, but removed what potential volunteers and actual recruits have shown in every survey to be the greatest irritant in military life.

In the Army alone, some 2,700 low-wage-rate or contract civilians have permitted some 3,300 soldiers to return to their primary military occupational duty. The savings in dollars is matched, I am sure by the increase in morale. The effects on retention of such a practice are yet unknown, but preliminary results show a substantially increased retention rate for the Army's first termers.

Modernizing the recruiting system is, of course, receiving special attention. The services, with the exception of the Navy, have done a commendable job.

The Army has just surpassed its fiscal year 1972 goal for number of recruiters in the field. The Marine Corps and Air Force are effectively at 100 percent already. The number of recruiting stations has increased substantially, including many colocations between the services where more effective use of space has produced a savings.

There has also been a long overdue improvement of living quarters, an increase in ROTC scholarships and subsistance funds for attracting the highest quality officers, and money in this year's budget for the Platoon Leaders Corps program in the Marines.

Noncost improvements have a prominent place in the move for an all-volunteer armed force. The most publicized have been those changes made by the Chief of Naval Operations Admiral Zumwalt.

They include among others some 168 "Standards of Service" published to improve service at commissaries, exchanges, and the like, action line telephones to permit anyone to suggest improvements in the Navy, establishment of 15 minutes as the maximum waiting time in lines, maximum of 2 weeks processing time for claims, permission for 30 days' leave with permanent change of station orders, and dozens of others.

The Army's initiatives stem in many instances from an energetic team working directly with General Westmoreland. SAMVA—for special assistant modern volunteer army—has been the initiator, promoter, and watchdog for much of the change within the Army.

Gen. George Forsythe and his deputy, Gen. Robert Montague are getting to be two of the best known in the Army for their activism and devotion to a three-part policy: First. Strengthening professionalism by building positive incentives to give superior service; second, improving Army life by reducing the negative aspects of service, the known sources of dissatisfaction; and third, upgrading the Army's recruiting system.

In a very real sense, the success of this team has meant the initial success of modernizing and professionalizing the Army. I personally will be watching their efforts and sincerely hope that General Westmoreland will continue to give them the support they deserve.

Within the three goals mentioned above, the Army has taken many steps. Basic training has been revised Army wide after a year long intensive experiment at Fort Ord, Calif. Now, a recruit who extends himself and has above average skills can qualify in up to three military skills, not just one.

A Leadership Board and a Dynamic Training Board have been created by General Westmoreland to concentrate on the specific tasks of making the learning experience of the recruit a truly professionalizing experience.

An additional example, from among many, is that working hours have been made more standard, providing normal hours of work and reducing weekend and evening duty where possible.

Noncost actions by the Air Force have included the development of a guaranteed job enlistment program, guaranteeing in advance the specific training and job the enlistee will receive. The Air Force has also authorized a 6-year enlistment term in 10 specialities that require extensive training and combined it with a promotion to E–3 upon completion of basic military training.

All Air Force commands have been directed to take specific actions to reduce inspections, permit time off for excess duty hours, reduce formations and meetings to a minimum, eliminate the requirement for carrying a liberty pass, and increase the time for settling the family during moves between stations.

The Marines have also taken steps in the noncost area toward making the Marines the tough, no nonsense professional force it should be. Included, among other things, are its pilot programs started to combine recruit and individual combat training in order to eliminate duplication in training and administrative processing; its human relations awareness program concerned with race relations; a program of major commands conducting symposia of junior officers and senior noncommissioned officers for increasing ideas on overcoming irritants and enhancing the attractiveness of the services; a liberalized liberty policy for special occasions; and generally a new emphasis given by the commandant to open responsive channels of communication.

The lists of new programs, initiatives, and ideas promoted in an attempt to attract and retain sufficient forces to end reliance on the draft goes on and on. The services are moving in the right direction, and I compliment them for their energy.

OPERATIONAL PROBLEMS

Despite these accomplishments, I must point out some signs for concern.

While I recognize that perfection is an unrealistic goal, I also recognize that the movement toward a zero draft situation is in one of its most significant periods.

If efforts at the operational level fail, the services will be severely jeopardizing their opportunities to make themselves the truly professional, highly skilled force

they should be. While carelessness on the operational level will probably not cripple the institution of an all-volunteer force, they will make the going tougher for the services, and more costly. It will be necessary to divert funds from long-overdue improvements in housing and educational benefits for the careerists, as well as other aspects of service life for all. It would be most unfortunate to slow down improvements in military life for the higher ranks, increase facilities for entertainment, recreation, athletic and moral activities, travel and other allowances for everyone, simply because of a lack of attention to the details during the upcoming transition period.

Let me be more specific about operational problems that can hurt the services. A recent report by the General Accounting Office indicated that $15.3 million was spent in recruiting, training, and discharging for reasons of unsuitability, about 22 percent—over 11,100—of male recruits who enlisted in the Marine Corps between December 1969 and September 1970.

This rate was more than five times greater than the rate experienced during the previous 12 years. It is clear that a decision was made to increase substantially the standards of those who were to graduate from basic training, and the Marine Corps chose to do so at the training level rather than at the recruiting station.

The need for this costly weeding out exercise was dubious at best; the manner in which it was undertaken was ill-conceived and costly—$15.3 million worth. The formal reply of the Department of the Navy recognized this problem when it stated:

> The findings of the subject report are correct. The recommendations provided are concurred with in principle and their intent can be accommodated by normal internal procedures.

A result of this carelessness, of course, was to increase needed accessions by some 5,000 to 10,000 during the crucial transition year ahead. Translated, the Marine Corps has made it more difficult and expensive for itself to attract and retain sufficient volunteers in the non-draft situation to begin July 1973. The attrition rate is now back to normal.

The Navy has had its failures as well, I am sorry to report. While the Army, Marine Corps, and Air Force have all achieved over 95 percent of their goals for increasing recruiter strength, the Navy, as of February 29, 1972, had achieved only 68 percent of its programed increase. Tied with that, of course, is the fact that the Navy for the last 6 months has missed its recruiting goal.

The Army over a year ago initiated a series of enlistment options, which aided it in achieving a substantial increase in the number of enlistees into the combat ranks. It was just this month, March 1972, that the Navy has evidenced its willingness to adopt strong measures to attract the needed men by creating two new enlistment options—to go into effect later this year. Such delay is surprising when it has been known for a long time that the Navy will face an extraordinarily high demand for accessions during fiscal year 1973—for only a 1-year period.

The Navy has, to be sure, bolstered its already personnel-oriented policies. But, retention is not the only element in maintaining a volunteer force. What is obviously missing, as the recruiting statistics show, is an energetic drive to obtain needed recruits—an effort which can be accomplished in tandem with improved manpower policies for retention. I think more can be expected of the Navy.

Assistant Secretary of the Army for Manpower and Reserve Affairs Hadlai Hull recently made the following statement:

> I am sure that to many outside the Army, some of the policies and actions we are taking this year appear at least to contradict other policies and actions, and often look insane. For example: we are releasing people six months early at the same time we are spending money on advertising and on expanded recruiter programs to attract people to join the Army; we are forcing people out of the Army—both officers and enlisted men—at the same time our goal is a zero draft Army; we have made it more difficult to get into the Army at the same time we are seeking more enlistments.

After nearly 12 years on the Armed Services Committee in the House, I can appreciate the complexity of the manpower questions facing the Army. But, I must go beyond Secretary Hull's statement and indicate that I believe that some of the policies the Army has adopted are in fact contradictory, not simply appearing contradictory.

In its efforts to increase the number of true volunteers in the forces, the Army is sacrificing the services of men already trained, even when only 6 months remains of their obligation, and they are expected to leave at that time. Some early-out policies have made the transition years more difficult, not less.

In its efforts to improve the quality of the serviceman, the Army has adopted the belief that this must be done overnight, rather than over a 2- or 3-year period. Sudden increases in standards will always be more difficult to absorb than a steady, programed increase.

Today's standards for enlistment into the Army are the highest they have ever been. And, while it is ineffective to have underqualified personnel in military positions, it is equally inefficient and costly to demand that an overqualified person maintain the same enthusiasm as someone more fitted to the job

In any event, the severe burden already on the recruiter is only magnified by such policies as giving no credit to the recruiter towards his quota for any non-high-school graduate in the lower mental groups—groups III and IV. The result is that recruiters do not look at any non-high-school graduates for fear of wasting their time even when the applicant may well be qualified for groups I or II—the highest mental groups.

It is impossible to judge the potential high-quality true volunteers who are denied entry into the services because of this carelessly adopted policy. If each Army recruiter were to miss just two men during the coming year, as a result of this policy, we will have 12,000 fewer volunteers than we should have. I find it hard to understand that with all of the testing and retesting that the services undertake, a more sophisticated direct approach cannot be adopted to weed out the undesirable, rather than a broad-brush, class approach.

Finally, in its efforts to reduce the size of the Army to congressionally mandated levels, the Army has gone the easy route and adopted a policy of limited entries now—and protection for as many of the senior men as possible. Chairman STENNIS himself has indicated that the force structure is currently a bit top-heavy. It is my understanding that we now have a higher proportion of high-ranking officers in the service than we did in World War II.

Trimming down forces is always a difficult task, but no one can deny that with a reduction in the Vietnam conflict, it was perfectly clear that a return to pre-Vietnam levels of forces was in store. The reduction cannot come as a surprise to many, although it may be inconvenient to some. Connected with its efforts to reduce the size of the force, is evidently the Army's policy to keep at a minimum the number of prior servicemen who are reenlisted into the service from the civilian sector.

Just last week, two more victims of such a policy—residents of Vermont—came to my attention. Both gentlemen had served satisfactorily in the military. Rather than reaccept these men at the E–4 or E–5 ranks, the Army had chosen to take two raw recruits—or in April, May, and June, two draftees—who will need full training and who offer no promise of making the service a career, which the two men above evidenced.

If, in fact, the military occupational specialties, which these men offer are ones which can be used by the services at the low level of E–4 or E–5—a rank achieved in almost no time by a raw recruit—then these men should have been reaccepted. All of the facts are not yet known in these cases, but they do point up a need for reexamination of a policy which, if it is as it appears, is making it more difficult and costly for the Army to acquire the men it needs under a no-draft situation.

I do not in any way infer that deliberate mismanagement is the cause for the problems I mention. What I do suggest is that extreme care must be taken during the next year to insure that a repetition of our experiences in 1947 and 1948 does not take place. We cannot afford carelessness in any areas, but certainly not in manpower accession and retention policies during this transition period. We cannot either increase the costs nor make more difficult our task as we move toward June of 1973 when the draft ends.

ROLE FOR CONGRESS FOR 1972

The Congress has certainly met much of its responsibility toward a volunteer armed force. I think the efforts taken by the chairmen of both the House and Senate Armed Services Committees has been exemplary.

Last year, we had weeks of hearings in open session on the desirability and feasibility of the volunteer armed force.

The committees recommended and the Congress accepted a full program to give the volunteer force concept a fair trial.

The Congress took a dramatic step in increasing the pay of first-term servicemen, bringing their compensation up to a level roughly comparable to civilian counterparts. That move toward equity was long overdue, as we all knew. And, by doing this, we removed the single greatest obstacle to enlistment—a serious financial sacrifice piggy-backed onto sacrifices of time, strenuous work, and separation from families, to name a few.

Other measures passed as well. Increased scholarships for officers, provision for out-of-pocket expenses for recruiters, special pay for optometrists and special pay for combat arms enlistment were designed to achieve certain specific goals for the attraction of volunteers to the services.

What the Congress has done, in my opinion, and I have looked at this issue in some detail, is to insure an all-volunteer armed force in normal conditions.

There remains, to be sure, what I would call technical adjustments needed to insure a smooth move to a volunteer force. Essentially, these adjustments fall into two categories: The need for a smooth transition in the next couple of years to a steady State volunteer system, and the guarantee of a highly skilled class of applicants for military occupations which require superior technical ability.

I would like to discuss each of these points in turn.

First of all, and most important, is the necessity for putting the transition period—essentially the next couple of years—into perspective. If there is one fact which must stay in the forefront of everyone's mind as we move to an all-volunteer armed force it is that the requirements for new recruits over the transition period will be higher than they will be in a steady state all-volunteer force. In other words, it is necessary that more men enter the military services during fiscal year 1973 and part of fiscal year 1974 than will be required after that time.

In fact, during the transition period, required accessions will exceed those of the fiscal year we are now in. The army, for instance, will need approximately 20 percent more men during fiscal 1973 than it did during fiscal 1972.

One way of looking at this problem is to examine the proportion of the qualified males reaching 19 who are required for military service. The number during fiscal year 1973 for instance is approximately 50 percent of those who are qualified—remembering the artificially high standards now in effect. For a steady State force, that percentage drops to approximately 30 percent with the same standards.

The reasons for the higher needs during a transition period are clear:

First. Draftees and draft-motivated enlistees who enter during the prevolunteer-Army period will be leaving at a steadily high rate;

Second. Increased pay and changed conditions of service life will not have fully reached their effectiveness in attracting enlistees;

Third. The effects of the increase in the recruiting establishment fully realized as recruiters will still be relatively new in their territories and relatively inexperienced;

Fourth. There will be fewer males turning 19 in the transition period than the period following as the population continues to grow, a higher percentage of 19-year-olds will be required now;

Fifth. The full effects of capital-labor tradeoffs—the substitution of machines or equipment for men—will not be reached during the transition period, thus requiring in the shortrun a larger total force level;

Sixth. Training will still be required for more men, necessitating a larger training establishment and its concomitant support service;

Seventh. Management policies during this last several months during the reduction-in-force squeeze has been less than optimum, as suggested earlier, thus requiring more men than would otherwise have been necessary;

Eighth. The falloff in draft-motivated personnel has been, as was expected, more rapid than the increase in the supply of volunteers.

What is needed to insure that sufficient men enlist during the transition period is a mechanism which can be turned on and off. A most effective means of attracting men, under the circumstances, would be another across-the-board pay raise, as Senator ALLOTT has already indicated. It would be necessary to raise pay a significant amount simply to attract a high number of men during the coming years. Not only is an across-the-board raise a continuing expense, we would be paying everyone a higher rate than necessary to attract certain select categories of men.

In economists' terms, we need a cost-effective program that will put the money where the need is, but will not create a continuing expense when the demands of the transition period are past.

That tool is essentially the program we have outlined today. A special pay system was created to accomplish in part the capability of being spent when needed—during the transition period ahead—but also capable of being stopped when no longer needed.

The second category of technical adjustment to assure the success of the volunteer armed force with the best use of the dollar is a mechanism to meet the requirements for certain highly skilled men. The essential element here is that while the pay raises we passed last year are generally sufficient, they may not be for certain categories of high-aptitude men.

On the one hand we have a civilian economy which competes for highly skilled personnel by offering higher wages; and on the other hand, we have the military pay system which is frozen at grade level and length of service.

There is no way that the military system adequately recognizes the fact that certain jobs are more demanding and require more technical skill than others.

The civilian sector works on a wage-differential system, paying the man for the job he does, not for the length of time he has worked during his livelihood. The military does not. But, if it is going to compete effectively with other industry, then it must at least have the ability to recognize that there are certain jobs which demand more than others. Our special pay package is designed, in conjunction with the transition needs just outlined, to accomplish that goal.

Let me give a more specific example.

The Air Force during fiscal years 1972–74 will require about 28 percent of their total accessions in the electronic area. The Navy will need about 16 percent of its new recruits for nuclear power and advanced electronics training. The Army and Marine Corps have slightly smaller requirements of high aptitude personnel.

Not all of these men, of course, would need a special pay incentive to enlist. Many enlist simply for the valuable training experience. But, some skills are so scarce in the civilian sector that the added requirements of military life prevent the services from competing adequately.

What is needed is a special pay system which will recognize the job differential and serve to be the catalyst for attracting sufficient numbers in these select occupations. The skills are liable to change over time as well, and any authority should be designed to minimize excess cost. In fact, cost-effectiveness can be achieved by a program which permits the application of the special pay offered at one time and later withdrawn if it is found that it is not needed.

The special pay should also be designed to insure that the individual receiving it is not under the impression that it is a continuing pay—it should be in exchange for a specific number of guaranteed years of service. The program in this legislation is designed to do just that.

The strengths of this specific legislation are many:

First. The legislation meets the goal of insuring that the transition period will be smooth. It is fully expected that sufficient personnel to meet our national security needs will be attracted without the need of the draft and that this legislation is in fact an insurance policy.

Second. The legislation meets the goal of providing a tool to the Department of Defense to attract individuals in certain highly skilled occupations where the supply is short both in the civilian and military sectors.

Third. The legislation is designed to focus on the decision process of the individual where it can have its greatest effect, or as the economists would call it, its highest elasticity. The special pay is offered and agreed upon at the time of the decision.

Fourth. The legislation meets the goal of being the most cost-effective tool because the lump sum or installment payments can be turned on and shut off so that it will apply only for that length of time or to those skills where it is needed. This is preferable to an across-the-board pay raise which is on the books forever.

Fifth. The legislation develops for the first time in a comprehensive way, a recognition of a job differential compensa-

tion—that system which is most effective in competing with the civilian sector and which is most cost-effective in terms of the national budget.

Sixth. The legislation entails no run-out costs, as do some current programs, and thus enhances its cost-effectiveness. Proficiency pay in today's service, for instance, provides for a reduction by 25 percent per year over the 4 years after a certain skill has been removed from the proficiency pay list. This is a costly system, but the only one which is fair to a serviceman who has been receiving the pro pay for several years in order to prevent a sudden drop in his standard of living. This is not the case with the special pay system in this legislation. Upon making the decision, the recruit knows how long he will have to serve in exchange for his special pay.

Seventh. Most important, the legislation is probably the final new piece of compensation legislation that will be needed, other than regular cost-of-living increases. Combined with the major across-the-board pay raises of last year, this legislation will provide the Department of Defense with every tool in the compensation area that it needs in order to attract and sustain a volunteer force, even during the difficult transition years. There will be no reason to extend the draft, nor will there be any reason to provide further compensation tools.

Eighth. Finally, the legislation is a full package. To be extravagant, it might be called synergistic, in that all of its parts relate to a more useful whole. The system of special pay is designed to cover the full scale of needs anticipated. It does not omit a single item from the full package concept.

The distinguished Senator from Colorado has discussed the various components of the program in some detail. I might add that a significant amount of careful staff work went into this legislation. The staff of the Assistant Secretary of Defense has been most helpful every time we turned to them for further information. The technical expertise they made available is most appreciated.

It is my hope that early consideration of this bill will be a possibility. The transition years are upon us very shortly, and it would be most desirable to have this legislation in effect by the time the summer recruiting months begin.

By Mr. TOWER:

S. 3411. A bill to facilitate Federal ship mortgage insurance for drydocks and drilling vessels. Referred to the Committee on Commerce.

Mr. TOWER. Mr. President, this bill would amend title XI of the Merchant Marine Act, 1936, so as to facilitate the construction, reconstruction, or reconditioning of floating drydocks and drilling vessels in U.S. shipyards by increasing the maximum percentage of "actual cost" of these vessels which may be insured by the Secretary of Commerce from 75 to 81½ percent.

The bill would not change present law as to the types of vessels eligible for insurance nor any other eligibility requirements. Its only effect would be to permit construction loan and mortgage insurance of up to 87½ percent rather than 75 percent for drydocks and drilling vessels so to facilitate their construction through private financing. This extension of the 87½ percent limit to these vessels will simply conform the provisions of title XI of the act to place all large nonsubsidized vessels on the same footing.

The availability of private capital for the financing of these vessels is now being impeded by the deficiency in the act to which this bill is directed. Its enactment would be most timely as one step in the effort to revive U.S. commercial shipbuilding to the degree necessary to meet the challenge of reduced dependence on Government subsidy. Only by taking all necessary legislative and administrative steps to assure an environment which will make construction and repair of U.S. yards attractive, will this goal be accomplished.

As the Commission on American Shipbuilding recently noted in a letter to the President on the environment in Japan which has made their current prominence in shipbuilding possible, their environment has been shaped by governmental encouragement, careful monitoring, and support, mostly in the form of financing, credit and tax devices designed to attract contracts. The Commission found that these devices have generated a continuity of workload in Japan which, in turn, has first, insured a stable level of shipyard operations, second, enabled an expansion of national capacity, and third, produced a favorable economic climate for shipbuilding.

Obviously, enactment of the bill will not of itself solve the problem of how to keep our shipbuilding and ship repair industry in a healthy condition. But as a step it is important.

From a shipbuilding point of view it should be noted that drilling vessel technology had its birth in the United States. It was not until early 1966 that the first major vessel of this category was delivered by a foreign shipyard—a $6 million vessel delivered by a Netherlands yard. The attached review recently issued by the Shipbuilders Council of America of the order book throughout the world for these vessels indicates that the United States no longer is alone in this field.

As for ship repair yards that would acquire the floating drydocks covered by the bill, the increased insurance coverage is of vital significance. The trend over the past decade is toward larger and larger ships in our merchant marine. Deadweight tonnages of over 200,000 tons make it impossible for maintenance and repair requirements to be handled by few presently available facilities. While it is true that there are a number of fixed facilities that can handle the repair and maintenance of these large vessels, they are for the most part allocated or potentially allocated to the construction of new naval and merchant ships.

It is known that a number of large drydocks are being contemplated for construction by U.S. shipyards at the present time. However, final decisions to go ahead are being withheld. Due to the very large fixed capital investment, it is imperative if floating drydocks are to be built that there be financing available at the lowest possible cost. Recent reductions in ship repair volume have accentuated the problems and pinpoint the need for enactment of the bill.

I ask unanimous consent that the table showing current orders for drilling rigs be printed at this point in my remarks.

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

WORLD ORDERBOOK FOR DRILLING RIGS

Shipyard	Type	Number	Amount (approximately)
United States:			
Avondale, Bayou Black, La	Semisubmersible	5	$104,000,000
Bethlehem, Baltimore, Md	do	1	16,000,000
Bethlehem, Beaumont, Tex	do	4	78,000,000
Do	Jackup	1	11,000,000
LeTourneau, Brownsville, Tex	Semisubmersible	4	76,000,000
Do	Floating	1	25,000,000
LeTourneau, Vicksburg, Miss	Jackup	7	66,000,000
LeTourneau Mar., Corpus Christi, Tex	do	1	10,000,000
Levingston, Orange, Tex	Semisubmersible	4	86,000,000
Do	Floating	1	10,000,000
Do	Jackup	1	10,000,000
Sun Shipbuilding, Chester, Pa	Floating	1	40,000,000
U.S. total		31	532,000,000
Foreign:			
Halifax, Nova Scotia, Canada	Semisubmersible	2	$37,000,000
Anders, Finland	do	1	20,000,000
C.F.E.M., France	do	2	40,000,000
Castella, Italy	Floating	1	14,000,000
Mitsubishi, Japan	Semisubmersible	1	15,000,000
Do	Jackup	1	15,000,000
I.H.C., Netherlands	Floating	1	14,000,000
Akers, Norway	Semisubmersible	4	81,000,000
Nylands, Norway	do	1	12,000,000
LeTourneau, Singapore	Jackup	2	18,000,000
Bethlehem, Singapore	do	2	20,000,000
Barreras, Spain	Semisubmersible	2	32,000,000
Foreign total		20	318,000,000
World total		51	850,000,000

Note: Principal source is Ocean Oil Weekly Report.

Mr. TOWER. Mr. President, I have been concerned for some time about the state of the merchant marine and the American shipbuilding industry. In 1966, I introduced a bill calling for a complete study leading to the revitalization of this strategic part of America's industrial capacity. In 1968, working with then Candidate Nixon, I worked on formulating the program, first unveiled in Seattle, which led to the Merchant Marine Revitalization Act of 1970. This measure has become the cornerstone of this administration's pledge to give the American shipbuilding industry the necessary tools to revitalize itself. The industry, I might add, has so far responded quite well to the challenge.

In this bill, Mr. President, we are extending certain new incentives to the drydock and drilling vessel portions of the shipbuilding industry, which form an important part of this complex. I urge the Senate to give this matter its most careful consideration. It will not only help in our overall economic recovery at virtually no cost to the Government, but it will also help to create many new and lasting jobs in Texas and elsewhere in what should be a growing industry.

By Mr. WILLIAMS (for himself, Mr. BENNETT, and Mr. TOWER) (by request):

S. 3412. A bill to foster the development and implementation of an integrated system, to be privately owned and operated, for the prompt and accurate processing and settlement of securities transactions effected on national securities exchanges and in the over-the-counter markets, which will assist in assuring the proper functioning of the securities markets and which will be responsive on a nondiscriminatory basis to the needs of issuer companies, brokers, dealers, banks, and other members of the securities industry and the public investors. Referred to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES TRANSACTION PROCESSING ACT OF 1972

Mr. WILLIAMS. Mr. President, at the request of the Securities and Exchange Commission, I am introducing today a bill designed to give the Commission additional authority over the handling, processing and settlement of securities transactions. In presenting this legislation, I am joined by my colleagues, Senators BENNETT and TOWER.

The purpose of the proposed Securities Transactions Processing Act of 1972 is to avoid a recurrence of the paperwork crisis which plagued the securities industry from 1968 to 1970. To the same end, I introduced S. 3297 on March 6, 1972, on behalf of myself and Senators BENNETT, PROXMIRE, STEVENSON, and TOWER.

Both of these two bills look to the private sector to provide the technical know-how to streamline the handling of securities transactions. Both bills seek to provide the statutory basis for the development of an efficient national system for clearance and settlement of securities transactions, a system which will be responsive on a nondiscriminatory basis to the needs of the investing public. In order to accomplish these goals each bill requires clearing agencies and depositories to register with the SEC, and each would authorize the Commission to supervise the activities and practices of such agencies.

While the two bills are similar in approach, there are some variances. The Commission's bill, for example, would extend its regulatory authority to cover corporate transfer agents and registrars and would empower the Commission to make rules concerning the form of certificates issued by publicly held corporations. The bill which I authored deals with State transfer taxes which have posed a problem in developing a national system for clearance and settlement and would instruct the Commission to begin working toward selective elimination of the stock certificate.

As stated in its recent report, the Subcommittee on Securities intends to give sympathetic consideration to this legislation and to the other legislative proposals arising out of the SEC's Study of Unsafe and Unsound Practices of Brokers and Dealers.

Accordingly, it is my intention to schedule hearings on these two bills together with S. 2551, introduced by Senator ROTH, at the earliest possible date. Hopefully our consideration of these bills will result in legislation providing the Securities and Exchange Commission with the statutory tools and the responsibility to assure that the investing public will not have to endure another paperwork crisis.

Mr. President, I ask unanimous consent that the full text of this proposed legislation together with the Commission's transmittal letter of March 22, 1972, and accompanying statement in support of the bill be printed in the RECORD.

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

S. 3412

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

SECTION 1. This Act may be cited as the "Securities Transaction Processing Act of 1972."

SEC. 2. Except as otherwise provided in this Act, the provisions of the Securities Exchange Act of 1934 (15 U.S.C., sec. 78a and fol.; hereinafter referred to as the "1934 Act") apply as if this Act constituted an amendment to, and was included as a section of, such Act.

SEC. 3. For the purposes of this Act—

(1) The term "clearing agency" means any person who engages in providing facilities or serves as a distribution point for brokers, dealers or others in accordance with a system (A) for comparison among participants of data respecting the terms of settlement of transactions in securities; (B) for netting of purchases and sales of securities among participants to reduce the number of settlements of transactions; or (C) for allocation of responsibilities for payment and delivery among itself and participants in connection with the settlement of securities transactions.

(2) The term "transfer agent" means any person who engages, on behalf of an issuer, or on behalf of itself as an issuer, of securities registered under section 12 of the 1934 Act or of securities which would be required to be so registered except for the exemption from registration provided by paragraphs (2) (B) or (G) of subsection 12(g) of the 1934 Act, in: (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; or (D) exchanging or converting such securities.

(3) The term "depository" means any person who acts as the custodian of securities in accordance with a system whereby: (A) securities so held may (i) be transferred among participants without physical delivery or (ii) be made the subject of a pledge or of a security interest by participants without physical delivery or (B) such custody otherwise plays an integral role in the settlement of securities transactions among participants.

(4) The term "participant" when used with respect to a clearing agency or depository means a person entitled to direct use of the services provided by such clearing agency or depository.

(5) The term "appropriate regulatory agency" means—

(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank, acting as a transfer agent;

(ii) the Board of Governors of the Federal Reserve System, in the case of a member bank of the Federal Reserve System (other than a bank referred to in subparagraph (i) above) or a subsidiary thereof, acting as a transfer agent;

(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) or a subsidiary thereof, acting as a transfer agent; and

(iv) the Commission, in the case of all other transfer agents and all depositories and clearing agencies, required to be registered pursuant to this Act.

The terms "clearing agency" and "depository" shall not include (1) Federal Reserve Banks, Federal Home Loan Banks, Federal Land Banks or any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, and (2) banks, brokers, building and loan, savings and loan, and homestead associations and cooperative banks by reason of lending, fiduciary, correspondent or safekeeping functions commonly performed by them.

Section 4. (a) No person shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, in order to perform the function of a depository or clearing agency with respect to any security (other than an exempted security) or the function of a transfer agent, unless such person is registered in accordance with this section 4.

(b) The Commission may by such rules and regulations or orders as it deems necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from subsection 4(a) or from any rule or regulation under this section 4 any person, security or transaction or any class or classes of persons, securities or transactions.

(c)(1) Any depository or clearing agency may be registered for the purposes of this section by filing with the Commission a registration statement which shall contain the information and be accompanied by the documents, below specified:

(i) Such data as the Commission may by rules and regulations require as to performance capability, measures and personnel standards for safe handling and custody of securities and funds, operational compatibility of the depository or clearing agency

with other persons involved in the securities handling process, and access to the services provided by such depository or clearing agency; and

(ii) Copies of its charter, bylaws or rules, and instruments corresponding thereto and manuals and forms relating to operations and custody of securities and funds.

Except as hereinafter provided, registration under this subsection (c)(1) shall become effective sixty days after receipt of the registration statement by the Commission or within such shorter period of time as the Commission may determine.

(c)(2) Any transfer agent may be registered for the purposes of this section 4 by filing with the appropriate regulatory agency a registration statement which shall state the address of its principal office or offices for transfer agent activities, the length of time it has been acting as a transfer agent, and the identity of the issuers and issues of securities for which it is then acting as transfer agent, and shall contain such other information in such detail as the appropriate regulatory agency may require as necessary or appropriate with regard to performance of transfer functions, measures and personnel standards for safe handling and custody of securities and funds, and operational compatibility of the transfer agent with other persons involved in the securities handling process. Any transfer agent required to register hereunder with a regulatory agency other than the Commission shall file with the Commission a notice which shall state its name, the address of its principal office or offices for transfer agent activity, the identity of the issuers and issues of securities for which it is then acting as transfer agent and the name of the appropriate regulatory agency with which it is filing a registration statement.

Except as hereinafter provided, a registration of a transfer agent filed under this subsection (c)(2) shall become effective thirty days after the receipt of the registration statement by the appropriate regulatory agency or within such shorter period of time as such agency may determine.

(d) The appropriate regulatory agency shall, after appropriate notice and opportunity for hearing, by order, deny registration to any depository, clearing agency or transfer agent seeking registration under subsection 4(c) if it finds that such denial is in the public interest and that such depository, clearing agency or transfer agent does not have procedures or the means to be able to comply with the provisions of this Act and the rules and regulations promulgated thereunder.

(e)(1) Pending final determination whether any registration of a depository, clearing agency or transfer agent under this section shall be denied, the appropriate regulatory agency may by order postpone the effective date of such registration for a period not to exceed ninety days, but if, after appropriate notice and opportunity for hearing (which may consist solely of affidavits and oral arguments), it shall appear to such agency to be necessary or appropriate in the public interest or for the protection of investors to postpone the effective date of such registration until final determination, such agency shall so order.

(e)(2) Any person registered under this section 4 may, upon such terms and conditions as the appropriate regulatory agency may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with such agency. If such agency finds that any such registrant or such other person for whom a registration statement is pending, is no longer in existence or has ceased to do business as a depository, clearing agency or transfer agent, as the case may be, it shall by order revoke, deny or cancel the registration.

SEC. 5. No depository or clearing agency shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to participate in the processing or settlement of any transaction in a security (other than an exempted security) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate with regard to minimum standards for the performance of functions, measures and personnel other persons involved in the securities standards for safe handling and custody of securities and funds, operational compatibility of the depository or clearing agency with handling process, and reasonable non-discriminal access to the services provided by such depository or clearing agency.

SEC. 6. No transfer agent shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to engage in any activity as transfer agent with respect to any security (other than an exempted security), in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate with regard to minimum standards for the performance of transfer functions, measures and personnel standards for safe handling and custody of securities and funds, and operational compatibility of the transfer agent with other persons involved in the securities handling process.

SEC. 7. No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to participate in the settlement of any transaction in a security (other than an exempted security) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate for the efficient and expeditious handling and settlement of securities transactions.

SEC. 8. It shall be unlawful for an issuer, any class of whose securities is registered under section 12 of the 1934 Act or which would be required to be so registered except for the exemption from registration provided by paragraphs (2)(B) or (G) of subsection 12(g) of the 1934 Act, by the use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, such securities whose form of format contravenes such rules and regulations as the Commission may prescribe as necessary or appropriate for the prompt and accurate processing of transactions in such securities.

SEC. 9. (a) Every depository, clearing agency and transfer agent required to be registered pursuant to this Act shall file with the appropriate regulatory agency, in accordance with such rules or regulations as such agency may prescribe as necessary or appropriate for the fulfillment of the objectives of this Act and the rules and regulations thereunder, such information and documents as such agency shall require to keep reasonably current the information and documents required to be included in or filed with the registration statement pursuant to section 4 of this Act.

(b) Every depository, clearing agency and transfer agent required to register pursuant to this Act shall make, keep, and preserve such accounts, correspondence, memoranda, papers, books, records and other data for such periods and shall make such reports and file such information and documents with the appropriate regulatory agency, as such regulatory agency by rules or regulations may prescribe as necessary or appropriate for the fulfillment of the objectives of this Act and the rules and regulations thereunder. Such accounts, correspondence, memoranda, papers, books, records and other data shall be subject at any time or from time to time to such reasonable periodic, special or other examinations by examiners or other representatives of the appropriate regulatory agency as such regulatory agency may deem necessary or appropriate for the fulfillment of the objectives of this Act and the rules and regulations thereunder.

SEC. 10. (a) The appropriate regulatory agencies shall consult and cooperate with each other and, as may be appropriate, with State banking authorities having supervision over banks toward the end that the accounts, correspondence, memoranda, papers, books, records and other data required of banks acting as transfer agents, depositories or clearing agencies and the inspections thereof, be in accord with sound banking practices and fulfill mutual regulatory needs to the extent practicable.

(b) Compliance with the requirements imposed by this Act shall be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C., sec. 1818) in the case of—

(i) national banks or banks operating under the Code of Law for the District of Columbia, or subsidiaries of any such banks, acting as transfer agents, by the Comptroller of the Currency;

(ii) member banks of the Federal Reserve System (other than banks referred to in subparagraph (i) above) or subsidiaries thereof, acting as transfer agents, by the Board of Governors of the Federal Reserve System; and

(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) or subsidiaries thereof, acting as transfer agents, by the Federal Deposit Insurance Corporation. For the purpose of the exercise by any bank regulatory agency referred to in this subsection (b) of its powers under section 8 of the Federal Deposit Insurance Act, a violation of any requirement imposed under this Act upon banks registered as transfer agents shall be deemed to be a violation of the requirements imposed under the Federal Deposit Insurance Act. In addition to its power under section 8 of the Federal Deposit Insurance Act, each of such bank regulatory agencies may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(c) All of the functions and powers of the Commission under the 1934 Act are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the 1934 Act. Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some bank regulatory agency under subsection 10(b), the Commission shall enforce such requirements.

(d)(1) The Commission may, after appropriate notice and opportunity for hearing, by order, censure or bar or suspend or place limitations upon any depository or clearing agency or any transfer agent, other than a transfer agent referred to in subsection 10(b), or any officer, director or employee of any such depository, clearing agency or transfer agent, or revoke the registration of any depository or clearing agency or any transfer agent, other than a transfer agent referred to in subsection 10(b), if the Commission finds that such censure, barring, suspension, placing of limitations or revocation is in the public interest or for the protection of investors and that such depository, clearing agency or transfer agent or any officer, director or employee thereof has willfully violated or is unable to comply with any provision of this Act or any rule or regulation promulgated thereunder pertaining to such depository, clearing agency or transfer agent or any officer, director or employee thereof.

(d)(2) If a proceeding under subsection 10(d)(1) results in the suspension or revocation of the registration of a depository or clearing agency, the Commission shall, upon notice to such depository or clearing agency, apply to any court of competent jurisdiction specified in section 27 or 21(e) of the 1934 Act for the appointment of a trustee. In such

event, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the depository or clearing agency involved, and the books, records and assets thereof, wherever located; and the court shall appoint the Commission or its designated agent as the trustee who, with the approval of the court, shall have the power to take possession and to continue to operate or to terminate the facility in an orderly manner, for the protection of participants and public investors, subject to such terms and conditions as the court may prescribe.

(e) The authority of the Commission to promulgate rules and regulations under this Act does not impair the authority of any other appropriate regulatory agency to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

SEC. 11. (a) Nothing in the Act shall impair the authority of any State banking authority with regard to its exercise of regulatory or supervisory oversight over banks performing depository, clearing agency or transfer agent functions. The Commission and the Federal bank agencies referred to in section 10 hereof shall take into consideration, with regard to their compliance and enforcement activities, any program of inspection, examination and enforcement carried out by a State banking authority reasonably designed to insure compliance by banks with the provisions of this Act and the rules and regulations promulgated thereunder and shall seek as an objective the avoidance of duplicate regulatory oversight and undue burden upon such banks.

(b) At least fifteen days prior to the issuance for public comment of any proposed rule or regulation regarding transfer agents pursuant to sections 6, 9(b) or 13, and prior to the adoption of any such rule or regulation, the agency contemplating issuance or adoption of any such rule or regulation shall first consult with and obtain the views of each of the other Federal agencies designated in this Act as having responsibility for compliance by transfer agents with the provisions of the Act.

SEC. 12. The portion of a registration statement of a clearing agency or depository which may contain information regarding its constitution or charter, by-laws, rules, schedule of charges, and interpretative bulletins pertaining thereto, and the portion of a registration statement of a transfer agent which may contain information regarding its rules and procedures, and any proposed amendments to any of the aforesaid items, shall be available for public inspection. All other portions of any registration statement of a clearing agency, depository or transfer agent and all reports, information and documents required by the appropriate regulatory agency of clearing agencies, depositories and transfer agents and correspondence between such agency and clearing agencies, depositories, and transfer agents, insofar as such correspondence does not relate to proposed amendments to their charters, rules and similar matters, shall be exempt from the disclosure requirements of title 5, section 552 of the United States Code, but the appropriate regulatory agency may upon a finding that it is in the public interest make available to any person or to the public generally such of the exempt materials as it deems appropriate, and any such regulatory agency shall make available to any of the other regulatory agencies, upon request, such information or materials as may be required by such agencies for the purpose of enabling them to perform their duties under this Act.

SEC. 13. The provisions of this Act or of any rule or regulation thereunder shall not apply to any person acting as a transfer agent with respect to securities transactions which occur without the jurisdiction of the United States, unless he acts in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of this Act.

SEC. 14. Determinations of the Commission, for purposes of making rules or regulations pursuant to section 5, 6, 7 or 8 shall be after appropriate notice and opportunity for a hearing, and for submission of views of interested persons, in accordance with the rule-making procedures specified in section 553 of Title 5, United States Code, but the holding of a hearing shall not prevent adoption of any such rule or regulation upon expiration of the notice period specified in subsection (d) of such section and shall not be required to be on a record within the meaning of subchapter II of chapter 5 of such title.

SEC. 15. This Act shall become effective on August 1, 1972, except that sections 4(a), 5, 6, 7, 8 and 9 shall become effective on December 29, 1972.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., March 22, 1972.

The PRESIDENT of the Senate,
The Speaker of the House of Representatives.

GENTLEMEN: I have the honor to transmit to the Congress a draft of a proposed bill to give the Securities and Exchange Commission additional authority over the handling, processing and settlement of securities transactions, particularly as those functions may be performed by securities depositories, clearing agencies, transfer agents, registrars, brokers and dealers. In addition, the proposed bill confers upon the Commission the power to determine the form and format of the stock certificate. The ultimate objective of the bill is to provide a basis for the development of an efficient national system for clearance and settlement of securities transactions, a system which will be responsive on a non-discriminatory basis to the needs of the investing public. The proposed bill is accompanied by a statement in support of the requested legislation and a section by section analysis of the bill itself.

In December 1970 the Congress passed the Securities Investor Protection Act of 1970 which established a program to protect customers' securities and cash in the hands of a broker-dealer to the extent of $50,000 per customer. Concerned then with the perilous financial condition of many broker-dealers and that customer losses of the magnitude of those of the 1968–70 period might happen again, the Congress called upon the Commission to undertake a study of the unsafe and unsound practices of broker-dealers and to recommend to Congress additional legislation needed to eliminate unsafe and unsound practices which might be revealed by the study. Following this directive the Commission submitted to the Congress in December 1971 its "Study of Unsafe and Unsound Practices of Brokers and Dealers" which contained a recommendation to the Congress that the Commission be given additional authority in the area of processing of securities transactions. This proposed bill is an embodiment of that recommendation.

It was concluded in our Study of Unsafe and Unsound Practices that the serious operational problems experienced by the securities industry during the period under study, especially the industry's inability to accurately and promptly process customer transactions, evidenced a need for greater scrutiny and control by the Federal government. For example, the transfer agent function, an activity which presently falls without the regulatory jurisdiction of the Commission, was handled efficiently by some transfer agents and issuer companies acting as their own transfer agent, and they automated their systems to the extent practicable given the lack of uniformity existing in the processing of securities. Yet many of the transfer agents, including some of the largest, turned out a substandard performance and were significant contributors to the paperwork crunch of the 1968–70 period. The brokerage community experienced serious communication problems with transfer agents in the past involving three important areas. Confirmation of open transfer items by brokers have been difficult to obtain from transfer agents. Transfer agents which normally act as disbursing agents have not revealed the certificate number on which they are paying a broker interest on dividends. The transfer of ownership process was during the paper crunch and continues to be a time consuming process, resulting in some cases in impairment of the financial condition of a broker. The foregoing demonstrates a need for regulation of transfer functions.

Responsibility for the back office problems must also be shared by the broker-dealers themselves. Broker-dealers were not sufficiently automated and did not have adequate personnel to cope with the volume of transactions and the cyclical nature of the brokerage business. Their procedures were not uniform, and their systems failed to interface with transfer agents, depositories and others involved in the processing of securities transactions. The proposed bill gives the Commission broad authority over the "back office" area of broker dealers.

Depositories and clearing agencies are becoming increasingly more important in the processing of securities transactions. In the past two or three years they have grown rapidly, and several self regulatory organizations are planning to or have already implemented new clearing systems. Because these depositories and clearing agencies are operated by self regulatory organizations they are subject to the administrative jurisdiction of the Commission. Depositories or clearing agencies could, however, be established by entities other than those regulated by the Commission, and there are plans to spin-off the largest existing securities depository into a New York State trust company. It is the Commission's view that these vehicles are inextricably a part of the securities industry and should continue to be subject to the Commission's regulatory oversight. In fact, our objective of a single unified nationwide system for processing securities transactions probably could not be fulfilled if depositories were permitted to escape the ambit of the Commission's responsibility.

The proposed bill contemplates that the Commission will set standards and procedures with regard to these entities in four principal areas: performance, particularly accuracy and prompt handling and settlement of securities transactions; operational compatibility; policies for reasonably non-discriminatory access to the facilities; and standards for safety of cash and securities in the custody of these entities.

The bill as drafted contemplates that the standards reflected in the rules and regulations to be promulgated by the Commission would apply uniformly to each entity, whether that entity be a bank, a non-bank transfer agent, a broker or any other person subject to the legislation. Inspection and compliance with the provisions of this proposed bill and with rules promulgated thereunder by the Commission, in the case of banks performing transfer agent functions, would be undertaken by Federal bank regulators. The Commission would have primary responsibility for inspection and compliance with regard to non-bank transfer agents and all other entities sought to be regulated.

It is clear that modern communications and computer technology have now advanced to the point where the transfer of stock ownership, the payment therefor and the documents controlling and recording the transfer of ownership and payment can be dramatically simplified and improved. From the individual and disparate attempts to improve the handling of certificates and the process

of clearance and settlement there have evolved the basic ingredients for an integrated nationwide system of securities clearance, settlement and delivery. What is needed now is a public entity with the authority to direct and accelerate the evolution of these private efforts toward the objectives recited as the beginning of this proposed bill. Accordingly this additional legislative authority sought by the Commission is respectively requested.

The Office of Management and Budget has advised us that the enactment of this bill would be consistent with the objectives of the Administration.

By direction of the Commission.

WILLIAM J. CASEY, *Chairman.*

STATEMENT IN SUPPORT OF REQUEST FOR AUTHORITY TO REGULATE SECURITIES DEPOSITORIES, CLEARING AGENCIES AND TRANSFER AGENTS

A principal conclusion of the Study of Unsafe and Unsound Practices of Brokers and Dealers, conducted by the Commission as mandated by the Securities Investor Protection Act of 1970 and submitted to the Congress in December of last year, was a need for additional authorization on the part of the Commission in the area of processing of securities transactions. It was demonstrated in that Study that the improvement and modernization of the systems for clearing, settling, delivery and transfer of securities was required in order to reduce the possibility of loss to customers of the type caused by the operational breakdown and paperwork problem of the 1969–1970 period.

It is submitted that increased regulation by the Federal government of the transaction handling process is necessary to insure that standardization and automation within the limits of technological feasibility can be accomplished as rapidly as possible and to oversee the development of a non-discriminatory nationwide approach to the processing of securities transactions which will serve the needs of industry participants and the investment public. Inasmuch as the processing of securities transactions is an integral part of the business of the securities industry the Commission is in the best position to determine standards and procedures for the entities sought to be regulated.

The Commission now has jurisdiction over the broker-dealer community, investment companies, stock exchanges, securities associations, issuer companies (in certain respects), and subsidiaries of exchanges and securities associations which perform clearance, settlement and depository tasks. However, certain tasks, such as the transfer and registration of transfer of certificates, are not directly within the Commission's regulatory jurisdiction and even the depository and clearance functions would appear to be subject to direct regulation by the Commission only if performed by entities which are registered with it. Therefore, in order to ensure that the transaction handling process can be made to function equitably and efficiently as a whole, the Commission recommends the enactment of the accompanying proposed legislation known as the "Securities Transaction Processing Act of 1972."

Three types of entities, directly involved in the processing of securities transactions, fall under the regulatory provisions of this Act. The first, securities depositories, are relatively new and a growing phenomena involving the deposits of securities in a central depository and transfer of title by bookkeeping entry. These are presently owned and operated by stock exchanges but there are plans to permit ownership by other financial entities. Those presently having access to securities depositories are brokers, dealers and a few large banks. It is expected that other financial institutions will soon have access to depositories. The second, clearing agencies, are presently owned and operated by the securities exchanges and by the National Association of Securities Dealers. Clearing agencies act for brokers and dealers by transmitting and processing information, certificates and funds after the execution of a trade. They seek to achieve an efficient settlement of securities transactions by reducing the burden and cost of the settlement process. The third type of entity, transfer agents and registrars, act as agents to issuer companies and are responsible for maintaining records of ownership of stock certificates and for monitoring the issuance of securities with a view to preventing unauthorized issuance. To the extent an issuer company performed its own transfer and registrar tasks it would be subject to regulation in respect of that function similar to a transfer agent or registrar.

The Act would give the Commission authority to establish, by rules or regulations, performance standards, business practices and rules of entities performing transfer, depository and clearing functions. In detail, the four areas in which the Commission seeks authority to set standards and procedures regarding depository, clearing agency and transfer agent functions are:

(i) Performance standards, particularly with regard to accuracy and prompt handling and settlement of transactions.

(ii) Operational compatibility, with the objective of a national approach to integrated systems where each participant in the securities process would to the extent practicable interface with other participants.

(iii) Reasonable non-discriminatory access to securities depositories and clearing agencies.

(iv) Standards as to safety of cash and securities in the custody of these entities.

Any person performing depository or clearance functions with respect to any security (other than exempt securities as defined in the Securities Exchange Act of 1934) and any person performing transfer agent functions with respect to any security of an issuer company registered under the Securities Exchange Act of 1934 or which would be required to register except for exemptions provided by sections 12(g)(2)(B) and (G) of that Act, would have to register with the appropriate regulatory agency as defined in this Act. The information contained in the registration statements of these entities coupled with the inspection and reporting powers conferred by this Act upon the agencies having responsibility for enforcement would form a basis for a compliance program and for establishment of standards of conduct and procedures for the processing of securities transactions.

To the extent transfer functions are performed by national banks, banks insured by the Federal Deposit Insurance Corporation or banks which are members of the Federal Reserve System, the appropriate regulatory agency for enforcement of compliance by such banks or subsidiaries of such banks with the provisions of this Act would be the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, respectively. The Commission would have responsibility for enforcement of compliance with regard to all other persons performing transfer functions and all persons performing depository and clearance functions.

Insofar as banks may be subject to this Act regarding their activities in the processing of securities transactions, the Act requires consultation and cooperation between the Federal banking agencies, the Commission and State banking authorities. Programs of inspection and enforcement carried out by State banking authorities which are reasonably designed to insure compliance by banks with the provisions of the Act would be given recognition in order to avoid duplicate regulatory oversight and undue burden upon banks.

The Act further confers upon the Commission authority to promulgate rules and regulations regarding the handling and settlement of securities transactions by broker-dealers and the form and format of certificates for securities. This authority is deemed necessary for the implementation of a total systems approach to the handling and settlement of securities transactions.

There follows a section by section analysis of this proposed legislation:

SECTION 1. SHORT TITLE

The short title of the legislation is "Securities Transaction Processing Act of 1972."

SECTION 2. APPLICATION OF SECURITIES EXCHANGE ACT OF 1934

Section 2 of the bill provides that the provisions of the Securities Exchange Act of 1934 shall apply as if the legislation constituted an amendment to, and was included as a section of, that Act.

SECTION 3. DEFINITIONS

Section 3 of the bill defines, for the purposes of this legislation, the terms: clearing agency; transfer agent; depository; participant; and appropriate regulatory agency.

SECTION 4(a). REGISTRATION REQUIREMENT

Section 4(a) prohibits any person from making use of the mails or any instrumentality of interstate commerce in order to perform any function of a depository or clearing agency with respect to any security (other than an exempted security, as defined in Section 3(a)(12) of the Exchange Act) or of a transfer agent, unless such person is registered as provided in this legislation.

SECTION 4(b). EXEMPTIVE PROVISION

Section 4(b) authorizes the Commission, conditionally or unconditionally, to exempt from the registration requirement of this legislation any person, security or transaction, or any class thereof.

SECTION 4(c). REGISTRATION PROCEDURES

Section 4(c) provides for the registration of depositories and clearing agencies with the Commission upon the filing of a registration statement and certain corporate documents. Registration of depositories and clearing agencies would become effective sixty days after receipt of the appropriate materials by the Commission. Section 4(c) also provides for the registration of transfer agents with the appropriate regulatory agency upon the filing of certain materials. Where a transfer agent registers with a regulatory agency other than the Commission, it must also file a notice as to certain matters with the Commission. Registration of transfer agents would become effective thirty days after receipt of the appropriate materials by the appropriate regulatory agency.

SECTION 4(d). DENIAL OF REGISTRATION

Section 4(d) requires the appropriate regulatory agency to deny registration, after appropriate notice and opportunity for a hearing, to any depository, clearing agency or transfer agent if it finds that such organization does not have the procedures or the means to be able to comply with this legislation and the rules thereunder, and that denial of registration is in the public interest.

SECTION 4(e). POSTPONEMENT, WITHDRAWAL AND CANCELLATION OF REGISTRATION

Section 4(e) provides that the appropriate regulatory agency may postpone the effective date of registration of a depository, clearing agency or transfer agent for a period not exceeding 90 days, except that, upon notice and opportunity for a hearing, it can further postpone registration until a final determination has been made as to whether registration should be denied. Section 4(e) also provides that a depository, clearing agency or transfer agent may withdraw its registration upon such terms and conditions as the appropriate regulatory agency specifies, and that

the appropriate regulatory agency shall cancel registration of a person no longer in existence or which has ceased to do the business for which it was registered.

SECTION 5. REGULATION OF DEPOSITORIES AND CLEARING AGENCIES

Section 5 makes it unlawful for a depository or clearing agency to make use of an instrumentality of interstate commerce to participate in the processing or settlement of any transaction in a security (other than an exempted security) in contravention of rules prescribed by the Commission in the following areas: minimum standards for the performance of functions; measures and personnel standards for safe handling and custody of securities and funds; operational compatability of the depositories and clearing agencies with other facilities and participants in the securities handling process; and reasonable, non-discriminatory access to the services provided by depositories and clearing agencies.

SECTION 6. REGULATION OF TRANSFER AGENTS

Section 6 makes it unlawful for a transfer agent to make use of an instrumentality of interstate commerce to engage in any activity as a transfer agent with respect to a security (other than an exempted security) in contravention of rules prescribed by the Commission in the following areas: minimum standards for the performance of functions; measures and personnel for safe handling and custody of securities and funds; and operational compatibility of transfer agents with other facilities and participants in the securities handling process.

SECTION 7. REGULATION OF BROKERS AND DEALERS

Section 7 makes it unlawful for a broker or dealer to make use of an instrumentality of interstate commerce to participate in the settlement of any transaction in a security (other than an exempted security) in contravention of rules prescribed by the Commission for the efficient and expeditious handling and settlement of securities transactions.

SECTION 8. REGULATION OF THE FORM AND FORMAT OF SECURITIES

Section 8 makes it unlawful for an issuer to make use of an instrumentality of interstate commerce to issue, either originally or upon transfer, securities whose form or format contravenes rules prescribed by the Commission for the prompt and accurate processing of transactions, provided that any class of such issuer's securities are registered under Section 12 of the Exchange Act or would be required to be so registered except for the exemption from registration provided by paragraphs (2)(B) or (G) of subsection 12(g) of the Securities Exchange Act of 1934.

SECTION 9(a). UPDATING OF REGISTRATION STATEMENTS

Section 9(a) requires depositories, clearing agencies and transfer agents to file such information and documents with the appropriate regulatory agency as that agency may require to keep reasonably current their registration statements.

SECTION 9(b). BOOKS AND RECORDS

Section 9(b) requires depositories, clearing agencies and transfer agents to make, keep and preserve, such accounts, correspondence, memoranda, papers, books, records and other data, and to make such reports and file such information and documents, as the appropriate regulatory agency specifies by rule. Such records and information shall be subject at any time to reasonable examination by the appropriate regulatory agency.

SECTION 10(a). COOPERATION IN REGULATION

Section 10(a) provides that the appropriate regulatory agencies shall consult and cooperate with each other and with State banking authorities with respect to the books and records (and the inspections thereof) required of banks acting as transfer agents, depositories and clearing agencies.

SECTION 10(b). ENFORCEMENT BY BANK REGULATORY AGENCIES

Section 10(b) specifies the appropriate authorities to enforce compliance with the requirements of this legislation in the case of banks acting as transfer agents. The appropriate authority is: the Comptroller of the Currency with respect to national banks and banks operating under the Code of Law for the District of Columbia, and their subsidiaries; the Board of Governors of the Federal Reserve System with respect to member banks of the Federal Reserve System (not regulated by the Comptroller of the Currency), and their subsidiaries; and the Federal Deposit Insurance Corporation with respect to banks insured by said Corporation (not members of the Federal Reserve System), and their subsidiaries. Enforcement shall be effected under Section 8 of the Federal Deposit Insurance Act, and any violation of this legislation by a bank registered as a transfer agent shall be deemed a violation of the Federal Deposit Insurance Act.

SECTION 10(c). ENFORCEMENT BY THE COMMISSION

Section 10(c) provides that the Commission shall enforce compliance with the provisions of this legislation except insofar as enforcement is specifically committed to one of the bank regulatory authorities. Enforcement by the Commission is authorized whether or not a person is engaged in commerce or meets any of the other jurisdictional tests in the Exchange Act.

SECTION 10(d). DISCIPLINARY ACTION AND APPOINTMENT OF A TRUSTEE

Section 10(d) provides that the Commission may, after appropriate notice and opportunity for a hearing, by order, censure or bar or suspend or place limitations upon any depository or clearing agency, or upon any transfer agent (other than a bank transfer agent whose compliance with this legislation is enforced by a bank regulatory agency), or upon any officer, director or employee of any of such organizations, if the Commission finds that such action is in the public interest or for the protection of investors, and that such organization has willfully violated or is unable to comply with any provision of this Act or rule thereunder. Where a disciplinary proceeding results in the suspension or revocation of registration of a depository or clearing agency, the Commission shall apply to a court of competent jurisdiction (as specified in Section 27 or Section 21(e) of the Exchange Act) for the appointment of a trustee, which shall be the Commission or its designated agent. The trustee, in such a situation, shall have the power to continue to operate, or to terminate, the facility in an orderly manner, subject to terms and conditions prescribed by the court.

SECTION 10(e). AUTHORITY TO ADOPT ENFORCEMENT PROCEDURES

Section 10(e) provides that the authority of the Commission to promulgate rules under this Act does not impair the authority of the other designated regulatory agencies to make rules respecting their own procedures in enforcing compliance with the Act.

SECTION 11(a). AUTHORITY OF STATE BANK REGULATORY AUTHORITIES

Section 11(a) provides that nothing in the Act shall impair the authority of any State banking authority with regard to its exercise of regulatory or supervisory oversight over banks performing transfer agent, depository or clearing agency functions.

Section 11(a) also provides that the appropriate regulatory agencies take into consideration, with regard to their compliance and enforcement activities, any program of inspection, examination and enforcement carried out by a State banking authority which is reasonably designed to comply with the provisions of this Act.

SECTION 11(b). CONSULTATION IN THE REGULATION OF TRANSFER AGENTS

Section 11(b) provides that before a proposed rule regarding transfer agents is issued for public comment, or is adopted, by an appropriate regulatory agency, such agency shall consult with the other Federal regulatory agencies having jurisdiction over transfer agents.

SECTION 12. PUBLIC INSPECTION OF REPORTS

Section 12 provides that certain portions of the registration statement of a transfer agent, depository or clearing agency filed with the appropriate regulatory agency shall be available for public inspection. All other portions of such registration statement, and all reports, information and documents required of such organization, and correspondence between such organization and the appropriate regulatory agency (not relating to a matter subject to public inspection) shall be exempt from the disclosure requirements of the Freedom of Information Act. Under Section 12, however, the appropriate regulatory agency is authorized to make available to any person, or to the public generally, such exempt material as it deems appropriate in the public interest, and it shall make available to any of the other designated regulatory agencies such exempted materials as they may require for the performance of their duties under this Act.

SECTION 13. EXTRATERRITORIAL APPLICATION

Section 13 provides that neither this Act nor the rules thereunder shall apply to any person acting as a transfer agent with respect to securities transactions which occur without the jurisdiction of the United States, unless such person acts in contravention of rules prescribed by the Commission to prevent evasion of this Act.

SECTION 14. RULEMAKING PROCEDURES

Section 14 provides that determinations of the Commission for purposes of making rules under sections 5, 6, 7 and 8 of this Act shall be after appropriate notice and opportunity for hearing and submission of views of interested persons, as specified in the Administrative Procedures Act, provided, however, that the holding of a hearing shall not prevent the adoption of a rule upon expiration of the specified notice period and that such hearing shall not be required to be on a record.

SECTION 15. EFFECTIVE DATE

Section 15 provides that the registration requirements, the prohibitions, and the rulemaking powers of the appropriate regulatory bodies under the Act shall become effective on December 29, 1972, and that the other sections of the Act shall become effective on August 1, 1972.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 3413. A bill to provide for the expansion of the Beverly National Cemetery in or near Beverly, Burlington County, N.J. Referred to the Committee on Veterans' Affairs.

Mr. WILLIAMS. Mr. President, on behalf of myself and Senator CASE, I am sending to the desk for appropriate reference a bill which provides for the expansion of the Beverly National Cemetery in or near Beverly, Burlington County, N.J.

This cemetery was established in 1862 for members and honorably discharged members of the U.S. armed services, their spouses, and dependent children. For these 110 years, it has been the only Fed-

eral burial grounds for veterans in New Jersey.

There are nearly 1,100,000 veterans living in New Jersey, and I know that many of these men would cherish the honor of being buried in a national cemetery.

I understand, however, that Beverly National Cemetery has been closed to new burials since the end of 1965 and that the only burials which could be permitted involve Vietnam casualties in sites relinquished by wives of deceased veterans and the surviving spouse of a member already buried.

Furthermore, during this period, the hundreds of veterans who had sought plots in the Beverly National Cemetery for themselves and their families have been told that they could not be accommodated there but possibly they could be in Baltimore or on Long Island. Certainly this is an unrealistic alternative to burial near their home in New Jersey.

Since 1964, the New Jersey State Legislature has approved legislation to memorialize Congress to provide additional cemetery facilities in the vicinity of Beverly. In February 1967, a law was enacted which authorized the Government to provide for the acquisition of lands for national cemeteries. Under this law, cemeteries have been established in several States and in certain foreign countries. Unfortunately, this precedent set following the Civil War cannot be continued for lack of space. The bill I am introducing today authorizes the Secretary of the Army to expand the national cemetery in or near Beverly and to acquire by gift, purchase, condemnation, or otherwise, approximately 130 acres of land contiguous to or in the vicinity of the Beverly National Cemetery. The acquisition of this land should provide sufficient burial plots to accommodate interment needs of New Jersey's veterans through 1985.

It should be noted that there is land surrounding the Beverly National Cemetery which could be acquired to meet the provisions of the bill without having to tear down any buildings. Furthermore, there is an "in lieu tax" section in the bill which compensates the local communities for loss of tax revenues.

I have every hope that the Senate will take prompt action on this legislation to ease a serious problem for veterans in New Jersey.

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

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

S. 3413

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

(1) the privilege granted members and honorably discharged members of the United States armed services, their spouse, and dependent children to be allowed to rest in peace in a national cemetery was bestowed by a grateful nation through various Acts of Congress;

(2) provision for the acquisition of lands for national cemetery purposes was made in an Act of February 22, 1867, which has permitted our Government to establish burial grounds on United States soil for interment of these deceased Americans since shortly after the American Civil War, as well as permanent military cemeteries abroad for the interment of deceased military personnel of World War I and World War II;

(3) the Beverly National Cemetery located on a site presently comprising approximately sixty-four and fifty-five one hundredths acres in Beverly, Burlington County, New Jersey, was established beginning in 1862 for these said purposes, and is now filled to capacity;

(4) the wars that have since followed and the present Vietnam conflict present a mounting shortage of grave plots in our national cemeteries, thereby weighing heavily on the present administration's policy advocating the non-expansion of the national cemetery system;

(5) in testimony to the accelerated demand for grave plots in our national cemetery system, the Beverly National Cemetery during the last two years of its functional service burials had increased to approximately two thousand and seven hundred interments per year;

(6) throughout the past decade many nationally chartered veterans organizations have adopted formal resolutions expressing their concern with this long standing problem at Beverly National Cemetery, officially petitioning State and Federal officials to have the situation remedied by the Government's purchase of additional available and suitable land in the immediate vicinity of the present national cemetery at Beverly;

(7) the New Jersey State Legislature has memoralized the Congress for the past decade to purchase additional acreage surrounding the Beverly National Cemetery;

(8) it is estimated that at a reasonable rate of burials averaging two thousand five hundred per year approximately one hundred thirty acres of land will be necessary to sustain and keep open the Beverly National Cemetery for the next twenty years;

(9) the increasing demand and fierce competition for the use of land throughout our Nation will continually diminish the supply and tend to increase the cost of public acquisition of lands available and appropriate for national cemetery purposes;

(10) it is also recognized that the acquisition of additional land by the Federal Government for public use may cause an undue financial burden on the local tax structure and taxpayers of the area and that there is rich wisdom in softening any sharp and severe impact of an immediate loss of tax ratables to the local communities and citizens in the vicinity of the Beverly National Cemetery; and

(11) the Federal Government must act now to acquire lands as are now available and appropriate for the expansion of the Beverly National Cemetery so that they may be used and preserved for use for such purposes.

SEC. 2. That the Secretary of the Army is authorized and directed (1) to expand the national cemetery in or near Beverly, Burlington County, New Jersey, and (2) to acquire by gift, purchase, condemnation, or otherwise, approximately one hundred thirty acres of land contiguous to or in the vicinity of the Beverly National Cemetery to provide sufficient burial plots to accommodate interment needs of our veterans at the Beverly National Cemetery through the year 1985.

SEC. 3. (a) To the end that municipalities may not suffer loss of taxes by reason of the acquisition and ownership by the Federal Government of property under the provisions of this act, the Federal Government shall pay annually on October 1 to each municipality in which property is so acquired for a period of thirteen years following such acquisition the following amounts: In the first year a sum of money equal to that last paid as taxes upon such land and the improvements thereon for the taxable year immediately prior to the time of its acquisition, and thereafter the following percentages of the amount paid in the first year, to wit, second year 92 per centum; third year, 84 per centum; fourth year 76 per centum; fifth year 68 per centum; sixth year 60 per centum; seventh year 52 per centum; eighth year 44 per centum; ninth year 36 per centum; tenth year 28 per centum; eleventh year 20 per centum; twelfth year 12 per centum; thirteenth year 4 per centum.

(b) All sums of money received by the respective municipalities as compensation for loss of tax revenue pursuant to this section shall be applied to the same purposes as is the tax revenue from the assessment and collection of taxes on real property of the said municipalities, and to accomplish this end such sums shall be apportioned in the same manner as the general tax rate of the municipality for the tax year preceding the year of receipt.

SEC. 4. The Secretary of the Army is authorized and directed to provide for the care and maintenance of the lands acquired under the authority of this Act as a part of the national cemetery system.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. STEVENSON:

S. 3414. A bill for the relief of Alexandria Nicholson. Referred to the Committee on the Judiciary.

Mr. STEVENSON. Mr. President, I am pleased to introduce today a bill for the relief of Alexandria Nicholson of Rockford, Ill. This 14-year-old girl, who has lived in this country since July 1957, is the AAU National Champion Trampolinist and under ordinary circumstances would be a leading contender for a key position on the U.S. 1972 Olympic team. She will not be allowed to compete for such a position, however, because her family has not yet obtained American citizenship.

The people of Rockford have long had the good fortune of being served by Alexandria's father, Dr. Merickston Nicholson, a native of Trinidad. They are proud of Alexandria's fine record and would like to see her represent this country in the Olympics at Munich this October.

The only factor which prohibits Alexandria from becoming naturalized before the preliminary competition in June is the fact that her family did not obtain official permanent residence status until 1971. Alexandria, who has been in this country from the age of 3 months, is an American by upbringing and will certainly be eligible for naturalization in the future. I have introduced this bill on her behalf, however, to accelerate this process and allow her to obtain citizenship in time to participate on behalf of the United States in 1972. I am hopeful that with the cooperation of the Immigration and Naturalization Service and the Senate Committee on the Judiciary, we will be able to give Alexandria the opportunity, for which she has worked hard, to enhance our country's Olympic record.

By Mr. HRUSKA (by request):

S. 3415. A bill to amend section 3401 of title 18, United States Code, to authorize U.S. magistrates to use the probation provision of the Youth Corrections Act, and for other purposes. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I send to the desk for introduction a bill to authorize U.S. magistrates to use the probation provisions of the Youth Corrections Act. This introduction is made at the request of the Acting Attorney General on behalf of the Department of Justice.

I ask that the bill be appropriately referred. Further request is made that at the conclusioin of these remarks the text of the bill and the text of Mr. Kleindienst's transmittal letter be printed in the RECORD.

This proposal is a very simple technical change which would permit Federal magistrates to use the probation provisions of the Youth Corrections Act, 18 U.S.C. 5010(a)—relating to sentence—and 18 U.S.C. 5021(b)—relating to the issuance of a certificate setting aside the conviction. Use of these provisions is presently limited to Federal judges. The extension of this authority to magistrates would result in uniformity of treatment as well as speeding the work of Federal district courts. The complete terms of the bill are adequately explained in the transmittal letter.

It is my hope that the Judiciary Committee will have an early opportunity to consider the merits of this proposal.

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

S. 3415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That section 3401 of title 18, United States Code is amended by adding at the end thereof the following:

"(g) A United States Magistrate shall have the power to suspend the imposition or execution of sentence and place a youth offender on probation under the provisions of section 5010(a) of this title. The provisions of section 5021(b) of this title shall apply to probation granted under this subsection."

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 23, 1972.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for your consideration and appropriate reference a legislative proposal to amend section 3401 of Title 18, United States Code, to authorize United States Magistrates to use the probation provisions of the Youth Corrections Act.

The Federal Magistrates Act, 18 U.S.C. 3401, authorizes magistrates to grant probation to persons they try and, when approved by a district judge, to use the probation service of the district court. However, magistrates are not authorized to grant probation to youthful offenders under the provisions of the Youth Corrections Act.

A youthful offender charged with a felony offense may be granted probation by the district court under the Youth Corrections Act; if he is unconditionally discharged prior to the expiration of the maximum period of probation his conviction is set aside. Fairness in the use of probation as a rehabilitative measure requires that the same opportunity to have a conviction set aside be given to the youthful offender who is convicted of a minor offense by a magistrate as is given one convicted of a felony in the district court and sentenced under the Youth Corrections Act.

This proposed legislation would authorize United States Magistrates to grant probation under the Youth Corrections Act to youthful offenders who are convicted of minor offenses. It would also provide that the conviction shall be set aside if the offender is unconditionally discharged from probation prior to the expiration of the maximum period of probation fixed by the magistrate.

We urge the early consideration and enactment of this measure which we believe will contribute to the successful rehabilitation of young offenders.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Acting Attorney General.

By Mr. THURMOND:

S. 3416. A bill to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces and who are in a missing status to accumulate leave without limitation, and for other purposes. Referred to the Committee on Armed Services.

Mr. THURMOND. Mr. President, one of the most distressing problems our country has ever faced is the prisoner-of-war and missing-in-action tragedy. In my judgment, our country must be relentless in resolving this problem.

Meanwhile, there are many actions our Nation can take to provide for their welfare when repatriation becomes a long sought reality. This is one small way a grateful nation can express its humble gratitude for their courageous sacrifice and the incredible anxiety being experienced by their loved ones.

Mr. President, I hope our Nation is well prepared to receive these brave men who have endured inhumane treatment. In this connection, there are measures our Congress can take in behalf of their welfare and the welfare of their families when these men return to America. Some legislative action has been taken, but there are other actions that must be taken by the Congress.

One of these measures is to insure that the transition from imprisonment, or missing in action, to civilian life or continued military service, reflects the deep feeling all Americans have for these men.

Mr. President, in this connection, I would like to introduce legislation which will guarantee a relaxation and rehabilitation period of transition. As the law and regulations now stand, many of our soldiers, sailors and airmen could be deprived of over 200 days of leave because of their imprisonment by the enemy, or missing in action. Today, I am introducing legislation to prevent this loss of leave which will be a practical method to help during the transition period.

Mr. President, the purpose of this bill is to allow a military member who is captured or missing in action to accumulate leave in excess of the maximum of 90 days now provided in law, and to authorize payment for this accumulated leave as soon as possible after the member's return. The bill, if enacted, would allow members officially carried by the Department of Defense in a status of missing, missing in action, interned in a foreign country, captured, beleaguered, besieged by a hostile force, or detained in a foreign country against his will to accumulate leave without limit while in this "missing status." In addition the bill would provide payment for all unused leave in final settlement of a deceased military member's accounts, without regard to the existing 90-day limitation, provided that the member dies while in a "missing status."

The proposed effective date of the bill is February 28, 1961. This date was selected in order that the benefits might be extended to all members who enter "missing status" incident to duty in Vietnam; however, the benefits of the bill are not restricted to any particular geographical location but cover all who are officially designated as "missing."

As my distinguished colleagues know, many of our prisoners of war have been missing for 6 years, some for a longer period. These men would have been permitted to take annual leave of 30 days for each year of their active duty service had they not been prisoners of war.

Mr. President, unless the authority contained in this bill is enacted, our country will not be able to compensate our prisoners of war for the loss of the leave to which they are entitled and would enjoy under normal circumstances. I urge early consideration and enactment of this bill to avoid compounding the hardships and inequities which these brave men and their families continue to suffer.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2013

At the request of Mr. THURMOND, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2013, a bill to amend chapter 21, of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans.

S. 2467

At the request of Mr. HOLLINGS, the Senator from Arkansas (Mr. MCCLELLAN) was added as a cosponsor of S. 2467, a bill to amend the Natural Gas Act.

S. 2956

At the request of Mr. JAVITS, the Senator from New Jersey (Mr. CASE) and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 2956, the War Powers Act.

S. 3297

At the request of Mr. WILLIAMS, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 3297, the Securities Industry Paperwork Modernization Act.

S. 3382

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3382, the Gifted and Talented Children's Education Assistance Act.

S. 3394

At the request of Mr. DOMINICK, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 3394, a bill to legalize the ownership of gold.

SENATE JOINT RESOLUTION 200

At the request of Mrs. SMITH, the Senator from Tennessee (Mr. BROCK), the Senator from Nevada (Mr. CANNON), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of Senate Joint Resolution 200, proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress.

SENATE JOINT RESOLUTION 215

At the request of Mr. MANSFIELD, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Joint Resolution 215, proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States.

SENATE JOINT RESOLUTION 216

At the request of Mr. WILLIAMS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Joint Resolution 216, to establish a Commission on U.S. Participation in the United Nations.

SENATE RESOLUTION 286—ORIGINAL RESOLUTION REPORTED PROVIDING ADDITIONAL FUNDS FOR THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following resolution:

S. RES. 286

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

SENATE RESOLUTION 287—ORIGINAL RESOLUTION REPORTED RELATING TO THE PRINTING AND DISTRIBUTION OF LEGISLATIVE PROCEEDINGS EULOGIZING THE LATE SENATORS HAYDEN, ROBERTSON, AND HOLLAND

(Ordered to be placed on the calendar.)

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 287

Resolved, That the legislative proceedings in the United States Congress relating to the deaths of the former Senator from Arizona, Mr. Hayden, the former Senator from Virginia, Mr. Robertson, and the former Senator from Florida, Mr. Holland, ordered to be printed by the Senate on January 26, 1972, as separate Senate documents, be printed and distributed, except to the extent otherwise provided by the Joint Committee on Printing under chapter 1 of title 44, United States Code, in the same manner and under the same conditions as memorial addresses, on behalf of Members of Congress dying in office, are printed under sections 723 and 724 of such title.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 230

At the request of Mr. KENNEDY, the Senator from Utah (Mr. MOSS) was added as a cosponsor of Senate Resolution 230, a resolution relating to underground nuclear weapons testing.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 998

At the request of Mr. CHURCH, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of amendment No. 998, intended to be proposed to the bill (H.R. 1), to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 999

At the request of Mr. CHURCH, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. CRANSTON), the Senator from West Virginia (Mr. BYRD), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of amendment No. 999, intended to be proposed to the bill (H.R. 1), supra.

NOTICE OF HEARINGS ON S. 3390

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations will hold hearings April 17–19 on S. 3390, the executive branch's proposal for authorization of foreign assistance for the 1973 fiscal year.

Secretary of State Rogers is scheduled to testify on April 17 and Secretary of Defense Laird on April 18. Public witnesses will be heard on April 19. The hearings will be held in room 4221 in the New Senate Office Building beginning at 10 a.m. each day. Persons wishing to submit statements should communicate with Arthur M. Kuhl, chief clerk of the committee, room S–116, the Capitol, telephone 225–4615.

I ask unanimous consent that certain tables which furnish information concerning the authorization request for military and related assistance be printed in the RECORD.

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

SECURITY ASSISTANCE—SUMMARY OF PROGRAMS FOR FISCAL YEARS 1971, 1972 AND 1973

[In millions of dollars]

	Total obligational authority (fiscal year)			Net adjustments (fiscal year)			New obligational authority (fiscal year)		
	1971	1972	1973	1971	1972	1973	1971	1972	1973
Grant military assistance	$788.0	$545.0	$819.7	−$93.0	−$45.0	−$39.7	$690.0	$500.0	$780.0
Foreign military credit sales	743.4	550.0	629.0	−44.1	−150.0	−102.0	699.3	400.0	527.0
Security supporting assistance	573.0	583.1	874.5	−3.4	−33.1	−30.5	569.6	550.0	844.0
Contingency fund [1]	26.2	29.1	30.3	−3.7	.9	−.3	22.5	30.0	30.0
Other [2]	4.4	4.5	4.8	−.3	−.3		4.1	4.2	4.8
Total	2,135.0	1,711.7	2,358.3	−149.5	−227.5	−172.5	1,985.5	1,484.2	2,185.8

[1] Used for disaster relief and other unforeseen economic assistance requirements as well as for security supporting assistance.

[2] Special State Department administrative expenses under sec. 637(b) of the Foreign Assistance Act. (See "nonregional" tab).

SECURITY ASSISTANCE—COMPARATIVE FISCAL YEAR SUMMARY BY REGION 1971–73

[In millions of dollars]

	Fiscal year—		
	1971	1972	1973
East Asia and Pacific	$1,088.9	$925.3	$1,423.6
Near East and South Asia	772.6	592.2	695.0
Africa	65.2	33.5	37.5
Latin America	69.3	78.1	95.3
Europe	26.1	12.4	23.6
Nonregional	$112.9	$70.2	$83.3
Total, obligational authority	2,135.0	1,711.7	2,358.3
Less: Net adjustments	−149.5	−227.5	−172.5
New obligational authority	1,985.5	1,484.2	2,185.8

SECURITY ASSISTANCE—AVAILABILITY ADJUSTMENT AND PROGRAMS FOR FISCAL YEARS 1972, AND 1973

[In millions of dollars; fiscal years]

	Total		Grant military assistance		Foreign military credit sales		Security supporting assistance		Contingency fund and other	
	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973
Appropriation (NOA)	$1,484.2	$2,185.8	$500.0	$780.0	$400.0	$527.0	$550.0	$844.0	$34.2	$34.8
Transfers	−4.0	−1.2					−2.4	−1.2	−1.6	
Recoveries/recoupments	66.0	60.1	35.2	30.0			30.9	29.8	.5	.3
Reimbursements	5.9	6.6	4.0	4.7			1.9	1.9		
Reappropriations	5.8	5.0	5.8	5.0						
Net private credit	150.0	102.0			150.0	102.0				
Carryovers	3.2						2.7		.5	
Total, obligational authority	1,711.7	2,35	545.0	819.7	550.0	629.0	583.1	874.5	33.6	35.1

SECU ITY ASSISTANCE AND SECURITY RELATED PROGRAMS

[In millions of dollars]

	Fiscal year 1966	Fiscal year 1967	Fiscal year 1968	Fiscal year 1969	Fiscal year 1970	Fiscal year 1971	Estimated fiscal year 1972	Estimated fiscal year 1973
Security assistance:								
Grant military assistance	$1,000.7	$742.3	$588.2	$453.1	$388.6	$788.0	$545.0	$819.7
Excess defense articles [1]	51.0	32.2	67.1	107.5	125.8	118.4	185.0	[2] 245.0
Foreign military credit sales	317.2	323.2	263.4	281.2	70.0	743.4	550.0	629.0
Security supporting assistance	717.7	727.2	601.9	471.1	525.0	573.0	626.6	874.0
Contingency fund transfers to security assistance	189.9	39.6	19.3	2.7	3.9	1.5	(3)	(3)
Total security assistance	2,276.5	1,864.5	1,539.9	1,315.6	1,113.3	2,224.3	1,906.6	2,567.7
Other security related programs:								
Military assistance service funded	838.5	1,496.0	1,591.7	2,130.4	2,093.4	2,325.9	2,339.4	2,055.0
Ship loans and leases [4]	5.3	8.9	20.3	2.5	7.8	15.4	30.0	[4] NA
Subtotal	843.8	1,504.9	1,612.0	2,132.9	2,101.2	2,341.3	2,369.0	[4] NA
Sales:								
FMS cash sales	1,467.7	805.1	849.7	1,433.5	863.2	1,329.4	2,280.0	2,220.0
Commercial cash sales	312.3	344.4	334.8	328.9	567.5	546.4	653.9	722.6
Subtotal	1,780.0	1,149.5	1,184.5	1,767.4	1,430.7	1,875.8	2,933.9	2,922.6
Public Law 480 funded—Common defense grant sec. 104(c)	135.8	105.0	150.3	92.8	108.0	191.7	101.4	112.3

[1] Legal value (½ acquisition value).
[2] Includes Vietnam.
[3] In fiscal year 1972, $30,000,000, and in fiscal year 1973 $30,000,000 are estimated overall for the President's Foreign Assistance Contingency Fund. An undetermined portion may be used for security-related items.
[4] Ship loans and leases data for fiscal year 1973 not available at time of publication.

ADDITIONAL STATEMENTS

PRESIDENT NIXON'S PROCLAMATION FOR NATIONAL WEEK OF CONCERN

Mr. HRUSKA. Mr. President, next week we begin the National Week of Concern for Prisoners of War/Missing in Action, as proclaimed by President Nixon according to the request of Congress. This Senator is proud to have been a cosponsor and active supporter of the Senate joint resolution which resulted in the designation of this very special week. Sunday, March 26, has also been proclaimed as a National Day of Prayer for the lives and safety of our prisoners of war and missing in action.

It is plain that our involvement in Southeast Asia is drawing to a close. At the same time, there has been no substantial easing of the lot of our men who are in the hands of the enemy. Our failure to make progress in this area is certainly not due to any lack of effort on the part of the Nixon administration. It is rather the result of dealing with a cold and inhumane enemy who has no regard for international obligations or the requirements of basic decency.

More than ever we must turn our thoughts and our efforts to the welfare of these men and their courageous families. The National Day of Prayer and the National Week of Concern provide an excellent focus for the minds and hearts of all Americans. On this occasion it is imperative that we show the enemy and the entire world that, regardless of other disagreements, our country stands united in protest and outrage against the refusal of North Vietnam and its allies to abide by the Geneva Prisoner of War Convention. We must make it plain by word and deed that America will not rest until every POW/MIA is either restored to his loved ones or fully accounted for to the satisfaction of this Nation.

President Nixon has spoken most eloquently on this situation in his proclamation commemorating this event. I therefore, ask unanimous consent that his Proclamation be printed in the RECORD.

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

AMERICANS WHO ARE PRISONERS OF WAR OR MISSING IN ACTION

(By the President of the United States of America)

A PROCLAMATION

1,623 American servicemen and some 50 U.S. civilians are now either missing in action or being held captive by North Vietnam and its allies. At the end of this month, the first men to be taken prisoner will begin their ninth year in captivity. This is the longest interment ever endured by American fighting men; it is also one of the most brutal.

The POW/MIA story of this long and difficult war is a tragic one:

The enemy continues adamant in his refusal even to identify all the Americans being held. He continues to flout the Geneva Prisoner of War Convention which establishes minimum humane standards for treatment of prisoners—a treaty to which North Vietnam is a signatory, just as are South Vietnam and the United States and 128 other nations. He continues to block impartial inspection of the prison camps. He continues to deny repatriation for seriously sick and wounded prisoners. He continues to ignore the prisoners' right to regular correspondence with their families.

And so those families suffer in spirit hardly less than their men suffer in the flesh. They live in a nightmare of unremitting anguish and gnawing concern. Many cannot even know whether their loved ones are still alive; those who do know this much, must live with their additional knowledge of the cruel conditions in which the prisoners exist.

Each new chapter in this outrage has stiffened the American people's determination to see justice done. We have stood and will continue to stand united as a nation in our concern and compassion for the prisoners and missing men. We mean to see this matter through.

Concern for the prisoners' plight, moreover, has spread to the people of goodwill around the world—and we may be confident that their humanitarian efforts, though so far rebuffed as callously as our own, will still continue as steadfastly as our own.

The United States has spared no effort—by diplomacy, by negotiation, by every other means—to secure fair treatment of our captive sons and brothers and to obtain their ultimate freedom.

As we set aside a special week of national concern for this continuing tragedy, and a special day of prayer for its resolution, we do so with a determination to persist in this effort—for principle, for peace, for the sake of these brave men and their parents and

brothers and sisters and wives and the children some have never seen.

Now, therefore, I, Richard Nixon, President of the United States of America, as requested by the Congress in Senate Joint Resolution 189, do hereby designate the period of March 26 through April 1, 1972, as National Week of Concern for Prisoners of War/Missing in Action, and Sunday, March 26, 1972, as a National Day of Prayer for the lives and safety of these men.

I call upon all the people of the United States to observe this week with such appropriate ceremonies and activities as will stir and sustain widespread concern for the missing men and prisoners, nourish the patient courage of their loved ones, and—above all—hasten the day of their safe return to home and freedom.

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

RICHARD NIXON.

THE COST OF CAPITOL RESTORATION

Mr. PROXMIRE. Mr. President, the controversy over whether to extend or restore the west front of the Capitol has been with us for years. We all desire to preserve this great and cherished architectural masterpiece from the ruin of time, but some confuse extension with preservation. The west front is the last remaining exterior wall of the original 19th century building, and the proposed plans for extension would nonchalantly destroy the very work we wish to preserve. Forever lost would be the architectural genius of William Thornton, Benjamin Latrobe, and Frederick Law Olmstead.

This thought is appalling, but what astounds me even more is the absurd money game which the Extension Commission is using to justify extension plans. When Congress authorized a restoration study in 1969, prior to initiating the extension project, we stipulated that five conditions be met. The catch clause was the requirement that the restoration project not exceed the arbitrary limit of $15 million. When the engineering consultant firm of Praeger, Kavanagh & Waterbury completed their comprehensive study in January of 1971, they stated that the five requirements for restoration could be met, and specificallly, the costs could be held below the $15 million ceiling; perhaps as low as $13.7 million.

Asserting an authority beyond the spirit of the law, the Extension Commission rejected the study. They maintained that the Praeger report was wrong and that restoration simply could not be completed at a cost under $15 million.

But let us face facts. The study was authorized in 1969. It was completed in January of 1971. With inflation and construction costs soaring every year, nothing priced a year ago will hold that price now. Construction costs alone are increasing by 11 percent per year for nonresidential projects, and the Capitol plans are not immune.

Indeed, if the Extension Commission were to wait another year or two or five, the cost of restoration would be considerably higher than present estimates. This is hardly a startling revelation. The crux of the matter is that these costs are relative and not absolute, and it is enigmatic that the Commission is determined to hold the $15 million ceiling on restoration while ignoring increased costs for extension.

When the restoration limit of $15 million was imposed in 1969, the estimated cost of extension was $45 million. In other words restoration was considered worthwhile if it could be accomplished for one-third the cost of extension. Although the $45 million estimate for extension took into consideration a 7-percent annual cost increase in construction, that figure has risen sharply from $45 million in 1969 to well above $60 million today. It is unreasonable to expect the $15 million estimate to remain static. But whatever increases have occurred, the costs for restoration are still well below one-third the extension price. That is the significant point.

Finally, it is well known that Capitol Hill construction has always been an expensive proposition. The Rayburn Building, completed at a cost around $100 million, was the most expensive office building in the world. However, even the early $45 million extension estimate was predicated on a building cost of $166.95 per square foot. This would be no less than five times the cost of the Rayburn Building.

Even if we accept the questionable assertion that restoration figures are a bit understated, they are not comparable to the costs of our extension boondoggle. The $15 million ceiling was set in relationship to the cost of extension. It is disturbing that the Commission continues to ignore restoration plans while estimates for extension soar beyond the realm of practicality. Before plans for extension become irreversible, a full hearing should be given this matter by Congress.

MARYLAND DAY

Mr. MATHIAS. Mr. President, Maryland Day annually commemorates the founding of the colony of Maryland on March 25, 1634. Each year it provides us with the opportunity to recall some of the courage of the past that has created the present and that challenges us to equal it in the future.

The beauty and serenity of the Chesapeake Bay, its great tributaries, and the shores that limit them, even after 338 years of human traffic, give us an idea of the breathtaking beauty of the scene that greeted the eyes of the passengers on the *Ark* and the *Dove* in 1634. We can imagine the ship-bound immigrants watching, as Father Andrew White described it:

> Birds diversely feathered . . . eagles, swans, hernes, geese, bitters, duckes, partridge reade, blew, partie coloured and the like, by which will appeare, the place abounds not alone with profit, but also with pleasure.

We are forced by the conditions that exist in the bay today to envy the purity of the Chesapeake's waters which Father White found to be "the most delightful water he ever saw, between two sweet landes" and there is a challenge in this description. It does not require the expertise of an environmental engineer to recognize the danger that now confronts the Chesapeake. The choice must be made now, and Maryland Day, 1972, would be a good day to make it, whether the Chesapeake will be once again the most delightful water ever seen or whether it will become America's dead sea.

Every Marylander has a stake in this decision and a part to play in executing it, either by positive action or by passive neglect. Since most Maryland rivers and streams ultimately empty into the Chesapeake, most Marylanders have a direct, consequential relationship with the bay and its tributaries No one can be indifferent without being irresponsible.

The goal for Marylanders on Maryland Day, 1972, should be to restore the waters of the Chesapeake to the standards of sweetness and purity that existed on March 25, 1634. This will be difficult, expensive, extended, and controversial. It will require some sacrifice and great dedication. But the alternative is hardly acceptable. There are too many arid, uninhabitable sites of once prosperous civilizations not to heed the warning. Unless the Marylanders of 1972 act soon, it may well be that in another 338 years there will be no observance of Maryland Day on the despoiled, depopulated shores of the Chesapeake Bay.

I pledge myself to do my part to save the bay, and I call on every Marylander to join in this great work of healing and rehabilitation.

I ask unanimous consent that the article written by Douglas Watson, published in today's Washington Post, be printed in the RECORD.

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

WORD FROM FATHER WHITE ON "ARK" AND "DOVE'S" GREETING

(By Douglas Watson)

Saturday is Maryland Day, when the state notes its 338th anniversary. On March 25, 1634, the first Maryland settlers landed in the Ark and the Dove at St. Clemente's Island in the Potomac River south of Washington.

The settlers were led by Gov. Leonard Calvert, representing his brother, Cecil, Lord Baltimore. Accompanying the expedition was Father Andrew White, S. J., a Catholic priest who sent the following report back to England.

Father White sailed in the Ark. The smaller Dove is the "pinnace" to which he refers. The adventurers stopped in the Caribbean islands of Barbados and St. Kitts before continuing on to Maryland, where one of their greatest concerns was the Virginians.

The settlers were greeted by Piscataway Indians, a tribe that has now vanished, but whose chief lived across the Potomac River from what became Mount Vernon. The Susquehannock Indians frequently raided the Piscataways, encouraging them to welcome the English settlers as allies.

Here are excerpts of Father White's "Brief Relation of the Voyage unto Maryland":

* * * * *

On St. Cecilia's Day, the 22d of November, 1633, with a gentle northerne gaile we set saile from the Cowes about 10 in the morninge. . . .

God would tende the matter, and sent that night soe strong a faire winde as forced a French barke from her ankor hold, driving her foule upon our pinnance, forced her to set saile with losse of an ankour, and take to sea, that being a dangerous place to floate in,

whereby we were necessarily to follow, least we should part companie. . . .

Our master was a very sufficient seaman, and shipp as strong as could be made of oak and iron, 400 tunne, king-built, making faire weather in great storms. . . .

The winde grew still lowder and lowder, makeing a boysterous sea, and about midnight we espied our pinnance with her two lights . . . from which time till six weekes, we never saw her more, thinking shee had asuredly beene foundred and lost in those huge seas. . . .

From this time to our journey's end, about three months, we had not one howre of bad weather, but soe posperous a navigation, as our mariners never saw so sweet a passage.

When I say three months, I meane not we were so long at sea but reckon the time spent at Barbadoes and St. Christopher's, for were at sea onely seven weekes and two daies. which is held a speedy passage. . . .

As for Virginia, we expected little from them but blows, although we carried the kings letters to their governour . . . As for the savages, we expected to find them as our English ill wishes would make them . . .

On the 3d of March came into Chesapeake Bay, at the mouth of Patomecke. This baye is the most delightful water I ever saw, between two sweet landes, with a channell 4, 5, 6, 7, and 8 fathoms deepe, some 10 leagues broad, at times of yeare full of fish . . .

This is the sweetest and greatest river I have seene, so that the Thames is but a little finger to it. There are no marshes or swampes about it, but solid firme ground, with great variety of woode . . .

At our first coming we found (as we were told) all in armes; the king of Pascatoway had drawne together 500 bowmen, great fires were made by night over all the country, and the biggnesse of our ship made the natives reporte we came in a canow as bigg as an Iland, with so many men, as trees were in a wood, with great terrour unto them all . . .

Our governour was advised not to settle himselfe till he spoake with the emperour of Pascatoway, the seat of the emperour, where 500 bowmen came to meet them at the water side.

Here the emperour, lesse feareing them the rest came privately aboard, where he found kind usage and perceiving we came with good meaneing towards them. gave leave to us to sett downe where we pleased . . .

The Indians began to lose feare and come to our coart of guarde, and sometimes aboard our shipp, wondering where that tree should grow out of which so great a canow should be hewen, supposing it all of one peece, as their canows use to be. They trembled to heare our ordinance, thinking them feare-fuller then any thunder they had ever heard.

The governour being returned from Pascatoway . . . we came some nine or ten leagues lower in the river Patomecke to a lesser river on the north side of it, as bigge as Thames, which we call St. George's.

This river makes two excellent bayes, wherein might harbour 300 saile of 1,000 tunne a peece with very great safetie, the one called St. George's Bay, the other, more inward, St. Mary's. On the one side of the bay lives the king of Yoacomaco, on the other, our plantation is seated, about halfe a mile from the water, and our towne we call St. Mary's.

To avoid all occasion of dislike, and colour of wrong, we bought the space of thirtie miles of ground of them for axes, hoes, cloth and hatchets, which we call Augusta Carolina. . .

They had warres with the Sasquasahannockes, who came sometimes upon them, and waste and spoile them and their country, for thus they hope by our meanes to be safe. . . Is not this miraculous, that a nation a few daies before in general armes against us and our enterprise should like lambes yeeld themselves, glad of our company, giveing us houses, land and liveings for a trifle . . .

The natives of person be very proper and tall men, by nature swarthy, but much more by art, painting themselves with colours in oile a darke read, especially about the head, which they doe to keep away the gnats. . . They have noe bearde till they be very old, but instead thereof sometimes draw long lines with colours from the sides of their mouth to their eares . . .

Their apparell is deere skins and other furrs, which they weare loose like mantles, under which all their women and those which are come to mans stature, weare . . . skins which keep them decently covered. All the rest are naked and sometimes the men of the younger sort weare nothing at all.

Their weapons are a bow and a bundle of arrowes, an ell long, feathered with turkies feathers and headed with points of deeres hornes, peeces of glasse or flints . . . I have seene them kill at 20 yards distance, little birds of the bignesse of sparrows . . .

Their housese are built in an halfe ovall forme 20 foot long, and nine or ten foot high with a place open in the top, halfe a yard square, where they admit the light, and let forth the smoke . . . In one of these houses we now doe celebrate (the mass) having it dressed a little better than by the Indians till we get a better, which shall be as shortly as may be.

The naturall wit of these men is good, conceiving a thing quick to. They excell in smell and taste and have farre sharper sight than we have. Their diett is poane, made of wheat, and hominie, of the same, with pease and beanes together, to which sometimes they add fish, foul and venison, especially at solemne feasts . . .

They hold it lawful to have many wives, but all keep the rigour of conjugall faith to their husbands. The very aspect of the women is modest and grave . . .

As for religion we neither have language yet to finde it out . . .

I will end therefore with the soyle, which is excellent so that we cannot set downe a foot, but tread on strawberries, raspires, fallen sulberrie vines, acchorns, walnutts, saxafras, etc. . . . All is woods except where the Indians have cleared for corne. It abounds with delicate springs which are our best drinke.

Birds diversely feathered there are infinite, as eagles, swans, hernes, geese, bitters, duckes, partridge reade, blew, partie coloured and the like, by which will appear, the place abounds not alone with profit, but also with pleasure.

PRESIDENT NIXON'S ATTEMPT TO CRIPPLE THE FARMWORKERS UNION

Mr. MONTOYA. Mr. President, for more than 100 long and bitter years, America's farmworkers have labored with little formal, tangible recognition of their dreary plight.

Periodically, efforts have been put forth by concerned elements among us, seeking to stir the conscience of our country into constructive action and reform on their behalf. Most such attempts have ended in sterility, frustration, and abject failure.

Agonizing to relate, many agricultural workers today work maximum hours for minimum pay in pesticide-saturated fields, deprived of even elementary amenities. Agribusiness dominates vast land holdings, envisioning a time when our food will be controlled from seed to checkout counter. All employ significant numbers of farmworkers, and smaller growers take their cue from them.

In recent years, a new stirring has been felt in the fields where America's bounty is grown and harvested. A new series of ideals and leaders have emerged, epitomized and personalized by Cesar Chavez. Inspired by his message of freedom, equality, patriotism, nonviolence, and Christianity, these poor men and women, the "descamisados" of today, have begun to reach out for rights which should have been granted them years ago. Their struggle has been arduous, as they have been confronted everywhere by entrenched vested interests determined not to yield an iota of profit for necessities these people seek.

Every legal and extralegal weapon has been employed against them by today's malefactors of great wealth, these landed corporate barons. Buffeted and villified, the farmworkers have scored an impressive series of organizing victories. And where they have secured contracts, children live better, death rates decline, educational attainment increases and hope rears its head among the previously hopeless. Cesar Chavez is an honest, good man, humbly seeking equality for his beloved people. No amount of false defamatory propaganda can change that. He marches with the flag, rather than against it.

The principal weapon employed by these people has been the boycott, legitimately utilized on a thousand different occasions throughout American labor's history. By traveling to cities where non-union produce is consumed, and informing sympathetic Americans of their plight, they have been able to peacefully present and win their case. If an enemy is to destroy the Farmworkers' Union, it must attack their legitimate weapon of the boycott. Only an instrument of government itself could mount such an illegal assault with any chance of success.

This has indeed transpired, and it is a sad day in American history. President Nixon is no friend of labor. In fact, he looks negatively at the entire concept of labor unionism. His administration has been characterized by the waging of economic warfare on the average man and political warfare on his institutions, primarily labor unions.

Always, the shrewdly delivered political blow has come with a semblance of legitimacy. Always wrap the flag around your dagger before using it. Make sure you piously disclaim ignoble motives before stabbing Caesar. In this case, the National Labor Relations Board has been degraded by its use as a tool with which to destroy the Farmworkers' Union.

On March 9, 1972, attorneys for the National Labor Relations Board regional office in Los Angeles filed a petition in the Federal District Court in Fresno, Calif., requesting a nationwide injunction against the Farmworkers' Union which would prevent current boycott activities.

The NLRB's theory behind this legal action is that the farmworkers are a "labor organization" in the meaning of the Taft-Hartley Act. Therefore, runs the formal reasoning, they are prohibited from engaging in secondary boycotts in spite of the fact that farmworkers are not entitled to any benefits or protection from or under existing Federal labor laws.

I believe, and most expert legal opinion available concurs, that these people and their activities are not subject to NLRB jurisdiction. They are, I believe, free to ask consumers not to shop at retail outlets carrying disputed nonunion products.

Previous NLRB behavior has dovetailed with this opinion, until very recently. President Nixon, obviously seeking to appease far rightwing sentiment, appointed Peter Nash as general counsel of the NLRB. From that time, difficulties commence for rights of farmworkers.

Every NLRB region in which charges have been filed against farmworkers has dismissed them. The farmworkers have received two letters from the National Board in Washington, one as recently as March 15, 1971, confirming they are not a "labor organization" under Taft-Hartley and not covered by secondary boycott provisions in section 8(b)(4) of the act.

Fact has not changed. Political expediency has simply shouldered it aside. The farmworkers still include only noncovered agricultural employees in their union. But the administration's desire to appease vested agribusiness reactionary interests dovetailed with impending political needs. The result is plain to see.

Farmworkers have no rights under the National Labor Relations Act. Therefore, th Board's action is morally reprehensible. However, morality is not this administration's strong point, as recent headlines indicate rather strongly. What the NLRB says, clearly, is that even though such workers have no rights under the act, they will be inhibited by its restrictions anyway, and specifically denied use of their only effective nonviolent tool, the boycott. In truth, this is their only substitute for rights granted all other workers, but which today are still denied them. In effect, therefore, the NLRB action seeks to turn the clock back and return farmworkers to the worst of times, when they had merely a right to die, pay taxes, inhale DDT and work from dawn to dusk for a pittance. How's that for progress?

Legally, the NLRB's action defies farmworkers equal protection under the law heretofore guaranteed by our Constitution's fifth and 14th amendments. It is an illegal attempt to abuse its equitable powers to issue cease and desist orders against alleged Taft-Hartley violations. Further, the NLRB is violating its statutory mandate not to spend any public money on agricultural disputes.

The Free Marketing Council, whose entire purpose for being is to defeat farmworkers, organizing attempts, is the group on whose behalf the NLRB has acted. It is a blatantly rightwing extremist group headed by a professional enemy of organized labor. Has the NLRB arrived at such a low point in its existence that it is to be administratively prostituted in such a manner?

In effect, then, the Republican Party and the Nixon administration are utilizing a once-respected organ of Government to smash the organizing activities of our Nation's poorest, most exploited group. It is war by the administration against minorities, particularly Mexican Americans.

Civilized nations gaze at such antics with amazement, wondering why we seek to resurrect the dark ages of man's struggle to be free and enjoy elementary human rights.

I have been in the forefront of those admonishing such people to utilize nonviolence—to believe in principles of America—in the compassion and basic fairness of the American people. I retain that belief now, and it is stronger than ever.

All the more reason why this administrative atrocity must be withdrawn. If the only legitimate means of protest is withdrawn from and forbidden to these humble seekers after justice, what else remains to them? Bitterness, anger, and a sense of betrayal.

Is the almighty dollar so precious to the powerbrokers of agribusiness? Is the administration so desperate to court rightwing favor? Can we turn our backs so cavalierly upon this legitimate striving to rise just a little within our society? Shall we deprive these people of any chance to enter the economic, political, and social mainstream of our national life?

President Kennedy gave his life for those rights. So did Robert Kennedy, who knelt on California dirt beside Cesar Chavez to show his support and belief in their cause. Has the clock come full circle so far and fast?

These farmworkers are Mexican Americans, blacks, Puerto Ricans, and Filipinos, in the main—a spectrum of America's minorities. They retain a belief in justice and the American promise of equality.

In every true sense of the word, farmworkers of our land who do not enjoy such elementary rights are still slaves. They may not bear the formal title of slave, but in fact they are relegated to such status.

To preserve them in that position by use of our formal governmental apparatus is a continual degradation of our country and its ideals. We are each less because of such a policy. Our country is less because of such a condition on their part.

None of us here can depart this Chamber and feel free as long as farmworkers toil for our benefit and receive a pittance in return.

Abraham Lincoln once stated, in his second annual message to Congress on December 1, 1862, as follows:

> In giving freedom to the slave we assure freedom to the free,—honorable alike in what we give and what we preserve.

This Republican President would do well to reread the words of that Republican President.

THE VOTER RESIDENCY RULE DECISION

Mr. GOLDWATER. Mr. President, it comes as no great surprise to me that the Supreme Court has struck down State and local residency rules applied to voters who move, something I have tried to change since 1964. If reports are correct, the High Court decision will mean that at least 5 million additional citizens will be added to the voting rolls in all elections—Federal, State, and local.

Mr. President, I became much concerned about these voter barriers in 1964, when, as the Republican candidate for President, I learned at firsthand of the enormous difficulty many of our servicemen, as well as civilians, were having in getting to the polls. I was amazed to discover that millions of citizens were prevented from voting for no reason other than that they happened to be moving.

For this reason, Mr. President, I made a start at attacking this problem by offering an amendment to the Voting Rights Act of 1965, which would guarantee that all U.S. citizens would be entitled at least to choose the officers who will run the U.S. Government. My proposal, which was cosponsored by 29 other Senators, was enacted in June of 1970. It completely abolished durational residence rules for all citizens who wish to vote for President and Vice President. I believe then that if any case could be made for stripping away the barriers which isolate our citizens from the polls, it would be a law which would secure the right of each citizen to vote for these high national offices. Fortunately, my prediction held up and the Supreme Court sustained the statute in late 1970.

With the Nation having gone this far toward ending excessive residence rules, the recent Supreme Court decision appears a logical extension of the 1970 statute. In fact, I notice that the Supreme Court has borrowed the same standard we wrote into the 1970 law, which preserves to each State a right to close its registration books 30 days before an election. In this way, each State will retain a practical period of time in which to prepare itself for the mechanics of the election and to check against fraud. Actually, most States now follow this practice in the case of longtime residents, and I do not think it will pose any hardship on States now to extend the same privilege to new residents.

Also, I recognize that nothing in the Court decision will prevent local officials from determining who is or is not a bona fide resident. This matter remains a decision for the State alone to decide.

Frankly, Mr. President, I was not certain whether States could be ordered to remove regulations governing local elections, but now that the Supreme Court has spoken, I am hopeful that each of our State and local governments will do its utmost to live with the new ruling and to allow the greatest number of citizens to vote.

TEXAS FIRST IN NEW READING-TUTOR PROGRAM

Mr. TOWER. Mr. President, on March 10–11, Houston, Tex., opened a new page in the history of America's productive heritage of volunteer citizen action to solve social and economic problems.

As a former teacher, I am especially pleased that Texas is the first State to participate in the National Reading Center's tutor-trainer plan.

Over 100 volunteer tutor-trainers par-

ticipated in the National Reading Center 2-day Houston workshop.

Each of these trained volunteers will now return to his or her home community to teach other volunteers how to help children improve reading skills.

Organizations sponsoring the workshop were the Houston, Spring Branch, Deer Park, Galena Park, and Pasadena Park chapters of the Association for Childhood Education International; the Houston Volunteers for Independent Schools; the Houston City Council of PTA; the Parent Teacher Organization; the League of Women Voters; Rice University; Harris County Department of Education; and 32 school districts in the Houston area.

The National Reading Center is taking its tutor-trainer plan to 20 States this year, and the Center intends to create a corps of trained volunteer reading tutors in every State in the Nation by the end of 1973.

The Center is the working staff of President Nixon's National Reading Council; Mrs. Richard M. Nixon is honorary chairman and a leader in the President's national right to read effort.

Dr. Donald G. Emery, executive director of the National Reading Center, has written an excellent editorial which appears in the March 1972, School Administrator, journal of the American Association of School Administrators, on how volunteers may be enlisted to combat the reading crisis of this country. It is titled: "National Reading Center—At Your Service."

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

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

NATIONAL READING CENTER—AT YOUR SERVICE

(By Donald Emery)

One of seven American adults cannot read well enough to understand newspaper want ads or questions on standard application forms. Up to 40 percent of the pupils in some big-city school districts are well below expected reading performance levels. Up to one quarter of the school enrollment needs more help in reading. We do, in fact, have a substantial reading problem in this nation, and it is time we got together to solve it. Yet we still do not have a usable performance definition of reading proficiency. This is no time to berate the schools for failing to solve the problem. Nor do we need lengthy explanations of how things got this way. This is the time to get on with some fairly obvious and some more difficult corrective measures.

First, let us teach all teachers how to teach reading skills, preferably before they begin teaching, but on the job if necessary. Let us see that classrooms and libraries, public places and homes have generous supplies of reading materials so children and adults can enlarge their reading skills. If parents by intuitive motivation teach very young children our oral language code by leaning heavily on attention, repetition and personal instruction, we should be able to achieve universal success with the printed code, too.

Learning to read proceeds best with direct personal instruction. But we don't have the teacher time or salary dollars to provide the amount of contact time that every child needs and deserves. A really trained volunteer reading tutor working under the supervision of the teacher can create the needed additional time for each child. The same principle holds for adults learning to read.

But volunteerism, while a great American tradition, has a bad name in some schools. The disenchantment often results from gratification of the volunteer's ego, lack of teacher orientation in how to use volunteers, and especially lack of volunteer training, which leaves the teacher with another problem rather than more help. At this moment, the preparation and use of trained volunteers is one of the few areas in which rapid improvement is possible.

The National Reading Council (NRC) has charged the Center to aid states in generating pools of trained volunteer reading tutors to help in schools where they are wanted. The National Reading Center is now involved in developing tutor training programs to produce 10,000 trained tutors in each of 20 states. Next year a similar program will be conducted in the remaining states. The volunteers are trained to provide supplementary services to the school's reading program. A handbook has been prepared to guide teachers in the effective use of volunteers trained by the Reading Center. The Center's program and materials have been developed by professionals and have been tested on the state level in Iowa, Ohio and Washington, D.C. A cooperative effort among voluntary organizations, the Center, local communities and school districts can produce a new human resource to help change the current reading scene. All responsible volunteer tutor programs should be encouraged. Partly through the trained tutor technique the Right To Read can become a reality in this decade.

The reading needs of adults require a massive effort, too. The Center is overseeing the development of new tutor programs directed to helping the adult worker, the dropout, the migrant worker, the Spanish-speaking American, the prison inmate and others.

Superintendents will be asked to assist in local recruitment of volunteers and in planning for their productive utilization. The Center recommends that local planning committees include school administrators, the PTA and local voluntary service organizations. For further information about how a single district can become part of a state's program working with NRC, write to Volunteers, National Reading Center, 1776 Massachusetts Avenue, N.W., Washington, D.C. 20036.

The school administrator is the key person to stimulate his community to recognize and fulfill the right of every adult and child to learn to read. The measure of his leadership will be whether he imaginatively marshals community cooperation and resources—including trained volunteer reading tutors—to confront both the in-school and out-of-school facets of the problem.

ESTABLISHMENT OF THE LONGFELLOW NATIONAL HISTORIC SITE

Mr. KENNEDY. Mr. President, yesterday we considered an unusual site, the Longfellow Home in Cambridge, Mass., for authorization as a National Historic Site. The trustees of the Longfellow home are not only donating the house to the Department of the Interior, but have offered a $200,000 donation toward its maintenance, administration, and operation. The Department of Interior has recommended the home for establishment as an historic site and has indicated that there will be no land acquisition costs, since the 1.98 acres of land on which the house stands will also be donated.

The Longfellow home is not only an outstanding example of 18th century architecture, but it also has a special historical significance for us. During the Revolutionary War, it was used as a hospital for colonials wounded at Lexington, Concord, and Bunker Hill. During 1775 and 1776, George Washington made this home his headquarters for 10 months during the seige of Boston.

Henry Wadsworth Longfellow, one of the most loved of American poets, came to this home in 1837 when he rented a room after he began teaching at Harvard. It was during this period that Longfellow's literary career began with the publication of "Hyperion, Voices of the Night," and "Ballads and Other Poems."

In 1843 Longfellow was given the home as a wedding present from his father-in-law. As the Longfellow biographer Edward Wagenknect pointed out:

As fame came, and with the house in his possession, he crammed it with objects d'art and thousands of books, creating a scholar's paradise, which has happily been preserved to delight the scholars of a later and more troubled day.

We have an unusual opportunity to acquire this historic home, the carriage house, the formal garden, the land, and a gift of $200,000 toward maintenance of this site.

In the past we have seen too often the acquisition of an historic site long after its architectural or historic qualities have been devastated through lack of care and maintenance. This is not the case with the Longfellow home. This home has been preserved and maintained at a high standard of excellence through the care and concern of the Longfellow home trustees.

It is fitting that this national historic resource be preserved in public ownership for the benefit and inspiration of all our citizens and for generations to come.

RESIGNATION OF LABOR BOSSES FROM PAY BOARD

Mr. PEARSON. Mr. President, the resignation of the labor bosses from the Pay Board is a case where they not only put their position above the national interest, but above the best interest of the union members. Inflation must be stopped despite the labor bosses' attempt to destroy wage and price controls.

I urge President Nixon to continue the Pay Board with members from organized labor who have a greater sense of the national interest or to reconstitute the Pay Board with members representing only the public and the public interest.

THE NEW JERSEY SILVERLINERS

Mr. WILLIAMS. Mr. President, there are many groups and individuals across the Nation who have been bringing hope to the handicapped for many years.

The New Jersey Silverliners, who are former Eastern Air Lines stewardesses, have been devoting their time and energy over the past 5 years to the severely mentally retarded of Woodbridge State School in New Jersey. They have raised thousands of dollars to improve the living environment at the school, organizing musical shows and other extracurricular activities, and sponsoring needed

research at the school's hospital on the diagnosis of mental retardation.

They have demonstrated the potential which millions of handicapped individuals can realize. For too long the handicapped have been forced to the edges of society when they could be contributing members of it.

The New Jersey Silverliners have shown what one group of dedicated people can do. The country as a whole, working together, could do even more.

Mr. President, I ask unanimous consent that an article, describing the work of the New Jersey Silverliners and published in the Newark Star-Ledger, be printed in the RECORD.

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

RETARDED STUDENTS OFFER A LESSON IN POTENTIAL

(By Barbara Kukla)

A 14-year-old girl named Mabel stepped to the microphone on the auditorium stage and detailed a musical program, which would include songs by Burt Bacharach and Simon and Garfunkel.

The setting could have been any school in the state, but the program was both touching and unique, for the participants were residents of the Woodbridge State School, a state-operated facility for the severely mentally retarded.

More than that, the program was a lesson in human potential, for the children and adults, dressed in white choir robes with bright red bows, not only were having fun, but demonstrated keen musical ability.

It was Volunteer Day at the school and representatives from more than two dozen groups which support the school—merchants, high school students, women's organizations and civic clubs—applauded loudly for each selection. At the end, there was a standing ovation.

For the members of the New Jersey Silverliners, former Eastern Airline stewardesses who "adopted" the school five years ago and since have held two annual fund-raising events for it, the program provided additional proof that their efforts are worthwhile.

"Work for a school like this and the accomplishments of the residents should get tremendous publicity," said Mrs. Gene Schaffer of Cranford. "Schools like Willowbrook should be exposed but the hoopla surrounding it has been damning to the many good institutions and facilities such as Woodbridge."

As chairman of the Silverliners' annual inflight cocktail party and fashion show, Mrs. Schaffer has gotten singer Jimmy Roselli to serve as honorary chairman and main attraction.

The event is set for April 29, when 100 persons will board an Eastern jet, on loan to the organization, and fly along the East Coast during the party and show.

Eastern crews have volunteered their services for the champagne flight, which will feature fashions by Mason Edwards of Elizabeth. Annette Silverman will provide the commentary.

During the five years that the Silverliners have been helping the school, they have contributed $7,000 to the facility, purchasing trees, shrubs and flowers and a pony cart and saddle for the Children's Zoo at the school.

In 1970, the chapter undertook sponsorship of a newly established chromosome study of the school's 1,000-member population. The study is being conducted in the school's hospital.

The Silverliners, according to Mrs. Andrew Compton, president, supply all test kits for the program as well as materials for processing tests.

"With the support of WSS hospital sponsors, there has been a new beginning into the diagnosis of mental retardation," said Dr. Jacyntho Da Silva, medical director of the hospital.

In addition to the annual fashion show, the Silverliners also hold an annual Christmas school.

The organization cleared $1,600 last year with a one-day bazaar at the Menlo Park Shopping Center. Handmade articles by Girl Scouts, women's organization and other civic groups were donated for the event, which was coordinated by Mrs. William Murphy of Scotch Plains.

"The Silverliners," said Mrs. Joan Mills of the hospital staff, "have provided us with resources to do a number of things. Their interest and support has had a positive impact on the people who live and work at Woodbridge."

UNDERSEA LONG-RANGE MISSILE SYSTEM

Mr. TOWER. Mr. President, last July the organization known as Members of Congress for Peace Through Law issued a series of research papers on various aspects of our defense program. Most of these papers were extremely critical of the projects reviewed. Included among them was a scathing attack on the B–1 bomber program.

However, there was one notable exception. In the CONGRESSIONAL RECORD, volume 117, part 20, pages 26170–26173, the Senator from Wisconsin (Mr. PROXMIRE) inserted a study prepared by Representative CRAIG HOSMER which was highly laudatory of the Undersea Long-range missile system—ULMS—and concluded with this statement:

> We should therefore encourage full steam ahead on ULMS development by approving the full fiscal year 1972 request for $110 million for this purpose.

The Senator from Wisconsin, in his prefacing remarks, heartily endorsed the study commenting:

> Congressman Hosmer arrives at the same basic conclusion that a number of us have arrived at; namely that this system is of considerable importance . . . and that some considerable urgency should be given to evaluating the program because of its great potential.

Hardly 6 months later our colleague, in a statement issued for release on January 22, 1972, raised loud protest at the $900 million request in the fiscal year 1973 budget for telescoping research and development on this project and moving into the production stage.

One point of opposition is the failure to cut back on other programs. Surely this is a weak excuse for jeopardizing an admittedly valuable program. Indeed, most of the arguments hauled out at this time could have been made as relevantly last year when the program was being praised.

Describing the budget request as a "crash program" the Senator expresses amazement that we should want to move ahead with such recklessness.

And then he launches into the most interesting contradiction I have encountered in a long time. He says:

> I see no need for anything approaching this tight a schedule. There are no breakthroughs in anti-submarine warfare technology now on the horizon which threaten the survivability of our Polaris and Poseidon boats.

Only three paragraphs later, he says:

> There is one other thing to consider in deciding to move ahead with a new boat, a factor I have not yet mentioned but which might in the long run be more important than all the other considerations combined. We do not know yet what improvements in ASW technology the 1980's will produce. Under the circumstances, it is difficult to design a submarine optimized to counter those improvements. We do know, however, that the Navy's plans for ULMS call for a huge submarine—much bigger than the Polaris—and that many kinds of ASW techniques on which we and the Soviets are working could be much more effective against large rather than small targets for detection.

It seems to me that what the Senator is saying is this: The ULMS program really isn't urgent after all because we do not need it today and it may be outdated tomorrow.

What that kind of rhetoric overlooks is that, if we wait until the antisubmarine warfare breakthroughs come, it will be too late to develop an ULMS program that will cope with the breakthroughs which eliminate the effectiveness of Polaris and Poseidon.

In the meantime we are without the use of an admittedly more effective program at little or no increase in cost. For according to the Hosmer report—

> "ULMS" high survivability, availability and reliability coupled with an effective maintenance program and system design will contribute to a lower cost per effectively deployed missiles, thereby reducing total system cost. The estimated expense of the entire ULMS system, plus ten years of operation is about $5 billion—approximately the same amount expended over the same period on the Polaris/Poseidon fleet.

In short, for following the recommendation of the study issued last summer by Members of Congress for Peace Through Law, the administration has now incurred the wrath of one of the organization's leading spokesmen.

I find a contradiction here for which I believe the public has the right to expect an explanation. To urge "full steam ahead" in July but be "hardpressed to find justification for any acceleration of the ULMS program . . ." in January deserves some explanation. To favor research and development but oppose production is not an explanation.

I should be glad to have some enlightenment on this amazing contradiction.

OCEAN POLLUTION

Mr. HOLLINGS. Mr. President, more and more evidence is being reported in scientific journals and newspapers about what man is doing to destroy the oceans. The New York Times of Sunday, March 19, contains an article by Boyce Rensberger about countless pieces of plastic being found by researchers in the Sargasso Sea.

The world environment is vast, and so are the great oceans of the globe. But they are no longer vast enough to escape the poisons from our industrialized society. Man has lived on this planet for more than a million years and has had

to struggle with the environment for survival. Today, our struggle is to save the environment from man himself.

The famed ocean explorer Jacques Cousteau testified last October before the Senate Commerce Subcommittee on Oceans and Atmosphere, which I chair, that unless man acts swiftly, perhaps in the next 30 to 50 years, the oceans will die. Many scientists share the belief that man's existence on this planet is entwined with life in the sea. The time for study and research has passed. What we need today is action—action to save our oceans. Every kind of pollution, no matter from what source, eventually winds up in the oceans. What is flushed into the harbor at Hong Kong eventually will wash ashore at Trinidad. DDT and PCB washed down the Mississippi River wind up in the food chain of the Polar Bear far above the arctic circle. The anthropologist Thor Heyerdahl says that when he crossed the Atlantic on Ra II, the crew sighted drifting oil clots on every day of the trip but three when the weather was too bad for observation—and this was across 2,407 nautical miles.

The New York Times article points out that the tiny bits of plastic found in the Sargasso Sea may be one source of the PCB found in certain marine organisms. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

PLASTIC IS FOUND IN SARGASSO SEA—PIECES OF APPARENT REFUSE COVER WIDE ATLANTIC REGION

(By Boyce Reusberger)

Countless small bits of floating plastic, apparently the refuse of industrial society, have been found drifting over wide areas of a region of the Atlantic Ocean called the Sargasso Sea.

The finding was made by scientists from the Woods Hole Oceanographic Institution as they were towing nets through the Sargasso Sea in a routine sampling of marine life.

In their nets, amongst the strands of sargassum seaweed, from which the Sargasso Sea takes its name, the biologists found hundreds of small chunks of plastic. Some were recognizable as cigar holder, syringe needle shield, jewelry and button snap.

The report, which appeared in the current issue of Science magazine, was made by Dr. Edward J. Carpenter and Dr. K. L. Smith, Jr., both research biologists at Woods Hole.

The scientists calculated that the plastic bits were spread over a huge area, perhaps several thousand square miles, at a density of more than 9,000 per square mile.

The scientists suggest that because many of the fragments appeared brittle, they may have lost the plasticizing ingredients that normally keep them pliable.

They speculate that because many plastics contain PCB (polychlorinated biphenyl) as a plasticizer, such bits of plastic may be one source of the PCB that has already been found in certain marine organisms.

ENVIRONMENTAL HAZARD

PCB is chemically similar to DDT and, many authorities believe, adds to the environmental hazard of industrial chemicals.

In a telephone interview Dr. Carpenter said he had made no study of whether PCB might have seeped out of the plastic. "This is really just an incidental finding to our work," he said. "We're hoping our report will stimulate people who are more expert in this field to pick up on this."

Dr. Carpenter said he would guess that the plastics came from the dumping of solid wastes in the ocean and were carried into the Sargasso Sea by the surrounding currents.

The Sargasso Sea, a vast portion of the western half of the North Atlantic, lies in the middle of circular currents that create a low whirlpool effect, concentrating floating objects toward the center.

Dr. Carpenter said Woods Hole marine scientists had found plastic in a different form in the waters of Long Island Sound from Niantic Bay, near New London, Conn., to Buzzards Bay at Cape Cod.

In these waters the plastic is in perfect spheres ranging in size from one millimeter to three. Some are clear, some opaque white.

NOTICED IN JANUARY

"We've collected these in every tow made in these waters," Dr. Carpenter said. "We first started noticing them in January, but I'm sure we were picking them up before then."

Dr. Carpenter said the plastic spheres, some of which float and some of which drift submerged, appear to exist in the water in an average density of about one in every cubic yard of water. In some places, particularly Niantic Bay, however, the density reaches 20 per cubic yard.

Chemists at Woods Hole are conducting analyses of the spheres to determine their chemical nature and, they hope, to get clues to their origin.

Dr. Carpenter said that, aside from the PCB question, the only biological impact of the plastic in Long Island Sound and the Sargasso Sea appears to be that they provide a surface for the attachment of tiny marine organisms such as hydroids, diatoms and probably bacteria.

Thus, he said, presence of the fragments may tend to increase the local populations of such creatures with unknown consequences.

DOT HEADS IN RIGHT DIRECTION

Mr. MATHIAS. Mr. President, I commend the administration and the Department of Transportation for the new transportation policies recommended yesterday to Congress. These new policy departures which I have long been urging, promise to bring about a farsighted, balanced transportation program for our Nation. They represent a victory for all Americans, and especially for harassed commuters and the residents of our crowded metropolitan areas.

Mr. President, for some time I have been calling for a new emphasis in our national transportation policy—a new direction that will assure that proper attention is given to all modes of transportation. America needs a balanced transportation policy. In the past, at different levels of technology, we have maintained turnpikes, canals, railroads, stagecoaches, riverways, and airways. Our goal is to move people and goods quickly inexpensively, and safely with little damage to our environment.

Today, we know that the highway alone cannot meet all our transportation needs. In the future we must find additional means of getting commuters from their homes to their jobs, of carrying shoppers to their stores, of carrying people from one part of a metropolitan area to another, as well as maintaining and expanding our superior roads and freeways. As one key way of achieving this needed diversification, I have recommended that the money in the Highway Trust Fund—which at present can be used only for highway related projects—be freed for use in various forms of mass transit, including commuter railroads, buses, subways, and regional mass transit systems such as that proposed for Baltimore.

This proposal, the Federal Aid Highway Act of 1972, S. 3037, which I introduced several weeks ago, along with the Senator from Connecticut (Mr. WEICKER) and several other Senators, would amend the legislation governing the highway trust fund to permit approximately one-half of the trust fund to be used for mass transit. It would give State highway officials new flexibility in building transportation systems that can best serve the needs of the people of their States. This bill would improve transportation planning in America by requiring long-range coordinated planning for all transportation modes within and among States.

I am therefore delighted to learn that the administration and the Department of Transportation have now agreed with the basic thrust of my proposal. In recommendations sent to the Congress yesterday, the administration calls for the use of the money in the trust fund for support of urban and rural transportation systems other than highways.

While the proposals of the administration are not identical with those contained in my bill, the goal I believe is the same. And the result, if the Congress will agree to these new departures, will be a better transportation system for all Americans.

I ask unanimous consent that articles describing the new proposals of the administration, published in the Baltimore Sun and the Washington Post, be printed in the RECORD.

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

[From the Baltimore Sun, Mar. 15, 1972]

VOLPE BACKS USING HIGHWAY FUND FOR URBAN MASS-TRANSIT PROJECTS

WASHINGTON.—John A. Volpe, the Secretary of Transportation, yesterday recommended that the Highway Trust Fund be used for urban public transportation or highways, at the option of state or local authorities.

The program would be achieved through creation of a Single Urban Fund authorized at $1 billion for the fiscal year starting July 1, 1973 and $1.85 billion for the following fiscal year.

The recommendation was contained in Mr. Volpe's report to Congress on highway needs, a document also calling for realignment of the federal-aid system for highways.

"This recommendation is as critical to the needs of the American public as any recommendation sent to Congress since I became Secretary of Transportation," Mr. Volpe said.

"If enacted by the Congress it will provide us with the means for meeting the pressing problem of urban transportation.

"It will give us the means to accomplish our mission of providing a balanced transportation system to create the facilities which will offer the people a choice, to plan for the increasing demands of the future and provide for the movement of people and goods in the most efficient, fastest and most convenient means possible."

CHANGING THE LAW

Mr. Volpe proposed amendment of the Highway Revenue Act of 1956 to authorize for the first time the use of trust funds for

other than highway-related projects, starting July 1, 1973.

He said the specific legislation incorporating these and other proposals would be submitted to Congress shortly.

The funds available would be increased to $2.25 billion for the fiscal years from mid-1976 through mid-1979.

Under the proposal 40 per cent of the Single Urban Fund would be distributed to the nation's standard metropolitan statistical areas according to their share of the national population.

Forty per cent would be allocated to the states, on a population basis, and 20 per cent would be reserved for discretionary use by the secretary on urban transportation projects best suited to the needs of the cities.

All the funds would be allocated on a 70 per cent federal and 30 per cent state and local matching basis.

[From the Washington Post, Mar. 15, 1972]

ROAD FUND EYED FOR TRANSPORT

(By Jack Eisen)

Secretary of Transportation John A. Volpe, responding to a long campaign by big-city officials and environmental groups, urged Congress yesterday to permit use of the federal Highway Trust Fund for spending on improving urban mass transport.

Saying that his plan has active backing from President Nixon, Volpe called for a sweeping reorganization of the nation's road and transit programs, with the choice of roads or rails to be made chiefly by local officials.

Volpe acknowledged at a press conference that the proposal would probably encounter stiff resistance, notably from trade groups that make up Washington's highway lobby.

"It is a bold move," Volpe said, "but I am ready to stand up and argue the case with anyone, whether he is a trucker or a highway contractor."

The plan was detailed in a 49-page "national highway needs report" sent by Volpe to Congress.

It provides for completion by 1980 of the 42,500-mile interstate highway system, which has stirred controversies by uprooting neighborhoods in many urban areas, including Washington. As of Dec. 31, the interstate system was 77 per cent completed.

Under the new proposal, there would be no new nationwide road network, as such, to expand the interstate system, which has revolutionized the nation's motoring habits and rearranged its economic geography since it was undertaken in 1956.

Instead, the money would be channeled into what Volpe called a "single urban fund" for roads and transit, and into two other funds for rural roads.

After a transitional year in Fiscal 1974, the entire annual outlays—$6.5 billion in Fiscal 1975 and $6.85 billion in Fiscal 1976 through 1979—would come from the Highway Trust Fund, supplied chiefly by revenue from the federal gasoline tax of 4 cents a gallon.

In the 1976–79 period, the interstate program would get $3 billion annually, the single urban fund $2.25 billion, the rural funds $1.2 billion and other programs, such as safety, total of $400 million.

The separate capital program for urban mass transportation, authorized by Congress in 1970 to spend $3.1 billion from the general fund over a five-year period, would be abolished.

That program is now the only federal source of funds for building rail transit systems (apart from Washington's specially financed Metro subway), and for the purchase of rail cars and buses.

The Highway Trust Fund is now used to a limited extent to finance such transit projects as special lanes for buses.

Volpe's new program would provide 70 per cent federal financing, with the 30 per cent balance to be raised by the states or localities. Interstate federal financing would continue until the system's completion at 90 per cent.

The program proposes a national distribution formula based on metropolitan and state populations, and would share control of spending between the states and local communities. However, the Secretary of Transportation would keep control over 20 per cent of the urban funds for projects "best suited to the needs of the cities."

All the money would go for capital outlay—roadways, tracks, transit equipment—but could not be spent to subsidize operating deficits. Congress is considering a separate program for that over Volpe's objections.

Most initial reaction was cautious, with highway trade groups delaying comment.

Sen. Harrison A. Williams Jr. (D-N.J.), chief sponsor of the existing mass transit law, voiced concern through an aide that the needs of transit might be subordinated to the much larger highway program. Volpe denied this to newsmen.

The affiliated National League of Cities and U.S. Conference of Mayors praised Volpe for submitting the plan but questioned whether the Highway Trust Fund would be ample to finance both roads and rails.

The Highway Action Coalition, an ecology-oriented group, praised the purposes of Volpe's plan, but voiced reservations chiefly over the completion of the interstate program and the lack of transit operating subsidies.

U.S. DISTRICT COURT JUDGE GEORGE S. REGISTER

Mr. BURDICK. Mr. President, I wish to take a moment of the Senate's time to pay proper respect and due tribute to a prominent jurist, Hon. George S. Register.

Judge Register retired from the Federal bench on December 22, 1971, after 16 years of distinguished service as chief judge of the North Dakota district. His death, on March 18, 1972, was unexpected because he had been in good health.

He was graduated from the University of Michigan School of Law in 1927 and practiced in Bismarck, N. Dak., until he was named to the Federal bench on July 27, 1955. During this period, he served as Burleigh County State's attorney for 24 years.

His judicial accomplishments were many. During his tenure, he served six times by assignment on the Eighth Circuit Court of Appeals and was appointed to a 15-judge team which tackled a backlog of cases in the Federal court in Brooklyn, N.Y. Seven times he served as a member of three-judge panels convened to rule on constitutional questions and, in each instance, he wrote the opinion for the court.

Despite his many professional accomplishments over a long and distinguished career, possibly the highest accolade that he received was the high regard and respect which was accorded him by both the bench and the bar.

Mr. President, I am deeply saddened by his death. Many citizens of North Dakota, including his former clients, his colleagues on the bench, and his fellow lawyers, will miss him. The Federal judicial system has lost the services of an able and experienced senior judge.

OCCUPATIONAL SAFETY AND HEALTH AMENDMENTS OF 1972

Mr. DOLE. Mr. President, the occupational safety and health legislation for which I voted in 1970 was enacted to deal with a difficult problem; it was intended to answer the need of assuring the health and safety of workers in every type of industry and business in the Nation. The objective of the act was laudable, but the variety of situations in which it was to be applied demanded legislation outlining a framework which would insure the development of reliable rules and a detailed explanation of the exact situations in which these rules would be applicable. During the course of debate on the act, considerable uncertainty developed as to which legislative approach should be taken.

RELIABLE MECHANISM NEEDED

After considering the various proposals, I came to feel that it would be desirable to include a more reliable mechanism for developing and enforcing reasonable health and safety standards. For those reasons, in the 1970 debate, I favored inclusion of provisions which emphasize cooperation among labor, Government, and management and shared responsibility for occupational safety and health among these sectors. The provision I favored would have set up a framework for the promulgation of strong but reasonable standards and would have established procedural safeguards to insure strong regulation and due process in their application. However, such provisions were not adopted by the Senate.

In the light of Congress failure to include these features, it is not surprising to me that confusion currently surrounds administration of the Occupational Safety and Health Act. I would suppose most of my colleagues in the Senate receive complaints daily as I do from small businessmen concerning the Occupational Safety and Health Act. I find that Kansas businessmen do not object to assuming the obligation of providing safe working conditions for their employees. In fact, most—the great majority—long ago accepted this responsibility by their wholehearted compliance with the strict and productive Kansas State occupation safety and health laws. But these Kansas businessmen do find it difficult to accept forced compliance with Federal regulations which have no meaningful application in their situation and which are often unknown and impossible for them to discover. I would also point out that the small businessmen are not alone in their opposition to the act. The communities in which these businessmen work and which their payrolls support also object to the occupational safety and health regulations which have forced many of the small businesses to close or at least seriously consider the possibility.

PROBLEMS IN RULE APPLICATION AND ADMINISTRATION

A wide range of difficulties, not all of which have been statutory, have come to light as businessmen have attempted to comply with occupational safety and health regulations. In a recent meeting,

a Kansas constituent informed an occupational safety and health representative that the OSHA regulations, as he understood them, would impose such a financial burden on him that he would be forced to close his business. The OSHA representative's unconcerned response was that a closed business would be in compliance with the regulations. The constituent owns a series of small businesses and has an outstanding job safety and health record. As a result of this response from the OSHA representative, the businessman has canceled his business expansion plans and intends to reduce the present number of persons employed. Kansas and the Nation cannot afford to pay this price for compliance with a law of questionable value, nor can such an attitude be tolerated on the part of Federal officials charged with cooperative efforts to implement the law.

Another constituent has informed me that even with the governing standards in his possession, compliance is still impossible, because of the lack of the standards applicability to his particular situation. In addition, he fears that the regulations could become outdated at any time without his notice. For these reasons, he has decided that it will be less costly and more certain for him to incur a fine and through the violation learn of his shortcomings than to attempt compliance in advance. Such a state of affairs is hardly conducive to respect for existing law, nor does it develop the needed interest in accomplishing the law's basic purpose of creating meaningful occupational safety and health standards.

KANSAS LAWS ADEQUATE

The objections Kansans have voiced to the occupational Safety and Health Act of 1970 are legitimate. They are not an attempt to avoid responsibility; rather, they are a plea for a rational, logical, unified approach to the problem of providing occupational safety and health standards which will serve the interests of all parties. The Kansas Legislature has responded to the situation by passing State OSHA regulations specifically pointed at answering Kansas needs and concerns. This legislation, if signed into law and found to insure a standard equal to or above the Federal standard, would return control of the Kansas occupational safety and health to the State of Kansas. In view of the State's fine record in the past, I firmly support these efforts by the State of Kansas to assume job health and safety responsibilities, and do not feel that individual States with good, proven occupational safety and health programs should be forced to disrupt their successful efforts to comply with Federal laws not adaptable to the State's particular needs. Of course, if States have deficient programs, they should be strengthened by the impact of Federal legislation where necessary. But I strongly feel that States and businesses who are giving proper consideration to job safety and health should not be needlessly harassed by Federal impositions.

EXEMPT BUSINESSES WITH LESS THAN 25 EMPLOYEES

With these views in mind, I have sponsored the Occupational Safety and Health Amendments of 1972 which are needed to alleviate the problems, while maintaining the basic strength and integrity of the 1970 act. The objectives of the Occupational Safety and Health Amendments of 1972 are twofold. First, they seek to limit application of the standards to only those situations where some reasonable association can be established between the proposed standard and the desired safety and health protections which are to result. The amendment proposes to exempt from application of the OSHA laws employers of fewer than 25 individuals. This exemption does not reflect a belief that such employers should not be responsible for the safety and well-being of their employees. Instead, the exemption reflects the reality that small businesses have, by their nature, built-in factors which promote safety and health protections. The close association between the small business employer and his employees fosters an understanding of mutual needs and expectations. The employer becomes directly involved with his employees as human beings rather than as only statistics on payroll and time sheets. With in this setting, the common benefits of safety and health measures become apparent to both parties and a much more reasonable basis is established for the formulation and application of safety and health standards than when rules drawn by a bureaucracy are sought to be applied. A reliance on this close employer-employee association and upon Kansas OSHA laws has for years provided adequate and meaningful protection for Kansas workers in a framework conducive to the growth of small business. I feel that continued reliance on these proven measures to provide protection in the future to small business employees is entirely justified.

PROCEDURES FOR RULE APPLICATION AND EVALUATION

A second objective of the amendments is to propose procedures specifically pointed at making certain OSHA standards reasonably conducive to attaining their expressed goals of improved job health and safety. In this connection, the amendments would require the Secretary of Labor, prior to the adoption of any standard, to publish an estimate of the average maximum cost of compliance by the average employer and to determine the possibility of compliance. The Secretary of Labor would also be required to evaluate each standard to determine its applicability within each class of business. After such evaluation, the Secretary would outline the specific class or classes of employers to which that standard is applicable. This step is essential to developing a reasonable and meaningful set of occupational safety and health standards.

The amendments contain several measures which will relieve employers from unreasonable penalties which would be imposed under the existing act. Many so-called national consensus standards were absorbed by the present act without any administrative or legislative determination that they would improve job health and safety. Many of these consensus standards were objectionable for both practical and procedural reasons, and in some cases they were admittedly outdated when made a part of the act. To prevent undue credence from being given such admittedly imperfect regulations and to provide a guideline for proposals to be adopted in the future, the 1972 amendments include the following limitations on the application of the Occupational Safety and Health Act of 1970:

First. A bar to using an employer's failure to comply with occupational safety and health standards which have been adopted by methods other than the normal administrative rulemaking process as evidence of negligence or wrongdoing in a civil action.

Second. A proscription against an employer being held strictly liable for a violation of standards on his premises if he has exerted reasonable efforts to comply with the standard and if noncompliance is the result of factors beyond his control.

Third. Protection for an employer being charged with violation of a standard developed through other than normal administrative rulemaking procedures unless he had 30 days prior actual notice of the standards.

Fourth. Provisions that an employer cannot be found liable for violating a standard if compliance with the standard would not have effectively constituted an improvement of occupational safety and health conditions.

These provisions are intended to hold employers liable only for violating standards of which they are aware and which are meaningfully applicable to them. They would in no way exempt employers from liability for violations which in fact breach reasonable safety standards. These proposals are intended to remove unreasonable OSHA requirements, while retaining full and adequate measures to protect the job health and safety of employees.

TECHNICAL ASSISTANCE AVAILABLE

One of the biggest objections Kansans have voiced about the 1970 act concerns its emphasis on forced compliance and strict liability as opposed to a coordinated approach which recognizes the responsibilities of both employer and employee in developing meaningful OSHA standards and conditions. I feel a coordinated effort on the part of the Government, labor, and business is needed to satisfactorily deal with the job safety problem. It is with the hope of fostering this cooperative spirit that the amendments provide technical advice, assistance, and consultation for businesses with fewer than 100 employees to assist them during the preceding calendar year in complying with reasonable and effective standards. In conjunction with this assistance, and in the firm expectation that it would produce better and more effective assurance of on-the-job health and safety, the amendments would provide that the act's standards and sanctions would not be enforceable against employers of from 26 to 100 employees for a year following the enactment of these amendments.

I feel that the rectification of existing occupational safety and health reg-

ulations is of primary importance to both employers and employees in Kansas and across the country. The Occupational Safety and Health Amendments of 1972 propose the necessary measures to solve the inadequacies of the 1970 act and promote the goal of occupational safety and health protection for all workers.

RELIANCE ON EXECUTIVE PRIVILEGE BY PRESENT ADMINISTRATION

Mr. FULBRIGHT. Mr. President, Eric Sevareid of CBS is one of our most perceptive commentators, and one of his recent commentaries on the CBS Evening News is of particular significance.

On March 14, Mr. Sevareid spoke about the increasing reliance on "executive privilege" by the current administration, and the "very big growth in personnel and functions under immediate control of the White House."

Mr. Sevareid concluded:

To a growing body of Congressmen this whole condition is intolerable. If the head of our most secret agency, Central Intelligence, can be summoned by Congress, they see no reason why White House staff people should be immune. Immunity, they think, should cover categories of specific information, not categories of jobs or titles.

Mr. President, because I believe Mr. Sevareid's commentary is deserving of widespread attention, I ask unanimous consent that it be printed in the RECORD.

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

CBS TELEVISION NETWORK

SEVAREID. The Senate hearings on the business of ITT and the Republican convention have yet to hear from two potential star performers, the lady lobbyist, Dita Beard, and presidential assistant Peter Flanigan, chief link between the White House and the financial world. The White House has been resisting moves to have Flanigan testify, with the usual argument of executive privilege.

Executive privilege is what is called an inherent right. At least half our presidents since Washington have successfully maintained their immunity, and the immunity of information they regard as confidential to the President, from summoning by the Congress. In Eisenhower's time, the then Attorney General Rogers asserted that this executive discretion could not be controlled at all.

Congress also has an inherent right, the right to information necessary to the making of laws. It went recklessly far with this in the wild days of Senator Joseph McCarthy. Partly for that reason, Congress has been mild in its demands since, and administrations have been bolder in their refusals.

Two rights are in collision here. The matter has never had a Supreme Court test on a clear cut basis, and some authorities think it should. Obviously the Congress must have information; obviously communications between any President and his immediate staff must be privileged. Beyond that point the matter gets complicated, but a case can be made for breaking the impasse.

What has happened over the last years is a very big growth in personnel and functions under immediate control of the White House. A number of confidential presidential advisers are also administrators of agencies and committees; the lines on which they operate are external as well as internal, between themselves and the President. In various cases involving business firms, Flanigan has done more than advise the President; he has taken a direct hand in the settlement of these cases.

Henry Kissinger is listed as Assistant to the President for National Security Affairs. Nobody now has the formal title of Executive Secretary of the National Security Council. Kissinger has the job and the power without the title. He also chairs six committees dealing with foreign and military affairs. He, too, is involved in far more than simply advising the President. But he is immune to formal questioning by committees of Congress. He will deal with the press, and sometimes the public directly, but not with the Congress as such.

To a growing body of Congressmen this whole condition is intolerable. If the head of our most secret agency, Central Intelligence, can be summoned by Congress, they see no reason why White House staff people should be immune. Immunity, they think, should cover categories of specific information, not categories of jobs or titles.

ETHNIC GERMAN CITIZENS EXPELLED FROM HUNGARY, RUMANIA, AND YUGOSLAVIA

Mr. PERCY. Mr. President, following the Second World War, ethnic German citizens of Hungary, Rumania, and Yugoslavia were expelled from those countries even though most of their families had been residents and nationals of those countries for many generations. They were forced to leave their countries and thus lost their properties and most of their possessions.

For many years these ethnic Germans have appealed to the Federal Republic of Germany to compensate them for these losses. At the same time they have made many appeals to the Government of the United States to raise this issue with the West German authorities.

On February 12, 1969, the Federal Republic adopted the law governing indemnification for reparation, destruction, and restitution losses, and a handful of ethnic Germans now residing in the United States have made claims under that law. However, the law prescribes such narrow conditions for claims that it effectively precludes the payment of claims to the vast majority of ethnic Germans now in our country.

While it is not routine practice for the Government of the United States to act as an intermediary with another country on behalf of naturalized citizens who were not U.S. citizens at the time their losses were sustained, I believe it would be a magnanimous act if our Government would now make a representation on their behalf with the Federal Republic of Germany. I do not advocate a blatant intervention in this matter, but only the raising of the issue with the West German authorities to indicate our own concern for the welfare of these citizens.

In the first session of the 92d Congress, with Senators BAKER and HUMPHREY, I submitted Senate Resolution 79, expressing the concern of the Senate for the plight of the ethnic Germans and calling upon the Secretary of State to explore the possibility of obtaining for them some measure of compensation for their losses.

As a nation dedicated to the protection of individual rights, the United States should have a sympathetic interest in this problem. For that reason, the desirability of proceeding with Senate Resolution 79, and I am asking the Committee on Foreign Relations to hold hearings on the resolution in this session.

GENOCIDE CONVENTION: LEGAL QUESTIONS

Mr. PROXMIRE. Mr. President, no one has raised serious objections to the purpose of the United Nations Convention outlawing genocide. The primary objections which have been raised during the 23 years since the convention was first submitted to the Senate have concerned constitutional and other legal points.

Over the years, however, these objections have gradually subsided as it became apparent that the Genocide Convention in no way challenges or violates the Constitution or any Federal laws. As Supreme Court Justice William Rehnquist said when he was Assistant Attorney General:

Twenty years ago Solicitor General Perlman provided a detailed and scholarly statement to a subcommittee of the Foreign Relations Committee on the constitutional and other legal questions surrounding the Genocide Convention. In 1950 some of the questions concerning Federal jurisdiction and the treaty power were considered somewhat novel. However, developments in the intervening years—the extensive use of the treaty power and the growth of Federal criminal jurisdiction—have, it seems, illuminated both these areas to the point where I believe I can safely say that the questions before the Committee and the Senate are more matters of policy than questions of legal power.

It seems to me that the only matter of policy left is whether or not we want to oppose genocide as strongly and as officially as the United Nations Convention does. I can see many benefits in this in terms of enhanced prestige abroad and no drawbacks. Mr. President, I again call for the immediate ratification of this convention.

INTERNATIONAL TRADE—A TWO-WAY STREET

Mr. FANNIN. Mr. President, international trade is an important economic factor which has received increasing attention in recent years. This is as it should be, because international trade continues to gain in importance. It is the responsibility of Congress and the executive branch to insure that trade is a two-way street.

The President in his report to us dated February 9, 1972, pointed out that:

The European Community and Japan are now centers of economic power and strong international competitors. The Community today is the largest trading area in the world. Japan has made rapid advances in productivity and has become a vigorous exporter. But discriminatory trading arrangements are assuming greater importance. Additional trade barriers have been erected. And past reductions in tariffs have exposed other barriers to trade, which have not been adequately addressed.

It is important for us to help the President to pursue his goal of removing trade barriers and seeing that our trading

partners live up to their international agreements. The Honorable Peter G. Peterson, now Secretary of Commerce, released a report on December 27, 1971, when he was the Assistant to the President for International Economic Affairs, which is excellent. Section 3 of volume 1 deals specifically with a matter of great concern to the citrus-producing States of Arizona, California, Florida, and Texas. Mr. Peterson discusses as an issue for international action, the discriminatory preferences which continue to damage citrus growers in the United States. Mr. Peterson states:

The United States has long supported the multilateral, non-discriminatory approach to the management of international economic relations, as opposed to bilateralism and discrimination. The United States has global economic interests: it thrives best in a world of nondiscrimination. The American interest is not solely economic, however. Nationalism is politically divisive, whether practiced militarily or economically. The United States has tried to encourage the development of an international system which would contain divisive economic nationalism and exclusive regionalism, so that political as well as economic relations might operate to the general benefit of all countries.

Some countries have looked at their own interests differently. Working from a smaller economic base, and heavily reliant on trade with their close neighbors, these countries have at times preferred to work outside the framework of nondiscrimination and multilateral negotiation. Sometimes, for historic and cultural reasons, they have used preferential commercial relations as a basis for continuing political ties and promoting exports. The countries of the European Community have been most active in practicing this kind of economic diplomacy, providing, for example, preferential access to the Community for certain exports of a large number of African and Mediterranean countries, and in return requiring preferred access for European exports *into* the markets of these countries. These latter preferences are known as *reverse* preferences and while they are presumed to be of value to European manufacturers, they are of little value to the developing countries which are required to provide them. These special trading arrangements between the Community and certain developing countries are often tied to aid flows, so that a broad, bilateral economic relationship is maintained.

In volume 2, Mr. Peterson points out in his section on trade with the European Community that:

The affects on these preferences on our citrus exports to the Community is a clear example of what, from our standpoint, is a discriminatory act, detrimental to both U.S. economic interests and the principle of a multilateral, open-trading world.

The Senate expressed its concern last year when it unanimously passed a resolution calling upon the President to insist that the EEC end illegal preferences granted to Tunisia, Morocco, Israel, and Spain. These preferences violate the most favored nation provision of the General Agreement on Tariffs and Trade. The most favored nation provision of GATT is its foundation, and has been the cornerstone of U.S. trade policy since the 1930's.

The EEC recently announced that it was reducing its 15-percent common external tariff on imports of fresh oranges for the months of June, July, August, and September to the tariff rate of 5 percent. What the EEC did not announce was that it was continuing its 80 percent preference in favor of Tunisia and Morocco which works on a 12-month basis and its 40 percent preference in favor of Spain and Israel which also works on a 12-month basis. Neither did the EEC announce that it is entering into negotiations with these four countries who currently are seeking to obtain improved preferences from the EEC. It is unbelievable that the European Community would openly discriminate against the U.S. citrus exports in complete disregard of its international obligation expressed in GATT in light of the proof that it is damaging the U.S. citrus industry. Adding to the insult and injury is the agreement to enter into negotiations with the four preferred countries to see if their preferences can be improved. The United States must not allow such a result to occur.

Mr. President, if the European Economic Community is serious in its claims that it wishes to establish better relations with the United States on trade matters, then let the EEC prove it by eliminating illegal trade preferences granted to other nations.

A duty reduction for one-quarter of the year does not eliminate the discrimination against U.S. citrus. The duty reduction does not fulfill the EEC's international obligations in this matter.

Mr. President, more trade talks between the United States and the EEC are to be held this year and in 1973.

Our negotiators should insist that the EEC stop providing trade preferences which discriminate against U.S. citrus. Free trade is a two-way street, or it is not free trade. It is essential that we eliminate barriers such as these.

LEAD POISONING

Mr. KENNEDY. Mr. President, I invite the attention of the Senate to an article that details the hazards of excessive amounts of lead in our environment. The Senate Health Subcommittee recently conducted hearings on legislation I introduced to continue the Federal assault on childhood lead based paint poisoning.

In addition to the tragedies of mental retardation and death caused by childhood lead poisoning there is increasing evidence of the hazards facing our society from the widespread use of lead in many other substances in common usage.

Automobile fuel and pottery are additional sources of lead that contribute to the potential danger of lead poisoning in our modern society. Dr. Stephen K. Hall, writing in "Environmental Science and Technology," the journal of the American Chemical Society, has clearly described the increasing danger to health caused by the polluting effects of lead in our environment. I believe that we must move against the dangers of excessive lead because we know how to prevent its damaging effects. For that reason, I ask unanimous consent to have printed in the RECORD the article entitled "Lead: Pollution and Poisoning," written by Dr. Stephen K. Hall, and published in Environmental Science and Technology.

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

LEAD: POLLUTION AND POISONING

(By Stephen K. Hall)

Lead has been mined and used by man for many years. Widespread early applications of lead are readily understood in light of its many desirable properties—relatively easily refined from natural ores, ductility, high resistance to corrosion, and other properties.

In both Greek and Roman culture, lead was used for manufacturing cooking utensils of the wealthy and in the lead pipes for the extensive plumbing systems of their homes. Studies indicate that Roman civilization deteriorated largely as a result of extensive lead poisoning (high incidence of infant mortality, mental retardation, and sterility) in the ruling class. This theory is supported by data showing a high lead concentration in the bones of their remains.

Of the nonferrous metals, lead is one of the most widely used in industry and everyday life. The annual consumption in the U.S. alone is well above one million tons. The storage battery industry is the largest consumer, about 40%, and the petroleum industry consumes about 20%, producing lead alkyls as gasoline additives. These 300,000 tons of lead are, of course, added directly into the ambient air. By contrast, only about 45% of the total lead consumed is recovered from metal products and batteries.

Today lead is an ubiquitous element present in food, water, and air. Lead aerosol is a common air contaminant. Dated samples of snow in northern Greenland indicate that up to 1750, there about 20 μg of lead per ton of ice until the Industrial Revolution. By 1860, this had increased to 50 μg/ton. The proliferation of the automobile since World War II also resulted in sharp increases—in 1940, 80 μg, in 1950, 120 μg; and in 1965, 210 μg. In the past two decades, man's continuing use of lead has produced an environmental level far above that which would exist naturally, and this could have grave consequences on human health.

SOURCES OF LEAD

Lead is a natural constituent of soil, water, vegetation, animal life, and air. Significant sources of naturally occurring lead include dust from soils and particles from volcanoes. In contrast to certain other metals such as mercury, lead in its elemental form is not a major source of poisoning.

In medieval times, the practice of "sweetening" wine with lead or lead acetate became a serious toxicological problem. Even today, alcoholic beverages of illicit origin are occasionally incriminated as the source of lead poisoning. Old automobile radiators are often used as the condenser component in illicit stills and contain enough solder to cause dangerous contamination of the "moonshine." Lead encephalopathy (disease of the brain), nephritis (disease of the kidneys) with gout, and other lead-related conditions have been reported in moonshine consumers.

Until the 1950's, most interior paints contained lead pigments which were a major source of childhood lead poisoning. Since then, lead oxide has been replaced by titanium dioxide. However, some old houses were painted countless times with leaded paint, and thick chips of leaded paint fall off as the walls and ceilings peel. Putty also contains lead and is even more likely to be found in substandard dwellings. Since children between the ages of one and four or five ingest nonfood particles of all types, about 8% of children in ghetto areas suffer from some degree of lead poisoning.

Another major lead source is earthenware pottery improperly glazed with lead. Large amounts of lead may be leached out of the glaze into certain foods. Today, man continues to pollute his environment with lead from other sources such as manufacturing,

use of pesticides, incineration of refuse, and combustion of coal and leaded gasoline. Available data indicate that combustion of leaded gasoline is the major source of atmospheric lead in urban areas.

ATMOSPHERIC LEAD

Antiknock agents of lead alkyls, in the form of tetraethyllead (TEL) or tetramethyllead (TML), have been added to most gasoline since 1923. Their use rapidly became a cause for concern because lead intoxication and even death occurred among those occupationally exposed. In 1925, the U.S. Surgeon General appointed a committee to investigate possible public health hazards in the manufacture, distribution, or use of leaded gasoline. In the following year, the committee proposed a set of regulations which were concerned only with precautions in manufacture and distribution. The proposed regulations were adopted voluntarily by the petroleum industry.

About 1930, an attack on the significance of lead as a hazard to the general public began, but for the following 30 years, there was little interest in the potential environmental pollution problem of lead. Then in 1958, the Ethyl Corp. sought and was granted an increase in the concentration of lead in gasoline by the Surgeon General. Today, the amount of TEL ranges from 2 to 4 g/gal of gasoline.

A survey in 1964 indicated only 88 cases of TEL poisoning reported in the U.S. and Canada, subsequent to adoption of the regulations in 1926, and only 16 fatalities. This record is not bad, considering that several million tons of TEL have been manufactured and distributed since 1926.

Lead exhausted by automobiles originates in the antiknock fluid in the gasoline. The fluid contains lead alkyls and organic scavengers, ethylene dichloride, and dibromide, whose function is to combine with the lead to form inorganic lead salts, chiefly bromochloride, that enters into the atmosphere as part of the exhaust gases. Since only negligible amounts of the lead alkyls in the gasoline are exhausted directly into the atmosphere, it is unlikely that the health of the general public would be affected.

The amount of lead discharged into the atmosphere in exhaust gases varies, depending on driving conditions from about 25% to 75% of the lead intake in the fuel. At low speeds, the lead tends to be retained in the exhaust system and is discharged at some later period when the engine is run at greater speeds. The level of atmospheric lead varies directly with the volume of traffic and the size of the community. Los Angeles, with a population of more than 2.5 million, has the highest lead concentration of the communities studied, with an approximate mean of 5 $\mu g/m^3$ of air. Other urban communities with a population greater than 2 million have values of about 2.5 μg. Communities smaller than a million have a mean atmospheric concentration of about 2 μg, and communities with a population of less than 100,000 have a mean value of about 1.7 μg. The mean today is rising by as much as 5% per year, and week-long averages 8 μg now occur in San Diego.

From the atmospheric precipitation samples collected by a nationwide network of 32 stations throughout the U.S., lead concentration is correlated with the amount of gasoline consumed in the area and the amount of lead in surface water supplies. Thus, any further rise in the dissemination of lead wastes into the environment can cause adverse effects on human health.

LEAD ABSORPTION

Two major routes by which lead enters the human body are the alimentary and respiratory tracts. Absorption of inorganic lead through the skin is insignificant. Trace amounts of lead are found in normal daily diets. The mean dietary intake of lead for adult Americans is approximately 300 μg/day. Approximately 6–7% of the metal ingested is actually absorbed, but the percent absorption does not appear to be materially influenced by the amount of intake.

In addition to the dietary intake, lead absorption by the respiratory tract has been studied. The amount of lead absorbed from a given air concentration varies according to the particle size. Particles of approximately 1 μ or smaller will probably be retained by the lung, with up to 50% retained in the body, and the remaining portion expired with air. Particles larger than 2 μ impinge on the mucous lining of the airways, are swallowed, and are handled as though ingested by mouth.

About 75% of particulate lead in vehicle exhaust is less than 0.9 μ in mean diameter, a size easily retained by the lung. For example, an urban adult, breathing air containing 3 μg of lead and respiring about $15 m^3$ of air per day, will absorb about 20–25 μg of lead from the respiratory tract. Roughly the same amount absorbed from a normal daily diet, this atmospheric lead contribution to the body approaches, and in some communities, even surpasses the contribution made by dietary intake.

LEAD METABOLISM AND EFFECTS

Under normal conditions, more than 90% of the lead retained in the body is in the skeleton. The amount of lead which is not retained in the body is excreted back into the gut in the bile and also excreted in the urine, sweat, hair, and nails. Long-term exposure at some daily level of lead is potentially hazardous because lead is a highly cumulative poison. Under conditions of abnormally high calcium metabolism, such as feverish illness or during cortisone therapy, lead may be mobilized and a toxic amount released from the skeleton. Only a small fraction of the total bone lead need be mobilized to add an appreciable increment to the small soft tissue pool.

With the passage of time, absorbed lead becomes progressively more deeply buried in the bone matrix. This develops a potentially dangerous pool of exchangeable lead which can persist for months or even years. Acute lead poisoning can occur long after exposure to abnormal amounts of lead has ceased.

Lead poisoning results from a very high levels of lead in the human body, particularly in the soft tissues. While in the soluble form, lead is both mobile and toxic, and most often affects the blood, kidneys, and nervous system.

The effect of excessive amounts of lead in the blood is anemia. The presence of stippled cells is characteristic of the blood of a patient with lead poisoning. Chronic nephritis, sometimes accompanied by gout, is a disease characterized by a scarring and shrinking of kidney tissues. In severe cases, it may lead to ultimate kidney failure.

The effects of lead on the central nervous system are seen in behavior problems characterized by convulsions or swelling of the brain. A single attack of acute encephalopathy can cause brain hemorrhage, mental retardation, and other permanent neurological injury. Similarly, repeated bouts of lead poisoning can also cause permanent brain damage ranging from subtle learning deficits to profound mental incompetence and epilepsy.

Chronic lead poisoning results from a slow buildup of lead over a period of years or the aftereffects of acute lead poisoning. Acute lead poisoning has easily recognizable symptoms, and if treatment is administered in time, permanent damage can be avoided. Chronic lead poisoning, however, without symptoms or with vague symptoms, is difficult to diagnose and may be recognized only after irreverisble damage has been done.

CHILDHOOD LEAD POISONING

Lead poisoning in children is primarily a metropolitan disease in preschool age children who live in deteriorated housing previously painted wtih thick layers of leaded paint. As they are converted into slum tenements, much of the leaded paint peels and crumbles and is readily available to a young child. A chip of paint about the size of an adult fingernail can contain between 50 and 100 mg of lead. A child swallowing a few small chips a day easily ingests beyond the tolerable adult lead intake.

Lead poisoning is more dangerous in children than adults. During the first few weeks of abnormal ingestion of lead, generally no symptoms appear. After about six weeks, minor symptoms such as decreased appetite, constipation, clumsiness, fatigue, irritability, lethargy, headache, abdominal pain, and sometimes vomiting occur. Repeated ingestion of lead can lead to intermittent drowsiness and stupor, more persistent and forceful vomiting, and convulsions. With more prolonged or intense ingestion, the disease can culminate in intractable convulsions and coma (the symptoms of encephalopathy) and sometimes sudden death.

The minimum blood concentration of lead below which it is most unlikely that poisoning will occur is 80 μg of lead per 100 ml of blood for adults. In children, however, the threshold should be much lower. Mild symptons of lead poisoning have been found in children at 60–80 μg. As the blood-lead concentration rises above 80 μg, the risk of severe symptoms increases sharply. As many as 50,000 children in the United States today suffer from lead poisoning. Even though physical recovery is possible, brain damage and mental retardation often ensue, for the ages of one to four or five are critical years in the growth and development of the brain.

LEAD POISONING CONTROL

The most frequently used lead poisoning treatment is to bind the soluble lead to chelating agents which remove lead ions from soft tissues and prevent deposition of lead on the surface of the red blood cells. With chelating agents, high lead levels in tissues can be rapidly reduced to levels approaching normal, and adverse metabolic effects can be promptly suppressed. However, if there is a large residue of lead in the stomach, chelates may encourage such rapid absorption of lead that death occurs. Chelates may also release lead already stored in the bones, causing further complications. Chelating agents frequently used to treat lead poisoning are calcium disodium ethylenediamine tetraacetate (EDTA), 2,3-dimercaptopropanol or British Anti-Lewisite (BAL), and *d*-penicillamine.

Before chelating agents were available to treat lead poisoning, about two thirds of all children with lead encephalopathy died. Now the mortality rate is less than 5%. Unfortunately, treatment has not substantially reduced brain damage and mental retardation in the survivors.

Among the various substances that man concentrates in his immediate environment, lead wastes have been accumulating rapidly during the last century. As far as is known, lead is not a trace metal essential to nutrition.

One must remember that lead absorbed in seemingly harmless trace quantities over a long period of time can accumulate to exceed the threshold level for potential poisoning and produce delayed toxic effects. Concentrations of lead in soft tissues as well as in bones continues to rise from birth through the fourth or fifth decade of life. Furthermore, concentrations are higher in the U.S. than in other parts of the world.

Normal concentrations of lead in adults are below 40 μg/100 ml of blood. The average concentration of lead in Americans is 27 μg. The question is whether this average is normal or whether it represents a serious increase beginning with adding TEL to gasoline and thereby reflecting documented increase in environmental lead. If this is so,

then any further increase might well be dangerous. Unfortunately, there is no baseline with which to compare contemporary populations. Low level effects are yet to be recognized.

Since 50% of airborne lead can be absorbed from diet, hopefully, the amount of airborne lead will remain constant since automobile and oil companies have started to eliminate leaded gasoline. Some states have laws prohibiting leaded paints for interior painting. However, applying lead-free paint over old leaded paint does not solve the problems. When paint peels, the leaded paint again becomes available to the child. Old leaded paint must be removed from substandard housing. Where rehabilitation is impossible, urban redevelopment projects should replace substandard housing.

Present American industrial standards consider 200 $\mu g/m^3$ to be an acceptable level of occupational exposure. A known effect of chronic lead exposure among industrial workers is peripheral nerve disease, affecting primarily the motor nerves of the extremities, while symptoms of acute lead poisoning are strikingly absent. Federal and state governments are reponsible for instituting effective control measures in industry.

Whether or not lead concentrations measured are hazardous to human health, any further increase of lead in the environment will result in further concentration in some food chains, leading ultimately to toxic doses for man or for some other important organisms. Lead pollution, therefore, must be controlled.

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FUTURE HOMEMAKERS OF AMERICA

Mr. TOWER. Mr. President, in these troubled times, we have witnessed a rash of negativism. Countless organizations have come forth to oppose something. Perhaps the two characteristics such organizations have in common is their negative approach, and, as a consequence, their short life. The antithesis of these organizations is the Future Homemakers of America.

For over 25 years, the Future Homemakers of America have made positive, significant contributions to the development of American youth. During the week of March 19 to 25, we are paying tribute to this fine group. The theme of National Future Homemakers of America Week is "Profiles in Youth." The FHA is emphasizing the positive qualities of American youth, who are challenged to be "caring, working, learning, discovering, improving, and solving." In essence, the members of FHA are striving for a better family life.

The Future Homemakers of America was founded on June 11, 1945. It is an incorporated, nonprofit national organization for students who are taking courses in home economics and other related subjects. The FHA is supported by membership dues.

Today, there are over 550,000 members in 11,000 chapters located in all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and American schools overseas. The State of Texas has more than 70,000 members, making it the largest FHA State association.

In order to appreciate the goals and ideals of the FHA, I would like to state the eight purposes of the organization found as the constitution of the association of the State of Texas: First, to promote the joys and satisfaction of homemaking; second, to strengthen the function of the family as a basic unit of society; third, to encourage democracy through cooperative action in the home and community; fourth, to become aware of the multiple roles of men and women in today's society; fifth, to improve national and international relations; sixth, to provide opportunities for decisionmaking and for assuming responsibility; seventh, to involve youth with adults in individual and group activities; and, eighth, to develop interest in home economics, home economic careers, and related occupations.

As our society continues to change and evolve, the Future Homemakers of America will continue assisting our youth meet the challenges of tomorrow. "Toward new horizons" is the motto of the FHA, and it is a goal to which the entire Nation could aspire.

THE FEBRUARY CONSUMER PRICE INDEX

Mr. KENNEDY. Mr. President, the exorbitant and unconscionable rise in consumer prices for February announced today makes a mockery of the administration's irresponsible charges against the labor leaders who left the Pay Board yesterday. The essence of the protest by Mr. Meany, Mr. Abel, and Mr. Smith is that phase II is a failure in the fight against inflation. Surely, if the elaborate apparatus of the Price Commission cannot hold the line on rising prices to the promised level of 2 to 3 percent, there can be no logic or justice in the demand that labor hold the line at 5.5 percent for wage increases.

No one wants to see phase II fail. No one wants a situation in which labor representatives are unwilling to participate in the program. No one wants a program in which any single sector of the economy has to bear an excessive burden of the fight we all want to win to bring the economy back to health.

Perhaps this dramatic new one-two punch—the sudden labor walkout and the brutal February price increase—will wake up the administration and make it see the problem. Phase II is adrift on an aimless sea of bureaucracy. It must be made to function more effectively and more fairly for labor and business alike. Only then will it have the real confidence of all the American people.

INADEQUACY OF SBA LOAN CEILING

Mr. JAVITS. Mr. President, yesterday, the Senate passed S. 3166, a bill to amend the Small Business Act by increasing the amount which may be outstanding from SBA's business loan and investment revolving fund at any one time for purposes of particular SBA financial assistance programs.

I am gratified that the Committee on Banking, Housing and Urban Affairs reported, and the Senate passed, an amendment to the bill that Senator CRANSTON and I cosponsored, to increase from $25,000 to $50,000 the maximum loan that SBA is authorized to make, participate in, or guarantee to small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, but I wish to express my concern over the fact that we approved the Banking Committee's cutback on SBA's lending authority for direct, immediate participation and guaranteed loans as well as other authorized loan commitments, from the $5.8 billion ceiling requested by the SBA to $4.1 billion.

We are all well aware that SBA exceeded its loan ceiling last year and that this caused unnecessary interference with the successful operation of SBA programs until Congress acted to establish an upward revision of the loan ceiling. Administrator Kleppe of the SBA in his testimony before the Subcommittee on Small Business on March 9 estimated that outstanding loans and commitments projected through fiscal year 1974 will total $5,626,000,000 and it was on this basis that SBA requested an increase in the ceiling to $5.8 billion. In addition, it should be noted that the Office of Management and Budget offered no objection to the SBA request for a $5.8 billion ceiling.

This is a critical period for small business. The need for successful delivery of SBA financial assistance to inner city, smaller urban, and displaced businessmen has never been greater. This definitely is not the time for false economy. I believe this matter should be given a thorough review when the bill goes to conference with the House and I urge the conference committee to restore the $5.8 billion ceiling requested by SBA.

Mr. President, I ask unanimous consent that Administrator Kleppe's statement of March 9 before the Committee on Banking regarding the ceiling legislation, as well as a statistical chart prepared by SBA showing ceiling levels and projections by program and overall, for fiscal year 1971 through 1974, be printed in the RECORD.

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

STATEMENT OF ADMINISTRATOR THOMAS S. KLEPPE

Mr. Chairman, I appreciate the opportunity to appear before this Committee once again to discuss our current request for additional increase in the revolving fund ceilings stated in Section 4(c) of the Small Business Act. S. 3166, which you have introduced,

Mr. Chairman, would provide for the necessary increases.

S. 3166 would effect four amendments to the provisions of Section 4(c)(4) of the Small Business Act governing the total amount of loans, guarantees, and other obligations and commitments which may be outstanding at any one time from our business loan and investment fund. The first of these amendments would increase from $3.1 billion to $5.8 billion the amount which may be outstanding from the fund at any one time for the purposes of (1) our regular business loan program under Section 7(a) of the Small Business Act; (2) the loan program we administer, pursuant to Section 7(b)(3) of that Act, known generally as the displaced business loan program; (3) the trade adjustment loan program authorized by Section 7(e) of the Act; (4) the section 8(a) prime contract assistance program; and (5) the economic Opportunity loan program authorized by Title IV of the Economic Opportunity Act of 1964.

Our current budget projects indicate that, as of the end of this current fiscal year—less than four months from now, Mr. Chairman—our outstanding loans and commitments to be measured against the current $3.1 billion ceiling will total $3,041,700,000. This wi'l leave virtually no reserve to carry us into Fiscal Year 1973. Although no decisions regarding our FY 1974 loan levels have been made, we estimate that our outstanding loans and commitments projected through FY 1974 will total $5,626,000,000.

It is on this basis that we have requested an increase in this ceiling to $5.8 billion, which would carry us through FY 1974 and permit an additional contingency reserve of $174 million.

Within the present $3.1 billion ceiling, there is a sub-ceiling governing the total amount which may be outstanding from the fund at any one time for economic opportunity loans made under Title IV of the Economic Opportunity Act. The current level of this sub-ceiling is $300 million. Our estimates for this program, projected through FY 1974, total $358.5 million. We have requested that this sub-ceiling for economic opportunity loans be increased to $450 million.

We are also requesting that the dollar ceiling governing the total amount which may be outstanding from the fund at any one time for purposes of the small business investment company (SBIC) program under Title III of the Small Business Investment Act of 1958, be increased from $450 million to $650 million. Our projections indicate that the present ceiling will not carry us through FY 1973. Although no decisions have been made regarding the SBIC program level for FY 1974, our projection is that outstanding loans and commitments through FY 1974 will total $565.4 million. Increasing the ceiling to $650 million, as we have requested, would allow an additional contingency reserve of $84.6 million.

Finally, Mr. Chairman, we are requesting that the ceiling governing amounts outstanding from the fund for purposes of the State and local development company loan programs under Title V of the Small Business Investment Act of 1958, be increased from $500 million to $700 million. Our projections here indicate that the total amount outstanding through the end of FY 1974 will equal $550 million. The requested $700 million ceiling would allow a very adequate contingency reserve for this vital program.

Except for the ceiling governing the State and local development company loan programs, our current projections indicate that none of the current ceiling figures will carry us through the next fiscal year. Most critical, of course, is the $3.1 billion ceiling which I first discussed. As I mentioned earlier, that figure will permit us to operate through the current fiscal year with very little room to spare. We ask the assistance of this Committee in recommending that the Senate promptly enact the provision of S. 3166 raising these ceiling figures to the levels necessary to carry SBA's programs through FY 1974.

This concludes my statement, Mr. Chairman.

SMALL BUSINESS ADMINISTRATION—BUSINESS LOAN AND PRIME CONTRACT LIMITATION REQUIREMENTS, ACTUAL FISCAL YEAR 1971, ESTIMATED FISCAL YEAR 1972-74

[Dollars in millions]

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, start of year	$1,737.8	$2,297.0	$3,041.7	$4,105.9
Plus—new loan approvals:				
7(a) business	772.5	1,099.0	1,635.0	2,250.0
Economic opportunity	90.7	86.0	90.0	105.0
Displaced business	39.3	39.0	50.0	81.0
Trade adjustment assistance	4.5			
8(a) prime contracts (net increase)	8.5	3.7		
Total	915.5	1,227.7	1,775.0	2,436.0
Minus—repayments and cancellations:				
7(a) business	314.2	436.8	653.2	845.3
Economic opportunity	32.0	36.0	45.3	50.5
Displaced business	10.1	10.2	12.3	18.2
Trade adjustment assistance				1.9
Total	356.3	483.0	710.8	915.9
Outstanding loans and commitments, end of year	$2,297.0	$3,041.7	$4,105.9	$5,626.0
Current limitation	3,100.0	3,100.0		
Plus—contingency reserve				174.0
Recommended limitation				5,800.0
MEMORANDUM (June 30, 1970)				
Outstanding by program:				
7(a) business	$1,420.8	1,879.1	2,541.3	3,523.1	4,927.8
Economic opportunity	150.6	209.3	259.3	304.0	358.5
Displaced business	153.6	182.8	211.6	249.3	312.1
Trade adjustment assist		4.5	4.5	4.5	2.6
8(a) prime contracts	12.8	21.3	25.0	5.0	25.0
Current EOL sublimitation		300.0	300.0		
Recommended EOL sublimitation					450.0

SMALL BUSINESS ADMINISTRATION—DEVELOPMENT COMPANY LOAN LIMITATION REQUIREMENTS, ACTUAL FISCAL YEAR 1971, ESTIMATED FISCAL YEAR 1972-74

[Dollars in millions]

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, start of year	$291.4	$322.2	$369.3	$434.0
Plus—new loan approvals	56.2	77.0	100.0	155.0
Minus=repayments and cancellations	25.4	29.9	35.3	39.0
Outstanding loans and commitments, end of year	$322.2	$369.3	$434.0	$550.0
Current limitation	500.0	500.0		
Plus—contingency reserve				150.0
Recommended limitation				700.0

SMALL BUSINESS ADMINISTRATION—INVESTMENT COMPANY LOAN LIMITATION REQUIREMENTS, ACTUAL FISCAL YEAR 1971, ESTIMATED FISCAL YEAR 1972-74

[Dollars in millions]

	Actual fiscal year 1971	Budget estimates: Fiscal year 1972	Budget estimates: Fiscal year 1973	Projected fiscal year 1974
Outstanding loans and commitments, start of year	$284.3	$316.0	$388.9	$484.6
Plus—new loan approvals	47.7	78.0	100.0	84.1
Minus—repayments and cancellations	16.0	5.1	4.3	3.3
Outstanding loans and commitments, end of year	$316.0	$388.9	$484.6	$565.4
Current limitation	450.0	450.0		
Plus—contingency reserve				84.6
Recommended limitation				650.0

RULES OF THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, as required by section 133B of the Legislative Reorganization Act of 1970—Public Law 91–510—I ask unanimous consent that the rules of the Special Committee on Aging be printed in the RECORD.

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

RULES OF THE SPECIAL COMMITTEE ON AGING

(As adopted June 12, 1963)

RULE 1

Convening of meetings.—Unless the Senate is in session and a different date within the month is ordered and notice given, the Committee shall meet regularly at 10 a.m. on the second Thursday of each month during the session. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary. Regularly scheduled meetings of the Committee may be postponed or cancelled by the Chairman should there be insufficient business before the Committee to warrant such a meeting. Subcommittee Chairmen may call meetings of the Subcommittees at such time as they deem necessary except that no such meetings may be called at a time when the full Committee is scheduled to meet. Special meetings may be called by a majority of all Committee or Subcommittee members upon written notice to the Clerk of the Committee. The Clerk shall give at least 24 hours notice to every member of the meeting, time, and place.

RULE 2

Presiding officer.—The Chairman of the Committee (or Subcommittee) or if the Chairman is not present, the ranking Majority member present shall preside at all meetings.

RULE 3

Quorums.—A majority of the Committee or any Subcommittee shall constitute a quorum sufficient for the conduct of business at executive sessions. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses and the taking of testimony at hearings.

RULE 4

Subcommittees.—Matters referred to the Committee shall be considered initially by the full Committee or by such Subcommittees as the Chairman, with the approval of the Committee, shall designate. Subcommittees may be established and their size determined by vote of a majority of all members of the Committee. The Chairman of the full Committee shall be an ex officio member of all Subcommittees. Party membership of each Subcommittee shall be proportionate to Party membership on the full Committee. Each Subcommittee is subject to these rules and any limitations imposed by the full Committee and is authorized (a) to hold and report hearings; (b) to sit and act during meetings of the Senate and during recesses or adjournment of the Senate; and (c) to require by subpoena or otherwise the attendance of witnesses and the production of documentary evidence.

RULE 5

Agenda and voting at meetings.—The business to be considered at any meeting of the Committee or a Subcommittee shall be designated by its Chairman and any other measure, motion or matter substantive or procedural within the jurisdiction of the Committee or a Subcommittee shall be considered at such meeting and in such order as a majority of the members of such Committee indicate by their votes or by presentation of written notice filed with the Clerk. Voting by proxy shall be permitted in the full Committee and all Subcommittees.

RULE 6

Right to counsel.—Any witness subpoenaed to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

RULE 7

Amendment of rules.—The rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

RULE 8

Reports.—Staff reports and Committee reports shall be printed only with the prior approval of a majority of the full Committee. The printing, as Committee documents, of materials not originating with the Committee or its staff shall also require prior approval of a majority of the full Committee. The printing of a Subcommittee report shall require prior approval of a majority of the Subcommittee concerned. With respect to the printing of Staff reports, the Chairman is authorized to conduct a poll of the Committee. In such cases, the Minority shall have the right to request reconsideration of the results of such poll at the next meeting of the Committee.

LIMITS ON THE RIGHT TO STRIKE

Mr. TOWER. Mr. President, on March 13, the Washington Star published an extremely perceptive article on one of the most important issues confronting the Nation—is there a constitutional right to go on strike? The article was written by Mr. Milton Viorst, a columnist whose opinions usually do not coincide with my own.

However, in this instance, Mr. Viorst has addressed himself to a number of questions which many public officials are reluctant to discuss. For instance, Mr. Viorst asks whether the labor movement should be allowed to destroy the effectiveness of the administration's economic stabilization program. In discussing this problem, Mr. Viorst asks whether there is a constitutional right to strike.

The author puts these issues in proper perspective by analyzing the current status of organized labor. It is ridiculous to suggest that the struggles facing organized labor today are the same that the movement faced earlier in the 20th century. Instead of fighting for the right to organize and represent workers on a regional and national basis, organized labor today is fighting for increased wages of an inflated nature and for the continuation of regressive work rules in industry that should have been reformed 20 years ago.

Organized labor today is engaged in a struggle to hold on to the status quo for the benefit of a few, at the expense of the remaining parts of our society, including those workers who are either unorganized by choice or command and those workers who belong to smaller unions without the political and financial influence enjoyed by big labor.

Mr. President, Congress has been reluctant to seriously consider the issue of labor law reform. However, it will soon become apparent to the majority of representatives that the American people will not stand for the continuation of the irresponsible public attitude that is held by the leaders of organized labor. It has become increasingly apparent to many Americans that economic threats, as exemplified by the attitude of the leadership of the dockworkers, cannot be tolerated if liberty and economic freedom are to be preserved.

Mr. Viorst's article adds to the education process that is needed if labor law reform is to gain the national attention that it deserves. I urge Senators to give this matter careful thought, and I ask unanimous consent that the article be printed in the RECORD.

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

RIGHT TO STRIKE HAS ITS LIMITS

(By Milton Viorst)

The prospect of resumption of the West Coast dock strike—the consequence of the Pay Board's compromise finding on a labor-management wage settlement—raises important questions about the future of union power in American society.

First, it poses the problem of whether the labor movement is to be allowed to destroy the effectiveness of the administration's program of wage-price restraints, which on the whole has been working rather well.

Harry Bridges, president of the West Coast International Longshoremen's and Warehouseman's Union, had threatened to strike if "as much as one cent" was lopped off the settlement which the union negotiated independently with the shippers. George Meany, president of the AFL–CIO, has said he would support Bridges right down the picket line.

In fact, the Pay Board reduced the original settlement from 21 percent to 15 percent, which is a far cry from the 5.5 percent target it had established for wage raises. Obviously, the Pay Board was not indifferent to the longshoremen's threats, even if it did not capitulate completely.

Yet it is clear that if the longshoremen, by going on strike, force a larger settlement, then none of the Pay Board's decisions will be worth the press releases they're written on—and President Nixon's wage-price program will be shattered.

Because of the impact on overall economic policy at a critical time, then, the prospect of a walkout raises a second, even more fundamental question: Whether unions have an inherent right to strike whenever it might suit their fancy.

There certainly was a time when I would have answered with an unequivocal "yes." Those were the days when unions were fighting for their existence—against the hostility not only of employers, but usually of government and the courts. The left never doubted that the union was always right.

But the great labor struggles of the past—the Homestead strike, the United Auto Workers against Ford, John L. Lewis and the coal miners—represent a purer day of the union movement. As often as not these days, labor disputes are waged not so much against employers, but against the public and, often, against nonunion labor.

The current dock dispute is a good example. Both sides are going through a charade of who should benefit most from a reduction of some 30 percent—thanks to new technology—in the handling costs of cargo.

Obviously, it occurs to neither side to reduce prices.

Instead, the two sides make angry faces at each other and wind up with a sweetheart contract in which labor gets the wages it wants and management sets the prices it

chooses. In such circumstances, it's hard to get emotional over labor's cause.

Yet Meany insists that labor has a constitutional right to go out on strike, notwithstanding economic policy and the Pay Board. It is curious how the Constitution becomes the last refuge of the economic royalists, no less so because the barons today are from labor as much as from management.

For myself, I have looked in vain through the Constitution for the right to strike. It seems clear that workers have the right to seek to coerce employers by a common refusal to work.

But I find nothing which says unions have the right to create economic paralysis or to deprive others of their living. In short, my own freedom reaches its limit when I hurt someone else. I have the right to free speech, but not to cry "fire" in a crowded theater.

And so the third question: Should the administration and Congress enact legislation requiring compulsory arbitration, for instance, when the well-being of society is involved?

Meany says such legislation would mean the destruction of free enterprise and would be the "antithesis of freedom." That's what the drugmakers said when told they had to make safe drugs, and what the steelmakers said when told they couldn't fix prices.

I say the right to strike has limits, like the right to threaten panic in a theater. Labor and management can fight their battles out to their hearts' content, but only so long as much or all of society isn't made to suffer for them.

THE PRESENT SITUATION IN ASIA

Mr. McGEE. Mr. President, in the 27 years since the cessation of hostilities marking the termination of World War II, we have experienced the good fortune of avoiding the outbreak of another widespread conflagration of much greater devastation.

The United States has played an instrumental role in preventing a third world war. We assumed the responsibility which fell on our shoulders in 1945 by virtue of the fact that we emerged from that conflict as the world's leading power.

The balance of power, without a doubt, has been responsible for the stabilization of Europe since World War II. That balance, and our willingness to participate in an alliance with the free North Atlantic States, was the major instrument in blocking Russian expansionism into Western Europe—an expansionism which has always been an historical trademark of Russia.

In today's Washington Evening Star, columnist C. L. Sulzberger presents a very excellent analysis of the present situation in Asia. Russia is now making a concerted thrust into Asia—a continuation of her expansionist tendencies.

As Mr. Sulzberger points out:

Any future Asian stability depends on relationships between China, India and Japan that can be tolerated by Moscow and Washington.

He concludes that:

Acting in tandem, Washington and Peking must now demonstrate such thrusts (Russian) are fruitless. Moscow may then see value in the vague new relationship developing to relax world tensions.

What this all means is that we have come a long way in the world. Yet we still have a way to go. Stability has been achieved in Europe and we must exercise the same resolve in striking that balance which will allow the new Asia to emerge without the hinderences of external forces which could be detrimental to this much desired development. We are at a critical stage in Asia, and the rest of the world has a great stake in the achievement of stability in this part of the globe.

I ask unanimous consent that Mr. Sulzberger's column be printed in the RECORD.

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

BALANCING THE "VACUUM" IN ASIA

(By C. L. Sulzberger)

One outstanding conclusion after a long Asian trip is that the postwar strategic balance is dissolving. Since there never was a truly stable balance, this means that a state of flux has set in. In no other area has this new power relationship become more obvious.

The old empires are gone except for odd vestiges like Hong Kong and Macao and a coalescing West Europe has yet to produce a comprehensible policy in the East. Both CENTO and SEATO, the main multilateral alliances, are dead, even if they twitch posthumously. Russia now presses to move into areas they embraced.

This has encouraged an effort by America and China to re-examine the region and find where they have common interests. It has also spurred fresh nationalism in Japan, of an economic, not a military sort.

Any future Asian stability depends on relationships between China, India and Japan that can be tolerated by Moscow and Washington. Peking will probably reconcile itself to the changed Indian situation and, without abandoning Pakistani friendship, return to the type of understanding with New Delhi that existed when Nehru was prime minister. This will ultimately help India to disengage from overreliance on Russia.

As China and the United States recognize certain mutual interests that transcend ideology, they will find it useful to work together in counterbalancing Soviet interest in India. Mrs. Gandhi might quite willingly play along, to frustrate Moscow's efforts to gain any preponderant influence in Southeast Asia.

Peking is better served by peace than war in Vietnam. It can better afford to see the Indochina peninsula neutralized rather than risk Soviet political gains there. Consequently the Chinese are less likely now to encourage Hanoi's precondition to peace: Replacing Thieu's presidential regime in Saigon with a parliamentary regime designed to gradually disintegrate the anti-Communist government.

The flaming issue between China and the United States—Taiwan—has been considerably defused. If some form of autonomy were to be offered when Chiang Kai-shek dies, most Taiwanese might accept this. The big change since Nixon's journey is that no future Taiwan formula can be unilaterally written in Washington.

Japan is vital to the New Look in Asia. Nixon's Peking visit, widely televised among the Japanese, will have a very long-lasting effect among them. For the first time since 1945 Tokyo recognizes the need to formulate its own individual foreign policy and this is bound to develop along more nationalistic lines.

At the 1964 Japanese Olympic Games the nation regained its self-confidence; at Expo '70 it became intoxicated with its progress; and the 1972 Nixon shocks on the dollar and China have completed the regeneration. It is likely that Japan, during this decade, will demand extrusion of all U.S. bases while remaining under the American nuclear umbrella.

Washington, Peking and Moscow must arrange a vague accommodation that each will help its respective Asian clients only if each other's forces or proxy forces invade the territory of those clients. Were there such an invasion, it should be known the interested major power(s) would help; otherwise not. Thus each would look after its interests while avoiding purely local conflicts.

Within such a general outline, which may be the purpose of presidential flights to both Moscow and Peking, it is even possible to imagine moves toward reuniting partitioned countries: Taiwan on a semi-autonomous basis; Vietnam in terms of regional collaboration as suggested by Saigon; Korea along lines reflecting Chancellor Brandt's attempts in Germany. The South Koreans have sent experts to Bonn to study these.

With respect to such modest initiatives, the major capitals must agree on what they will not accept rather than on what they will tolerate. This is the political road to an uneasy new Asia.

"Balance" is not a precise word any more than "vacuum." Even patently weak countries don't necessarily suck other influences in. Neither outer space nor the Antarctic is a vacuum. The only forces whose entry is attracted by weakness are those already pushing to enter.

That was once the case for the United States and China and is now the case for Russia. Acting in tandem, Washington and Peking must now demonstrate such thrusts are fruitless. Moscow may then see value in the vague new relationship developing to relax world tensions.

GETTING ACTION ON PRISON REFORM

Mr. JAVITS. Mr. President, the present crisis in the Nation's prison system results from three extraordinarily complex problems: confusion as to purpose, conditions in the prisons themselves and totally inadequate budgetary support.

We are told that a basic purpose of the corrections system is to protect society, by incarcerating individuals who threaten the security, safety, and property of the law-abiding majority.

By what standards do we decide who goes to prison and for how long?

With a rate of recidivism sometimes rating as high as 70 percent—is society being adequately protected?

We are told that another basic purpose is to provide facilities and services for the comprehensive rehabilitation of inmates in order to enable them to live productive lives when they return to society.

There is little doubt that in the national inquiry that is now underway in the media, in the Congress and elsewhere, these basic purposes and other underlying assumptions about our corrections system must be thoroughly and thoughtfully examined.

In this regard, Mr. President, I am pleased to note that my former Senate colleague, Charles Goodell of New York, who frequently spoke with force and effectiveness on this subject during his years in the Senate, has continued that commitment in private life. He is now chairman of the Committee for the Study of Incarceration, a particularly diverse and highly impressive group of lawyers, historians, academicians, and social scientists who have undertaken a

complete reexamination of our basic assumptions about incarceration.

The important work of the committee, which is being funded by grants from the Field Foundation and the New World Foundation will constitute an important contribution to the basic public policy decisions which must be made in this field.

The Washington Post on Wednesday published an article written by columnist William Raspberry commenting upon the work of the committee.

Mr. President, I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

It is my own opinion that we have never adequately tried effective correctional rehabilitation in this country, that conditions within our prisons are sometimes inhuman, and that we will not succeed in reducing the level of violent crime in our society until we decide to put substantial new financial resources into the effort. We have placed upon the shoulders of the correctional system a good deal of public apathy concerning primitive prison conditions, and the problems of former offenders.

Three bills that I have introduced, S. 2962, S. 3049, and S. 3051, seek to establish national standards for the treatment of incarcerated offenders, a national corrections professions development program, and an innovative manpower training and job placement program for offenders.

It is my hope that the Senate will give its early attention to these and other bills on this critically important issue as soon as possible.

A front page article published in the New York Times of last Monday reported that the commissioner of corrections of New York City, Mr. Benjamin J. Malcolm, has adopted a new policy authorizing broader visitation rights for inmates. He also stated that inmate councils had been established within the city's corrections facilities to consider grievances and that more work release facilities were being established.

I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

These reform measures can only serve to lessen tensions and promote effective rehabilitation. But a great deal more must be done.

On Tuesday, I again visited the Manhattan House of Detention—known as the Tombs—and the criminal court facilities. My distinguished colleague from New York (Mr. BUCKLEY) and I examined the deplorable conditions which prevent our criminal justice system from working as fairly and effectively as it should.

The tour was arranged by Robert P. Patterson, Jr., chairman of the Committee on the Administration of Criminal Justice of the New York State Bar Association. Mr. Patterson and his committee have provided energetic leadership in the drive to enlist the business and professional sectors of New York in corrections and court reform.

Mr. President, the handwriting on the wall ought to be plain for all to see. Unless we begin to take the fact of correctional failure seriously, and act firmly upon that failure, the reality of crime in our society will continue to restrict our freedom and materially reduce the quality of life for us all.

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

AIMS OF PRISON REFORMS

(By William Raspberry)

Prison reform is a notion whose broad appeal grows even broader every time there is a prison revolt (as at Attica) or anything else that makes it clear to those on the outside just how horrible things on the inside can be.

And most of the talk about prison reform centers around various proposals for rehabilitating prisoners and making the prisons themselves less dehumanized and dehumanizing institutions: better educational programs, more psychological intervention, more comfortable facilities, better-trained guards, more individualized treatment—that sort of thing.

Don't put down the Committee for the Study of Incarceration as just another reform group. What the committee's 16 members have in common is a healthy skepticism of nearly all the conventional wisdom concerning prisons, including prison reform.

The committee, whose chairman and inspiration is ex-Sen. Charles Goodell, includes lawyers, historians, an economist, an anthropologist, a criminologist and one man chosen according to executive director Andrew von Hirsch, "because he was very bright and didn't know anything about prisons, and we thought we ought to have someone like that on the committee."

The first year's operation will be funded by a grant of $150,000 from the Field Foundation and $25,000 from the New World Foundation.

Even a cursory reading of its prospectus, working papers and staff memoranda suggests that the committee is likely to come up with some novel—and potentially very useful—conclusions. For instance:

"A major reason why we still maintain prisons, jails, asylums and reform schools, bad as these places are, is that we have no conception of how to replace them with anything better." Or:

"Repeated attempts have been made to 'reform' these institutions, but the abuses continue essentially unchanged. The system has shown an astonishing capacity to subvert reforms so as to reinforce existing practices." Or again:

Although the unspeakable conditions in institutions of confinement cry for action, there seems as yet to be little understanding of what kind of action would be appropriate.

"Continuation of reform efforts along traditional lines entails serious dangers of making conditions worse again. There must be a complete re-examination of what needs to be changed, and what the longrun objectives of change ought to be."

That last is crucial. For you cannot talk intelligently about long-run objectives until you ask the most basic question of all: Why do we have prisons in the first place?

It is clear that they don't reform the people we put in them. And while they do afford some protection from "dangerous" people, they do so only at the cost of incarcerating large numbers of people who would not be dangerous if unconfined.

Imprisonment of those who break the law doubtless has some inhibiting influence on the rest of us, but no one knows how long sentences must be to have that effect—30 days, 30 months or 30 years.

All of this is, of course, nonsense to "conservatives" who believe there already is too much mollycoddling of criminals. The committee knows this.

"Our main influence," says executive director von Hirsch, "probably will be on the liberals—the Ramsey Clarks who are still pushing for the same old reformist things: more psychiatrists, indeterminate sentences, individualized treatment.

"And every one of these 'reforms' only makes possible that much more arbitrariness.

"The No. 1 question we have to answer is, Why do we *have* these places?"

Von Hirsch has examined that question and his answers are worth another column

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CITY TO LET CHILDREN VISIT PARENTS IN JAIL

(By Linda Charlton)

Within the next few days, children will be allowed to visit their mothers or fathers in the city's jails, according to Benjamin J. Malcolm, the Commissioner of Correction.

Mr. Malcolm announced this yesterday along with another change in visiting policy: Friends, as well as relatives, will be permitted to visit prisoners.

At present inmates, both in detention and sentence institutions, are allowed visits only from close relatives who are more than 16 years old.

ONE VISITOR AT A TIME

The visits—two 30-minute periods weekly for detention inmates and a single half hour on weekends for sentenced inmates—have been limited to one person. This, according to A. L. Castro, public relations spokesman for the department, is in large part because the booths in which the visits take place are small and because the prisons themselves are overcrowded.

State prisons, he said allow visits by inmates' children.

When, for the first time in the history of the city's prison system, children under 16 are allowed to visit their parents inside, they will have to be accompanied by an adult, Mr. Castro said. The policy will remain one person to a visiting period.

Mr. Castro said that the policy change would go into effect as soon as the orders had been written and the prisons had set up the procedures.

Mr. Malcolm said that during a recent conversation with an inmate at the Bronx House of Detention, the prisoner asked to see his children. The Commissioner said that he, in turn, asked the inmate whether the child might not be disturbed by seeing his father behind a pane of glass in the visiting booth.

"The inmate said," Commissioner Malcolm reported, "We poor blacks and Puerto Ricans are taught to accept these things. We live with it. We should make that determination. Not you." I was floored and I thought he was right.

Another change, the Commissioner said, will "allow the prisoner his choice" of visitors, not limiting him, as at present, to close adult relatives.

"Friends are sometimes closer to a person than a brother is," Mr. Malcolm said after the program.

The Commissioner made the changes in visiting policy known on the WNBC–TV program "Open Circuit," during which he answered questions telephoned in by viewers.

The restriction in visitors, the Commissioner said, was one of the grievances brought out by prisoners in his discussions with them, one of the "host of problems" he said would be considered by the new inmate councils being set up in the city's correction facilities.

He said that the council in the women's institution on Rikers Island had met twice "and so far it's doing extremely well."

Responding to a telephoned question, Mr. Malcolm said that a third work-release facility—there is now one in East Harlem and another in Brooklyn—"should be opening up within the next two months in the Bronx, on Southern Boulevard." If funds are

available, he said, it is planned to open a fourth such facility "during the course of the year."

NEED FOR CHANGES IN THE GI BILL

Mr. CHURCH. Mr. President, today I presented testimony to the Senate Committee on Veterans' Affairs in support of legislation to improve veterans educational benefits.

I ask unanimous consent that my testimony, together with the supportive materials I provided the committee, be printed in the RECORD.

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

TESTIMONY OF SENATOR FRANK CHURCH, BEFORE THE SENATE VETERANS' AFFAIRS COMMITTEE, MARCH 23, 1972

Mr. Chairman, I am pleased to testify in favor of legislation to update and improve the nation's programs providing benefits for the education and training of veterans.

I am especially interested in S. 1776, a bill introduced last year by my colleague, Senator Jordan, and myself. S. 1776 is designed to correct an inequity which has arisen under the current law, due to the changing nature of vocational education in the United States. Under the current law, a vocational education student receiving aid under the GI Bill may lose benefits for not attending a class he cannot attend because the school itself is not in session. This is a result of provision in the law which limits to 30 days the number of excused absences which a vocational education student may claim during any twelve-month period—excluding weekends or legal holidays established by Federal or State law. For every day in excess of this 30-day maximum, the vocational education student loses benefits.

This formula does not take into account periods other than state and Federal holidays and weekends which a school may establish as a vacation period. It is thus possible for a vocational student to lose benefits for "missing" a class session when, in fact, there is no class session to miss.

During a time when our vocational and academic educational programs were carried on largely by separate educational institutions, this discrepancy did not cause a large degree of inequity; however, as the members of this committee are aware, there has been a movement to combine vocational and academic education pursuits in the same educational complex. This combination means that academic and vocational students attend school on the same schedule. It also means that a student pursuing a vocational education who takes two weeks vacation at Christmas, when the school he attends is closed, can be penalized for as much as ten days' benefits, while his academic counterpart suffers no such monetary sacrifice. This type of discrimination against the vocational education student makes no sense to me.

I think the law should be changed to cure the inequity.

I must say, Mr. Chairman, that I was amazed that the Nixon Administration, by way of the Veterans Administration and the Office of Management and Budget, opposed such a change. I have read closely the report submitted in opposition to the bill and, in my view, it tortures logic, fractures fairness and totally begs the question raised by the legislation. The report should be rejected by the Committee, and S. 1776, or similar curative legislation, enacted.

The VA report speaks about the ability of the student to be absent 11½ per cent of the time and says this is reasonable; thus, no more time should be allowed. But that does not answer the basic question raised—is it fair to reduce benefits for lack of attendance when there is no school to attend?

The VA, in what surely has to be one of the less logical statements I have ever read coming from a government agency, says "To increase the amount of absence with pay which this bill would do would dilute the training schedules of the vocational-type course for the individual veteran. In these courses, shop practice and theory are essential instructions. To miss more than minimal of either would be detrimental to the veteran in his effort to succeed in the program." What the VA seems totally unable to comprehend is that this time we are referring to is time when the school is not in session anyway. There is no instruction taking place for the veteran to miss. There is no training taking place to dilute. It is a vacation period. School is not in session. I think the Senate can see this distinction even if the Veterans Administration cannot.

I hasten to add, Mr. Chairman, that I am not wedded to the specific language of S. 1776. If this committee feels that a different verbal formula would be more appropriate to the purpose sought to be achieved by the bill, namely, the equal treatment of students receiving vocational and academic training, I would support those changes which the Committee felt appropriate to achieving that desired result. I do think, however, that it is clear that this change in the law should be made.

Mr. Chairman, since introducing this legislation, I have received many letters from Idaho veterans and educators who deal with this problem daily. I have not received one unfavorable comment. I ask that the text of the letters I have received in support of the bill appear at this point in the record of the hearing. I further request that a copy of the press release which Senator Jordan and I issued at the time of the introduction of this bill and an editorial which appeared in the Twin Falls *Times-News* dealing with this subject also appear in the hearing record.

I urge this committee to reject the ill-founded objections to this bill voiced by the Nixon Administration and pass this legislation to grant equal treatment to vocational and academic students.

Mr. Chairman, I realize that this committee is also considering at this time legislation of broader breadth which will have a great impact upon all veterans education programs. It is clear that updating and change is necessary. The American Legion Magazine of March 1972, in its "Veterans Newsletter," pointed out the shocking fact that ". . . something like 59% of Vietnam vets don't go to college or take technical training at all, chiefly, they say, because they can't afford it!"

The Legion went on to point out that, in a recent survey conducted by Louis Harris and Associates, Inc., for the VA, 53% of the group which did not apply said they would apply if benefits increased and an additional 30% said they might apply. Why is it, Mr. Chairman, that these veterans feel they cannot afford to attend school under current benefit levels?

The answer lies in the tremendous increases in costs associated with advanced education. With 1966–67 dollars as standard, the cost of higher education in public institutions nearly doubled from 1956 to 1972. An even larger increase was recorded for private schools. Increases in veterans benefits have simply not kept pace with the increased costs of obtaining an education. It is time they were brought closer together. Until legislation to update and improve the programs is enacted, the G.I. Bill will continue to fall short of the goals for which it was established.

I am sure that this committee will give every consideration to the sound proposals advanced by the American Legion to improve existing programs. Until the programs are improved, what the Legion said in its March "Veterans Newsletter" will continue to be true:

"How does the veteran survive in college today? He works—if he can find a part-time job . . . He borrows—if he can . . . his parents help . . . if they can . . . his wife works—if he is married and she can . . . he scrounges for a grant or a fellowship of some kind—if any are available . . . Sometimes he must use a combination of all of those means—if he's resourceful and knowledgeable enough."

Mr. Chairman, I urge early action on the proposals to improve and increase benefits under the G.I. Bill. I would also like to request at this time that letters I have received from interested Idaho veterans, their families and veterans organizations in Idaho, pertaining to the need for improvements in these programs be included at this point in the hearing record.

In addition, I ask that an article entitled "Legion Presses Campaign to Increase Benefits in Veterans Education and Training Programs," which appeared in the March 1972 American Legion Magazine, which I have quoted in my remarks, appear at this point in the hearing record.

GOODING, IDAHO,
February 11, 1971.

Hon. Senator FRANK CHURCH,
Senator from Idaho, Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: An editorial appeared in the Jan. 19th issue of the Time-News of Twin Falls, Idaho in which was pointed out an existing inconsistency between veteran college students of academic classes and those of vocational-technical classes.

The editorial also pointed out that this matter had been brought to the attention of our Idaho Congressmen but that they were "dragging their feet" and nothing is being done to correct the matter.

The editorial was discussed at a meeting of the Ladies Auxiliary to the Veterans of Foreign Wars to Post No. 3078, Gooding, Idaho and the Secretary was instructed to make inquiry into the situation.

In answer to our inquiry, Mr. Gerald R. Meyerhoepher, Director of Admission at the College of Southern Idaho, Twin Falls, informs us that the editorial is factual. He further states that as the Veterans Administration law now stands, a vocational-technical students attendance is taken daily. He has an annual (12-month) limit of 27–30 days which he can be absent before he is penalized. However the VA counts all days except the federal holidays as absences. Therefor, a student who never misses a day of school, which is unrealistic, can through regular school vacations such as Thanksgiving, Christmas, Easter and Semester exceed the imposed limit. The inconsistency is that no such requirement is placed on the academic student. We feel the vocational-technical student should be treated in the same way.

I am sure that you will agree with us, that this is unfair to the vocational-technical students or in modern phraseology, it is pure discrimination. Surely, there is something which our elected representatives from Idaho can do to help correct this inconsistency. The Ladies Auxiliary to the Veterans of Foreign Wars to Post No. 3078 asks that you exert every effort to help the veterans who are furthering their education in the vocational-technical field to receive the same rights as those of the academic field.

Yours truly,

BLANCHE LOEWEN,
Secretary, Ladies Auxiliary to the VFW, No. 3078.

GOODING, IDAHO, *April 3, 1971.*

Senator FRANK CHURCH,
U.S. Senator from Idaho, Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: On behalf of the VFW Auxiliary and myself, I wish to thank you for your interest and action relative to inconsistencies between veterans who are enrolled in academic courses and those taking vo-tech courses.

I assume that the differential which now exists between the veteran students taking academic courses and those taking vocational education cannot be corrected without further legislation. Members of our VFW Auxiliary No. 3078 and myself feel strongly that vo-tech students should not be penalized for failure to attend classes when circumstances make it impossible to meet the requirements of not more than 30 days annual absence. In a letter from Mr. Gerald R. Meyerhoeffer, Director of Admissions at the CSI in Twin Falls, he stated that a student (vo-tech) who never misses a day of school, which is unrealistic, can through regular school vacations such as Thanksgiving, Christmas, Easter and semester exceed the imposed limit.

I am pleased to know that you have consulted with the Chairman of the new Senate Committee on Veterans Affairs, Senator Vance Hartke on this matter. I wrote about this complaint to Senator Len Jordan at the same time I wrote to you. He has written that he too is considering further legislation to correct this equity. Maybe you have already consulted with him on the matter.

I am very much in favor of higher education and that it be made available to all who desire it. However, I also believe that in a balanced economy we need plumbers, auto mechanics, electricians etc. as well as scientists, attorneys, doctors, business executives etc. And I further believe that many students who are not qualified for the achievement of a college degree can become very useful citizens if given the opportunity of a vocational education. One class of students should not be penalized while the other receives the privilege.

I thank you for the expediency with which you have handled this matter. The Times News is certainly wrong in stating that our Congressmen were dragging their feet on this matter.

Yours truly,

BLANCHE LOEWEN.

EDEN, IDAHO, *February 26, 1971.*

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Thank you for your prompt attention and reply to my letter of January 25. I feel this is the first step in solving an absurd and unnecessary situation.

Mr. Kopan's letter does pinpoint several of the objections raised by the editorial, may I quote the letter?

"In enacting the veteran's education law, Congress gave consideration to the *differences* in the organization of colleges which offer courses leading to a standard college degree and of other types of schools and training programs."

This alleged difference puzzles me. In Idaho, post secondary vocational education is offered at North Idaho Junior College, Lewis Clark Normal School, Boise State College, College of Southern Idaho and Idaho State University. I have no statistics to support my belief, but I would guess at least 90% of the veterans enrolled in vocational training in Idaho are enrolled at one of these five institutions. Where is the difference in organization?

Mr. Kopan very neatly avoided the other objection raised by the editorial, that of the number of days of absences allowed. Mr. Kopan mentioned the allowed 30 days absence per year. However, he did not mention the regulation which requires that every school holiday which is not a federal holiday must be counted against the total of 30 days absence. I am sending you a copy of a 1967 letter which covers this matter (page 3).

I have recently been advised by telephone that this regulation is still in effect. So the editorial was correct—a veteran enrolled in a vocational course at the College of Southern Idaho actually has only 10 days of useable absences for an 11 month vocational course.

I am sending you a copy of the monthly certification blank. You will note that both the veteran and a school official must sign this card before a veteran will be paid. As the school official who signs this card, I am as liable for its correctness as is the veteran.

In closing, please allow me to state the objections of the veterans who are taking vocational training at the College of Southern Idaho, to this section of the G.I. Bill. First, they object to the implication that because a veteran chooses to enroll in a vocational course, he is either dishonest, or not smart enough to know when he should be in school. I realize this is not the intent of the bill, but this *is* the way the veteran reads it.

Second, they object to the uncertainty created by the monthly certification. Each month I talk to several veterans whose checks are from one to three weeks late in arriving. I am not knocking the Boise Veteran Administration office, I am sure they do the best job possible. Probably as many of the delays are caused by errors in my office as in the Veteran Administration office. No matter whose fault, writing a letter or obtaining a new card is a slow remedy when the veterans children are hungry.

The point is simply (I think) this: Why discriminate against 8% of the veterans being educated under the G.I. Bill? The object of the Bill is to help veterans gain education and employment. This discrimination certainly creates more problems than it solves, and I feel is in direct conflict with the intent of the Bill.

Sincerely,

NEIL V. CROSS.

THE RIGHT SIDE BY MIKE MCCURDY

A serious problem has arisen at the College of Southern Idaho's Vocational school, as well as at many other vocational schools. The Veterans Administration allows Vocational students attending school under the GI Bill of Education to miss only 28 days during their 11 month course of study for "excused absences" (personal illness, Official school business, death in the family, etc.). For any absence from the classroom not considered "excused", the student is "docked" on a per diem basis, from his monthly check for those absences.

Academic students have no attendance requirements to meet and receive their checks two to three weeks earlier than their vocational counterparts. This is due to an IBM attendance card that must be filled out by the vocational school administrative staff and turned in to the Veterans Administration. The VA must then process the cards and compute the amount of money due to each student. This processing is the cause for the long delay the vocational students experience each month in receiving their checks.

To make matters worse, the Veterans Administration has taken upon itself to pay the students for a full month of school, and then to add days to their excused absences for the days they were not in school.

School was dismissed on Thursday and the following Friday. They were not penalized for not being in school Thursday, since it was a legal holiday. However, Friday counted as an absence, even though school was not in session. During the Christmas vacation from Dec. 21 to Jan. 4, only Christmas Day and New Years Day were not counted as absences. The rest of the days were counted against the 28 allowable absences. Now the student has 10 days counted against him, when the school's doors were closed and there was no school to be absent from. If the VA continues this policy, Vo-Tech students will be penalized for three days absence during Spring Break in March and five days of absence during Teacher's Institute in June, over which the student has no control.

The student is being counted as absent when the school's doors were closed and he couldn't possibly attend school.

This now leaves the student only 10 days to be absent in 11 months of school. Any days over and above these 10 days are deducted from the student's check on a per diem basis, causing a financial burden on the student and his family. Vocational students spend a minimum of 30 hours per week in the classroom. This, coupled with homework, leave the student almost no chance to hold down even a parttime job. He is therefore, depending heavily on receiving a full check from the VA in order to meet his monthly budget.

Once his allowable 28 days are reached, he is docked for any absences over and above 28. This could easily cause a very severe hardship during the last months of school, quite possibly to the point that the student would have to quit school to support his family, since his "partial" VA check would not.

The Vocational school students wrote to Idaho's Congressmen in Washington concerning this problem. They received the reply that the attendance cards must be filled out for anyone at ending school under the GI Bill that is not working toward a normal college degree.

Is it not considered "normal" to earn a living as a draftsman, welder, auto mechanic, television repairman, or policeman? This in itself seems to be discriminatory against those whose interests are not in line with attending academic schools.

The IBM attendance card serves no useful purpose, except for keeping track of who was present or absent on a given day—and the instructors have this information as a part of their permanent records. The cards cause an unnecessary increase on the workload of both the school's administrative staff and the Veterans Administration.

The cards cost us, the taxpayers, thousands of dollars each month, to no good purpose.

The complete discontinuation of these IBM attendance cards would be in the best interests of everyone concerned. The time and money saved and the convenience to the vocational student.

VETERANS' ADMINISTRATION CENTER,
Boise, Idaho, February 8, 1971.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: This is in reply to your letter of February 2 in behalf of Mr. Neil V. Cross.

In enacting the veteran's education law, Congress gave consideration to the differences in the organization of colleges which offer courses leading to a standard college degree and of other types of schools and training programs.

Under the provisions of Section 1681 of Title 38, U.S. Code, the educational assistance allowance of an eligible veteran may be paid only for the period of his enrollment as approved by the Administrator. The allowance for a veteran enrolled in a course which leads to a standard college degree may be paid for any period when he is pursuing his course in accordance with the regularly established policies and regulations of the educational institution. Accordingly, allowances are paid to eligible veterans in such institutions upon receipt of evidence of en-

rollment and such payments continue until the end of the period of enrollment, or until notice is received that the veteran has discontinued his training or that his conduct and progress does not meet the standard or regulations of the school. He is required to submit a certificate of attendance near the end of the academic year.

With respect to veterans enrolled in a course which does not lead to a standard college degree, the allowance may not be paid for any day of absence in excess of thirty days in a twelve-month period. It is necessary, therefore, for a veteran enrolled in such courses to report their attendance each month. No reduction of the allowance is made for absences until such time as a veteran has exceeded the allowable number of absences.

The procedures for reporting monthly attendance have been made as simple and convenient as possible. A certification card is mailed with each monthly check. If the card is misplaced or damaged, a new card may easily be obtained upon request to the VA Regional Office.

Sincerely yours,

LORYN E. KOPAN, *Director.*

COLLEGE OF SOUTHERN IDAHO,
Twin Falls, Idaho, November 23, 1971.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: I have recently had correspondence from Senator Jordan, indicating the passage of S. 1776 seems doubtful at this time. You may be interested in other activity which could have effect similar to S. 1776.

In addition to my letters to you, I have attempted to draw attention to the inequities in the G.I. Bill by working through the American Legion. I am sending you a copy of a resolution I drafted, which recently was passed by our national convention. I hope you will be able to support this resolution.

S. 1776 and A.L. 471 are very similar in intent—S. 1776 would eliminate one of the most serious objections to monthly certification, A.L. 471 would completely remove monthly certification.

One other objection to the monthly certification is demonstrated by a situation which now exists with many vocational students here at the College of Southern Idaho. Although they have been in school over two months, many of our students have not yet received a G.I. Bill check. This is not because of direct discrimination by the V.A., but rather is a result of the extra time required to set up the accounts that require monthly certification.

There are a number of other difficult situations which arise as a direct result of the monthly certification, but I do not feel it is necessary to list them. Suffice it to say, there is no educational situation which would justify different procedures for vocational students from academic students.

Sincerely,

NEIL V. CROSS.

NO. 471 (IDAHO)—SPONSOR AND SUPPORT LEGISLATION TO AMEND TITLE 38 U.S.C. TO PROVIDE THAT VOCATIONAL TECHNICAL STUDENTS NOT BE REQUIRED TO MAKE MONTHLY CERTIFICATION OF ATTENDANCE

Whereas, since vocational technical education is classified as below college level training; and

Whereas, vocational technical colleges are directed under similar conditions as other institutions of higher learning; and

Whereas, vocational technical students have to be on campus for counselling and advising on the same basis as students in the academic programs; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 31–September 1, 2, 1971, that The American Legion sponsor and support legislation to amend title 38, United States Code, to provide that a vocational technical student be required to make the same certification of school attendance as is required of a student enrolled in a course which leads to a standard college degree.

IDAHO STATE UNIVERSITY,
Pocatello, Idaho, June 16, 1971.

Hon. FRANK CHURCH,
U.S. Senate,
Boise, Idaho.

DEAR SENATOR CHURCH: We were very interested to learn that you have co-sponsored a bill to provide more equitable treatment for veterans enrolled in vocational education courses.

We live with this situation everyday in the School and we see the need for greater equality in the treatment of veterans on university colleges and campuses where vocational-technical programs are conducted. Many times here at the University, a veteran student enrolled in a vocational program is rooming with a student in an academic program. We think this situation is good and we are delighted that vocational-technical programs are an integral segment of the University. However, we do feel that certain VA policies regarding record keeping, attendance reporting and vacation pay, do discriminate against the vocational student, and it is very apparent to the vocational student that someone feels they are second class citizens.

We appreciate your interest in vocational-technical education and we support you in the very important work you are doing for the citizens of this state and nation.

Very truly yours,

HAROLD D. GARBETT,
Assistant Director.

DEAR SENATOR CHURCH: I am a Viet Nam returnee currently enrolled in Vocational training at the College of Southern Idaho and feel I am being personally persecuted by the Veterans Administration.

I have discussed this problem with various concerned persons and officials of this school. Neil Cross, Assistant Director, has allowed me to read recent correspondence with you concerning this particular matter. Also I have persued several letters concerning the V.A.s outlook of this situation. So I understand *what* is happening to me . . . and I also want to know *why* I am being discriminated against.

On October 26, 1970 I enrolled in the welding course at C.S.I. and following are the days of recorded absences *required* by V.A.

October, '70—28
November, '70—4, 17, 27
December, '70—2, 7, 21*, 22*, 23*, 24*, 28*, 29*, 30*, 31*
January, '71—No absences
February, '71—2, 18, 25
March, '71—1, 2, 8, 10*, 11*, 12*, 16

Please acknowledge I have put a star above the dates which were school holidays when I *could not* be in school. If there is question on the above dates they may be confirmed by C.S.I. officials.

My last two checks from V.A. have been considerably short, I assume because I have used up the allotted days of absence.

My main question is as a student of a full accredited institution why should I be handled differently because of my educational objective? The officials at the College of Southern Idaho also feel this biased handling is not necessary.

Your assistance on this matter will be greatly appreciated.

With Sincerity,

ANDREW J. RIKSEM.

LEWISTON, IDAHO, *May 10, 1971.*

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SIR: Our Vocational Education Counsellor has informed me of a new bill proposed to change some of the policies governing the restrictions placed on the Vocational Ed. students concerning the veterans benefits.

I am presently enrolled in a Mid-Management course at the Lewis-Clark State College, Vocational-Technical Division. We are working just as hard for our education as students in any Academic College; however, we receive less veterans benefits, and a cut in pay for school vacations and absences. We also get a percentage cut if we work in a co-op job. Other students work and get payed the full veterns benefits, why can't we?

I would like a copy of this bill sent to me if it is possible, and if some of these changes can be made, you will have my vote of confidence at election time.

Sincerely yours,

ROCKY R. GOFFINET, *Student.*

LEWISTON, IDAHO, *May 10, 1971.*

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SIR: Our Vocational Educational Counsellor has informed of a new bill proposed to change some of the policies governing the restrictions placed on the Vocational Education students.

I am presently enrolled in a Med-Management course at the Lewis-Clark State College, Vocational-Technical Division. We are working just as hard for our education as students in any Academic College, however, we receive less veterans benefits, and a cut in pay for school vacations and absences.

I would like a copy of this bill sent to me if it is possible, and if some of these changes can be made, you will have my vote of confidence at election time.

Sincerely yours,

LARRY D. CROUCH.

Senator CHURCH:

May I please extend my sincere thanks for the outstanding work you have done for me and my fellow veterans.

Our gratitude is more than words can convey.

Again, our thanks for an outstanding job.

Sincerely Yours,

DON J. STEVENS,
Vocational Veteran.

HARVARD CLUB OF BOSTON,
Boston, Mass., June 4, 1971.

Senator FRANK CHURCH,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: I am writing to express my reaction in favor of the bill you propose to amend the restrictions on allowances for veteran students in vocational schools as regards attendance on regular school vacation periods.

The regulation as it stands needs to be rectified in all justice to the veteran student.

Sincerely,

FRANCIS J. HICKEY.

COLLEGE OF SOUTHERN IDAHO,
Twin Falls, Idaho, December 13, 1971.

Hon. FRANK CHURCH,
U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: As the representative body of the Area Vocational Technical School of the College of Southern Idaho, we are writing in regard to resolutions submitted to the Congress by you and Senator Jordan. In specific we are interested in those which would be amendatory to the G.I. Bill and would justly initiate a closer relationship be-

tween the policies followed for the academic student as compared to the vocational student.

Writing in behalf of the entire student body enrolled in our vocational technical school, we would like to thank you and Senator Jordan for the actions you have taken to remedy what we feel to be a rather discriminatory and undesirable situation. It is our concern that you realize our undivided support and appreciation, as well we are sure as that of other vocational technical institutions throughout our country.

In gratitude,

ROCKY L. METTS,
Vocational Student Council.

CITY OF POCATELLO,
Pocatello, Idaho, December 20, 1971.

Hon. FRANK CHURCH,
U.S. Senator, Office Building, Washington, D.C.

DEAR FRANK: We wish to recommend the enactment of Senate Bill #1776 which provides for more equal rights for Veterans enrolled in Vocational Technical Schools. We feel that those involved in this type of education are entitled to the same privileges and consideration as those enrolled in a standard college program.

This bill will provide vocational educational students allowances which are now permissible for those attending the same educational institution but receiving a standard college degree.

We will appreciate your favorable consideration of this bill.

Sincerely,

LUVERN C. JOHNSON, *Mayor.*

ASSOCIATED STUDENTS OF
THE UNIVERSITY OF IDAHO,
Moscow, Idaho, January 5, 1971.

Senator FRANK CHURCH,
U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: Just a note to tell you that the Students of Idaho appreciate your efforts in support of veterans in vocational education.

Thank you for your help!

Sincerely,

Miss MARY RUTH MANN,
ASUI President, President,, Idaho Student Government Association.

From the offices of:
Senator FRANK CHURCH,
Senator LEN B. JORDAN,

WASHINGTON, May.—A bill to provide more equitable treatment to veterans enrolled in vocational education courses was introduced this week by Senator Len B. Jordan and Senator Frank Church.

"It has been brought to our attention that veterans studying under the GI Bill are subject to being counted absent from their courses on some days when the school is not in session," Jordan said.

The present law provides that vocational students may have 30 days of excused absences during a twelve month period, not counting weekends and legal holidays established by Federal or state laws. If the student is absent in excess of thirty days, he does not receive compensation during any of such days.

"The difficulty is that most schools have vacation periods which do not consist solely of weekends or legal holidays. Hence, a veteran at an institution where a two week vacation period is allowed at Christmas time may be given unexcused absences for up to ten days during such a vacation," Jordan said.

"The bill which Senator Church and I are introducing is designed to correct this inequity. Veterans enrolled in vocational courses have served their country just as well as those enrolled in academic courses and should not be subjected to this unfair treatment as they pursue their educational goals."

Church said that he thinks it desirable that "many educational institutions today are providing both academic and vocational education under the same school administration." But to deny benefits to veterans enrolled in a vocational program "is clearly inequitable," Church said.

"The law should be changed to put both academic and vocational students on the same footing," Church concluded.

Both Senators said they hoped for early Congressional action on their bill.

May 7, 1971.

[From the Magic Valley's Home Newspaper, Jan. 19, 1970]

CHANGE NEEDED

There is a situation existing at the College of Southern Idaho—involving veterans attending the Vo-Tech school—which should be investigated and which should be corrected at the earliest possible time.

We are told the situation involves the matter of certification of the veterans attending the Vo-Tech school, the fact they receive their checks to which they are entitled days after those received by veterans of the Academic section, and the fact they are penalized for absences which are not really absences.

The matter was brought to our attention by concerned Vo-Tech students.

The chief trouble maker, they claim, is an IBM attendance card, issued only to the Veterans attending the Vocational-Technical section of the college, not the Academic veterans.

It is a case, they say, of Vo-Tech veterans being charged with absences when there was no school to be absent from.

For instance, school was dismissed Thanksgiving Thursday and the Friday following. Yet only Thursday was excused and Friday was counted as an absence. Again during Christmas vacation from Dec. 21 to Jan. 4, the Vo-Tech students were excused only Christmas and New Years day by the Veterans Administration. Thus the absence records now have 10 absences when, in fact, the school was not even open. If this policy is continued they will be penalized three more days during the spring break in March and an additional five days during teacher institute in June. The total will then be 18 days.

The 47 Vo-Tech students at the school have 10 days to be absent for any excusable reason for the year. Their counterparts in the Academic section are, in effect, paid until they fail.

If this situation exists—and we have no reason to doubt that it doesn't exist—then it should be corrected. The military didn't give these veterans separate fox holes nor did the enemy label his bullets.

We have been informed members of the Idaho Congressional delegation have, in fact, been somewhat non-committal on this situation. We believe they should, instead, dig into the matter immediately.

The veteran has earned the right to educational finance under the law and it should be the same to all veterans. There should be no discrimination just because one wants to learn how to repair an automobile and another wants to teach English.

A veteran should not be charged with an absence when, in fact, there is no school open.

It looks to us like the IBM card could be discontinued and reports made in a regular manner which would assure both Vo-Tech and Academic veterans receiving the same financial treatment. The trouble seems to be the interpretation of the law by the Veterans Administration.

It should not be difficult to change if members of our Congressional delegation would get a move on.

POCATELLO, IDAHO,
JULY 7, 1971.

DEAR SIR: I would like to take this opportunity to thank you for sponsoring legislation to increase the federal aid to Vietnam veterans to help them in school. I realize that this legislation might be hard to get through because of it's cost but I would like to thank you for working on it.

Sincerely,

TERRY KRANNING.

CAMBRIDGE, IDAHO,
July 8, 1971.

Senator FRANK CHURCH,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: It was with great pleasure that I noted in the July 1st edition of the Idaho Statesman that you were the cosponsor of legislation to increase educational benefits to Viet Nam vets by a thousand dollars a year. It would allow veterans like myself with large families to return to school without depriving their families of the basic needs of life. I retired from the Air Force on July 1st after 20 years of service, and have been unable to find employment in Idaho or the nation even though I am a College Graduate and have been trying since last fall.

Boise State College has accepted me as a candidate for another BA in either business or education but I doubt that I will be able to attend as rent for suitable housing in Boise runs from $180.00 to $220.00 a month.

I hope that your legislation is passed and that many veterans will be able to attend school and retrain into jobs necessary in civilian life and to survive this inflation and depression the country is suffering from.

Sincerely,

DONALD L. WESTFALL.

BOISE, IDAHO,
January 6, 1972.

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

SIR: The high cost of educational expense is making it very difficult, if not impossible for many young veterans to complete their educations. I believe our experience with the GI Bill after World War II has made it clear that the national investment in education was a highly profitable one, bringing a return in tax dollars as well as improving the lives of these men and their families and the quality of our society.

To make available to the veterans of the latest war the opportunities enjoyed in the past, I would favor legislation to pay three-fourths of their tuition, books and fees up to one thousand dollars per year. Your support of such a bill would be appreciated.

Very truly yours,

W. A. HULET.

RESOLUTION

THE AMERICAN LEGION POST NO. 7,
Twin Falls, Idaho, January 10, 1972.

Whereas, In recognition of their service and sacrifice in the various wars of this country to protect the freedoms of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furthering their opportunities; and

Whereas, Despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1971, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by The American Legion Post No. 7, at Twin Falls, Idaho in a meeting assembled in our Legion Hall in Twin Falls, Idaho, 5 January, 1972, that Post No. 7, urges your support for Resolution No. 342, 53rd National Convention, The American Legion sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans.

FRANK W. MOGENSEN,
Post Commander.

LEWIS-CLARK POST NO. 13 RESOLUTION

Whereas, In recognition of their service and sacrifice in the various wars of this country to protect the freedom of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furhering their opportunities; and

Whereas, Despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by Lewis-Clark Post No. 13, at Lewiston, Idaho in meeting assembled in Lewiston, Idaho, 5 January 1972, that Post No. 13, urges your support for Resolution No. 342, 53rd National Convention The American Legion "sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans."

ROBERT CROCKER,
Post Commander
LEWISTON, IDAHO.

BONNERS FERRY, IDAHO,
January 7, 1972.

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

Re: American Legion Resolution No. 342 (1971).

DEAR SENATOR CHURCH: I would like to take this opportunity to urge you to support the above resolution. This resolution is entitled "Sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loans program for Vietnam Era veterans."

This particular generation of veterans, I believe, needs even more in an expression of "thank you" from its country than most. For one reason or another, the war became a most unpopular war, and therefore, these servicemen were faced with honoring or dishonoring a commitment they made at a time they were seeing a torn country at home. It is a tribute to them and to their family background that, notwithstanding the political turmoil, they honored an obligation they gave (albeit in many cases involuntarily).

Very truly yours,

PETER B. WILSON.

RUSSELL SMITH POST NO. 42 RESOLUTION,
WEISER, IDAHO

Whereas, in recognition of their service and sacrifice in the various wars of this country to protect the freedom of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furthering their opportunities; and

Whereas, despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by Russell Smith Post No. 42, at Weiser, Idaho, in meeting assembled in Weiser, Idaho, 5 January 1972, that Post No. 42, urges your support for Resolution No. 342, 53rd National Convention, the American Legion "sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans.

THEODORE N. BOKIDES,
Post Commander.

LAWRENCE DRESSER POST NO. 49 RESOLUTION,
EMMETT, IDAHO

Whereas, in recognition of their service and sacrifice in the various wars of this country to protect the freedom of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furthering their opportunities; and

Whereas, despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effetcive February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expneses; now, therefore, be it

Resolved, by Lawrence Dresser Post No. 49, at Emmett, Idaho, in meeting assembled in Emmett, Idaho, 13 January 1972, that Post No. 49, urges your support for Resolution No. 342, 53rd National Convention, the American Legion "sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans.

ANDY ROBERTS,
Post Commander.

THE AMERICAN LEGION,
Boise, Idaho, January 31, 1972.

Hon. FRANK CHURCH,
Senator from Idaho,
Washington, D.C.

DEAR SENATOR CHURCH: My concern today is "Resolution No. 342, 53rd National Convention, The American Legion—Sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loans program for Vietnam Era Veterans".

I have had the opportunity to visit Idaho State University, Boise State College and the College of Southern Idaho as Idaho State Legion Commander during this past year, and it has been transmitted to me that many Vietnam veterans have had to drop out of school for financial reasons. I can personally think of no better way of showing our gratitude to these Veterans than that of providing them with funds with which to go to school on.

I strongly urge you to give your support to this very important legislation.

Thanking you, I remain,

Very truly,

ELTON ASHTON,
State Commander.

GEORGE EDMUND THIEL POST NO. 107
RESOLUTIONS

Whereas, In recognition of their service and sacrifice in the various wars of this country to protect the freedom of all men, it has been customary for a grateful nation to assist veterans in reconstructing their lives and furthering their opportunities; and

Whereas, Despite increases in educational assistance payments authorized by the Veterans Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; now, therefore, be it

Resolved, by George Edmund Thiel Post No. 107, at New Plymouth, Idaho in meeting assembled in New Plymouth, Idaho, 1 February 1972, that Post No. 107, urges your support for Resolution 342, 53rd National Convention The American Legion "sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era veterans.

CLARENCE S. NESBITH,
Post Commander.
NEW PLYMOUTH, IDAHO.

CASCADE, IDAHO,
February 3, 1972.

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SIR: Enclosed you will find, copies of Resolutions drawn up by Frank Spickelmire Post #60, Idaho Department of the American Legion.

We, of Post #60 request your aid in completing the intent of these Resolutions.

Thank you.

Sincerely,

RICHARD J. HOLM,
Adjutant.

CASCADE, IDAHO,
November 20, 1971.

Mr. DWIGHT PIERCE,
Ninth District Commander, Idaho Department of the American Legion, Weiser, Idaho.

DEAR SIR: We, of Frank Spickelmire Post #60, being convened in regular monthly meeting of Post #60 November 18, 1971, hereby draw up these Resolutions to be presented at the Ninth District Mid-Winter Conference of 1972.

RESOLUTION

Whereas: In recognition of their service and sacrifices in various wars of this Country to protect the Freedom Of All Men, it has been customary for a grateful nation to assist Veterans in rebuilding their lives and enhancing their opportunities; and

Whereas: Despite increases in educational payments authorized by the Veteran's Education and Training Amendments Act of 1970, effective February 1, 1970, education expenses alone often exceed the monthly payment, leaving little or none of the allowance to meet living expenses; Now, therefore, be it

Resolved, by Frank Spickelmire Post #60, at Cascade, Idaho in meeting assembled in Cascade, Idaho, 20th January 1972, that Post #60, urges your support for Resolution #342, 53rd National Convention the American Legion "Sponsor and support legislation to authorize tuition payments and to establish V.A. guaranteed and direct education loan program for Vietnam Era Veterans".

Thank you.

Sincerely,

HARVEY H. DEHAAS,
Commander.

BOISE, IDAHO,
February 12, 1972.

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: My husband and I read in the Idaho Statesman that there is a bill coming up concerning increasing benefits payable under the G.I. Bill to college students.

My husband began going to Boise State College last month. He is a 29 year old father of two and as such qualifies for $243 a month under the present provision. He is carrying 15 hours and working two days a week. I am also working part time despite having two young daughters.

The only reason we are making a go of it financially, is that my husband has had a very successful insurance business for the past several years, and we have good savings and some stock.

With the small amount from the Veterans Administration at its present rate, if my husband can get his Ph.D. which is our goal, it will be necessary to use all our savings which we have had earmarked for our children's education.

Many students on the G.I. Bill find it necessary to work which puts a strain on their study time and as a result, many seem to fall by the wayside.

As very proud constituents of yours we would appreciate your favorable attention to this bill. And as always we appreciate your fine representation and are proud that such a great statesman hails from Idaho.

Sincerely,

Mr. and Mrs. PAUL L. RALSTON.

[From the Veterans Newsletter, March 1972]

LEGION PRESSES CAMPAIGN TO INCREASE BENEFITS IN VETERANS EDUCATION AND TRAINING PROGRAM

The Legion is continuing to press its campaign for legislation to provide tuition and subsistence benefits to veterans taking educational training under VA programs . . . Presently, subsistence payments range from $175 per month for single vets up to $230 per month for carried vets with two dependents.

A whole host of collegiate veterans organizations representing thousands of vets in school, various organizations of educators, guidance counselors, financial aid personnel, and college and trade school associations are backing the Legion's mandated position (1971 National Convention) . . . In the main, this calls for (1) payment directly to the educational institution of 75% of the tuition, books and other fees up to a maximum of $1,000 per year (2) a guaranteed and/or direct VA loan program for educational assistance and training (3) extension of maximum eligibility to 43 months.

As Veterans Newsletter went to press, a House Veterans Affairs Subcommittee on Education and Training is reported to have approved a 14% increase in subsistence payments to the present program and recommended adoption by the full Committee . . . The Senate Veterans Affairs Education Subcommittee was also readying bills on the same subject . . . But the House bill doesn't get to the heart of the problem—namely that many of today's veterans cannot go to school at all under available educational programs simply because they can't afford to . . . Among other things, they must eat, clothe themselves, travel to and from school, buy books and pay laboratory and other fees . . . It's well-nigh impossible in today's economy with the cost of everything rising despite efforts to keep the lid on, unless they have other resources.

Sometimes it helps to look backward in order to see ahead . . . In a 1968 report, the federal government's own Office of Education, Dep't of Health, Education and Welfare, stated that "the estimated average basic student charges (tuition, required fees, board and room) by publicly controlled institutions of higher education, in 1966–67 dollars, increased from $847 in 1956–57 to $1,034 in 1966–67. The charges are expected to reach $1,211 by 1976–77. The estimated average basic student charges by non-publicly controlled institutions of higher education were $1,486 in 1956–57, $2,125 in 1966–67 and are expected to reach $2,748 in 1976–77."

In actuality, the figures for 1976–77 are drastically underestimated . . . They've already been exceeded, mainly because of the thrust supplied by an inflationary economy. . . . A U.S. News & World Report article in February 1971 came a lot closer when it estimated the same items to average $1,417 in public colleges in 1971 and $1,492 in 1972; and then estimated the private college cost at $3,089 in 1971 and $3,281 in 1972 . . . Add the cost of clothing, books, transportation and necessary incidentals, and the picture gets worse . . . Using 1970–71–72 as a rough estimate a 10% increase per year in higher education costs when planning for the future.

The picture is slightly better at technical and vocational schools—but only because programs at those institutions generally average less than two years and thus tax the vet's finances for a shorter period of time.

How does the veteran survive in college today? . . . He works—if he can find a part-time job . . . He borrows—if he can . . . His parents help—if they can . . . His wife works—if he is married and she can . . . He scrounges for a grant or a fellowship of some kind—if any are available . . . Sometimes he must use a combination of all of those means—if he's resourceful and knowledgeable enough.

The essential point is this: Something like 59% of Vietnam vets don't go to college or take technical training at all, chiefly, they say, because they can't afford it!

Further, 53% of the group which did not apply for educational and training benefits said they certainly would apply if benefits were increased and another 30% said they possibly would apply. (These figures were taken from the recent research poll conducted for the VA by Louis Harris & Associates, Inc. . . . Focus of the research was the problems Vietnam era veterans face in readjusting to civilian life after their separation from the armed forces.)

Some may take advantage of low-cost government-backed educational loans that are available now to students if a bank in the area has funds to lend . . . But here the family's adjusted income is counted into the pot and this often creates an unnaturally high-seeming income level, thus effectively shutting out many deserving vets from the loans . . . The Legion is pushing to have family income discounted from such consideration . . . The Legion is also calling for direct and/or guaranteed loans to the student-veteran . . . Thus, if he can't get current money to pay for his education, he at least will have the option to borrow against his future and finance it at the lowest possible dollar cost.

By now it should not need to be said that the nation has an obligation to provide educational opportunities to all veterans whose careers were interrupted by military service so that they can reach the vocational and educational status they might have had if they had not served their nation . . . In a world that has increased its body of technical knowledge more in the years since WW2 than in all the years before that conflict, it is vital that students go beyond the secondary school level to get higher training . . . A technology that has produced computers, supersonic aircraft, laser beams, satellites and rockets to the moon and beyond, television, cathode ray tube writing, optical scanning devices, heart and organ transplants, and an array of other fantastic developments cannot function properly with human beings whose educational and training attainments stopped at or below the high school level . . . The nation must have people who can realize their full potential.

With unemployment for Vietnam era veterans running above 8%, the nation should take all steps necessary to make it possible for these young people to get education and training . . . At the very least, this would take them off the job market for a period of time . . . Then they can leap-frog back into the nation's work force at a higher level with increased skills and knowledge.

Write your Senator or Congressman, and the Senate and/or House Veterans Affairs Committee in Washington, D.C. . . . Let them know you favor legislation to provide financial help with tuition, fees, books and loans for today's G.I.'s so they'll have a better chance to get an education that will enable them to become more productive citizens.

BILL RAISING GI COLLEGE AID CLEARS HOUSE

WASHINGTON.—The House passed and sent to the Senate yesterday a bill that would increase monthly benefits to military veterans attending college to $200.

The vote was 358 to 0.

Estimated cost of the bill, which also would increase on-the-job training benefits nearly 50 per cent, is estimated at $1.2 billion over the next five years.

The bill would allow wives and widows of veterans to take correspondence courses and on-the-job training—and defines wives and widows as including husbands of female veterans.

The bill would increase benefits for the first six months of on-the-job training to $160 from the present $108. It would increase monthly checks for vocational education to $154 from the present $135.

The House Veterans Affairs Committee estimated that the number of people receiving benefits under the program will rise from the 1.1 million at the start of this year to 1.3 million in 1974 and then fall off to about one million in 1976 and 1977.

The increase in college benefits compares with current payments of $175 and a monthly allowance of $100 in 1966 when Congress passed the GI bill for Vietnam veterans.

The administration had asked an increase to $190 in the five-year extension bill.

COMPLEXITIES OF AN EFFECTIVE EDUCATION FOR CHILDREN

Mr. SCOTT. Mr. President, during his recent appearance on the CBS News program Comment, Daniel P. Moynihan discussed the complexities often overlooked in efforts to provide an effective education for our children. I ask unanimous consent that Mr. Moynihan's remarks, which were published in today's Philadelphia Inquirer, be printed in the RECORD.

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

OFTEN DISTORTED—SCHOOLS SHOULD NOT BE POLITICAL ISSUE

(By Daniel P. Moynihan)

Like many of us, I have begun to get caught up with the Presidential campaign. It is scarcely two weeks old, in terms of the primary contests, and already, I am appalled at what we put our politicians through.

If it keeps up, we are going to carry the victorious candidate into the White House on a litter. It's no way for a grown-up democracy to behave.

It is not just our political candidates who get used up and distorted in this process. It happens to issues also. We are not at our best at campaign time. Good men and women, seeking votes, no doubt, sometimes find themselves saying things they don't really believe. But that is the least of it.

The worst is that they find themselves saying things they don't understand. Nobody is to blame for this. I have been involved in enough Presidential campaigns to believe that deliberate deception or misstatement is a rare thing. It really is.

But in campaigns, you have to keep things simple, while most issues are complex. The result, inevitably, is distortion. And the longer the campaign, the more the distortion.

Education is one such issue. It has suddenly become a central subject of the politics of 1972. I would imagine that this will be the first Presidential campaign in our history in which education has had such a role.

The problem is that we have begun to learn something about education, and we find that so many of the things we have taken for granted just aren't so. Or don't seem to be.

What makes for a good school or a good student turns out to be a very complicated

question, and most of the answers don't seem to reside in the school itself. Schools turn out to be pretty much alike in the way they affect young people, even where there are large differences in expenditures, which often there are.

The amount of money spent doesn't seem to matter much, at least after a certain minimum is reached. Things like the teacher-pupil ratio don't seem to matter much. That at least is the conclusion we're being forced to in our research at Harvard.

A distinguished economist not long ago described education as a pathological sector of the economy, which is to say that putting more resources into education doesn't seem to produce more product. Certainly in recent years, we have greatly increased our expenditure on education without, it seems, getting more education for our money.

This is not to say we are getting all that we want from our schools. Even if our schools seem equal in many respects, we are not getting equal students out of them. Levels of education achievement vary greatly and this has real consequences.

The problem is that schools don't seem to be the source of these differences. Young people arrive in the first grade with different levels of educational achievement, and 12 years later they leave school with these differences still intact.

Schools don't seem to add or detract very much. Until recently, we were reluctant to accept this limit on our knowledge and ability. But if we are going to be honest with ourselves, we are going to have to live with this new knowledge. There are no secrets, no magic cures.

I would like to see much more social and racial mixing in our schools, but other than that, I am not sure but we are doing about as well as we know how.

The trouble is that political campaigns are not a particularly good time for facing up to such limitations. That is why I am unhappy that education is becoming such a political issue. It won't help the schools, and it won't help the children. It will only raise tempers and inflate promises.

Doing better will be the work of many years and hard research. Politics is an honorable calling, but it is not a process of scientific enquiry.

ADDRESS BY SENATOR CRANSTON BEFORE WESTERN STATES OPTOMETRIC CONFERENCE

Mr. WILLIAMS. Mr. President, in the national discussion currently under way on methods of resolving the deficiencies of the Nation's health care system, there is one issue on which everyone agrees. That issue is the need for this Nation to develop the necessary numbers and types of health professionals and then to utilize their skills to the fullest capacity and in the most efficient manner.

Congress has recently enacted the Comprehensive Health Manpower Training Act of 1971, which I was proud to cosponsor, which will provide the Nation with the means to train these needed professionals. Among the professionals who will be trained under the provisions of this legislation are the optometrists. Several other legislative measures are under consideration which will bear up on the Nation's need to utilize fully the skills of the optometrist.

The Senator from California (Mr. CRANSTON), on March 2, addressed the Western States Optometric Congress. In his address he cited the importance of the optometrist to the provision of comprehensive health care and the several legislative initiatives under consideration by Congress which would encourage their training, utilization, and full participation in the provision of health care.

I believe his statement offers a comprehensive summary of what this Congress has done and is doing in the areas of concern to the optometrist.

Mr. President, I ask unanimous consent that the text of his remarks be printed in the RECORD.

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

ADDRESS BY SENATOR ALAN CRANSTON BEFORE THE WESTERN STATES OPTOMETRIC CONGRESS

It is a pleasure to be here with such a fine group, representing the best of professional optometry.

When I was invited to address this gathering, it was suggested that I speak about the Nation's health care problems. As you know, this has recently been a very active and heated political issue, especially since the 92nd Congress convened and we witnessed the introduction of a number of bills dealing with National Health Insurance.

I hope to present a somewhat different viewpoint in my appearance here today. I believe you will be more interested in hearing what the Congress IS doing in response to the Nation's health needs than hearing a reiteration of facts and figures indicating that we in Congress are aware of the problems and the need to do more. Therefore, I will attempt to outline current legislative activities bearing on solutions to some of our national health care inadequacies. I will also focus on items which have particular pertinence to your profession.

I have a deep personal interest in health matters generally and particularly in the process for rendering health care. I am privileged to serve on several Senate committees and subcommittees which have great responsibilities for the future direction of health care systems in this country.

I am convinced that our medical care system in America is itself suffering from a hardening of the arteries. With each passing day, our inability to heal and, more particularly, to maintain health for all Americans becomes clearer and clearer. The Medicare program provides a good example of the kinds of problems confronting us. There are over 21 million individuals eligible for benefits today and the net number of eligibles increases by approximately 900 every day.

With our growing population, and with the increasing concensus, on the part of both the consumer and the provider, that health care is a right not a privilege, the need to find new methods to make more efficient and effective utilization of current resources becomes more urgent. Obviously, each elderly person and each newborn child requires health care. And so, at various times, do all those in the age groups between. Thus, it becomes a problem of providing enough health services; and to provide them in a manner efficient enough to provide adequate services for the needs of all and to provide them through some means that will be economically feasible for both provider and consumer.

I am convinced that efficient and effective health care in America can be provided only through carefully planned approaches to the education of sufficient numbers of health care professionals, and the training of appropriate paraprofessional workers who can help to make each professional's time more productive.

I was delighted that amendments I offered to the Comprehensive Health Manpower Training Act of 1971, which provide incentives to medical and other health profession schools to train new types of paraprofessionals, were included in the legislation which was signed into law by the President this past Fall. This approach must be stressed if our health system is to have any chance of meeting the growing demands made upon it. I stress, in addition, that we must at the same time take steps to ensure that services performed by paraprofessional personnel continue to meet the high quality standards the patient has every right to expect. The professional's assistant should work in close collaboration with his principal—the physician, the dentist, the optometrist—and be responsible for duties for which he has been specially trained and which his preceptor has assigned to him.

The Allied Health Manpower Training Act, first enacted in 1966, will be considered for revision and extension during this Session of Congress. I feel confident we will be able to write into the law proper procedures to assure that funds for training paraprofessionals and allied personnel will be used to prepare health workers to provide services consistent with the highest standards of care.

The distribution of health manpower is another matter of vital concern to members of the Congress. Within the past two years, we have taken various steps toward improvement of the health personnel distribution situation, but it is still a very bleak picture in many parts of the Nation. You practitioners in this room are members of the profession with probably the best overall distribution of manpower of any health care discipline, with over 20 thousand optometrist licenses in existence and an impressive list of nearly 5,500 cities and towns where at least one optometrist is located.

Even with this comparatively good availability of optometric services in our Nation, however, it is still imperative that more optometrists be trained to meet the visual needs of the population. It is estimated an additional 15,500 optometrists will be required to meet these needs by 1980. Congress, in extending the Health Manpower Educational Assistance Act last Fall, recognized this need. Unfortunately, the administration proposed a substantial reduction of federal support of optometric schools under some programs and would have entirely eliminated optometry schools from other programs. But, as a member of the Health Subcommittee, I can assure you Congress resisted such a proposal and took positive action instead to retain optometry schools as eligible institutions under all provisions of the Act.

I was delighted also that Congress restored the nearly one million dollars for Special Projects grants and financial distress funding for Schools of Optometry in the appropriations act for the current fiscal year. In addition, in line with testimony I presented to the Appropriations Committee, Congress increased the level of capitation support from the sixty percent requested by the administration to over 74 percent of the amount authorized. With the commitment of these schools to expanded enrollments and innovations in their programs in order to meet national needs, I believe that the Federal government has a clear obligation to continue to provide the support that is necessary for these schools to participate in achieving our national health care goals.

Along with this type of direct Federal support for health manpower, I believe we must establish methods of better utilization of existing physical facilities. An outstanding example of the way this can be done is legislation which would encourage and expand the use of Federally-operated health facilities, such as Veterans Administration hospitals, as clinical teaching facilities for various health specialties.

As Chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs Committee, I have introduced and completed

hearings on several bills I introduced to accomplish this purpose. S. 2219, the proposed "Veterans' Administration Health Manpower Training Act," would create such a system and I am delighted to report that the bill with amendments I proposed in Subcommittee was reported to the full Committee on February 16. Under provisions of this bill, students of optometry schools and colleges affiliated with Veterans Administration health care facilities could take a portion of their clinical training in VA facilities. The plan is to provide for maximum utilization of VA health installations for teaching purposes, to provide an excellent clinical teaching setting for fourth-year students; and to improve the availability of visual services to eligible individuals through the Veterans Administration health program.

Also included in this bill is a program for continuing education of professional and other health personnel on the staff of VA hospitals and on a veterans' reimbursable basis from the community.

With regard to another bill I introduced, S. 2354, the "proposed Health Care Expansion Act of 1972," I am delighted to announce to you that during the subcommittee's consideration of that bill on February 16, I offered an amendment to establish the position of Director of Optometry in the Veterans' Administration Department of Medicine and Surgery. And I am even more delighted to advise that the subcommittee unanimously voted to report favorably the bill, with this amendment, to the full committee. This new position of Director of Optometry would be at the same level as the VA head's of other professional disciplines. Establishment of this new position will provide needed coordination for existing VA arrangements with optometrists. The Director of Optometry will also provide leadership in the effective handling of cooperative clinical teaching programs authorized under my companion bill, S. 2219.

On other health care legislation, I see optometry as a profession playing an enlarging role. Many bills have been introduced dealing with Health Maintenance Organizations. I believe most of you would agree with me that HMO's are not necessarily the panacea for provision of health care. We should also preserve a role for individual practitioners, particularly in single-discipline and multiple-discipline group practice settings, so that patients who prefer may obtain their health care in the more traditional manner. However, the HMO concept does present another and potentially very useful option for providing health services with particular stress on preventive care and early diagnosis. HMO legislation holds the potential of serving as a means of making comprehensive health care available at reasonable cost and—with appropriate quality and utilization review required by law—of producing higher quality care.

Health Maintenance Organization programs cannot be successful, in my view, unless each such organization encourages the participation of all primary health care professions. Full participation of the individual practitioner should be possible with proper safeguards to assure appropriate participation of all professionals in the direction of the organization so as to make available to patients a full range of health services in the HMO setting.

I am sure you all will be glad to learn also that the Veterans Administration has just initiated an affiliation between the School of Optometry of the University of Alabama and the VA hospital in Birmingham to provide clinical training for optometrists and optometric technicians. This is the first such program in the VA system and could provide a model for similar affiliations between the twelve accedited schools of optometry and nearby VA teaching hospitals after S. 2219 and S. 2354 are enacted. Such training programs will help fill the need for the trained optometric manpower required to provide comprehensive care for the veteran as well as for the community.

I am hopeful we can secure enactment of my two VA medical bills this spring.

When such a program is adopted, I envision the Health Maintenance Organization system being converted or phased into the larger National Health Insurance program.

As to the possibility of a National Health Insurance plan being enacted during the 92nd Congress, a realistic prediction would be that passage of a comprehensive National Health Insurance bill will not occur before the next Congress. In addition to the problems of financing presented by such a plan, other thorny issues must also be resolved. These include significantly expanding our health personnel and facility capacity to meet the increased demand which necessarily will accompany the implementation of a national health program. We must also devise methods of integrating present programs into the new system with the least dislocation of services possible.

I am convinced that a National Health Insurance program eventually will be adopted. I believe it will have to follow most of the general outlines of the Health Security Act, S. 3, introduced by Senator Kennedy, of which I am a cosponsor. This proposal, I believe, offers the most comprehensive and far reaching solution to a massive problem. But, as I said, there remain a number of major problems to be resolved before we will be able to agree on a national plan.

Developing such dramatic, broad legislation requires considerable deliberation and the best thinking of all segments of society. You, as members of the professional community—as well as the consumers, facility directors and staff, health administrators, and third party insurers—must be fully consulted. We must avoid the massive management problems which have surfaced in the implementation of the Medicare and Medicaid programs. Your suggestions and comments will be heeded and welcomed. In this connection, I wish to express my thanks to your Washington office, which has been extremely helpful in keeping me aware of the issues in which you have an interest and in providing necessary data and facts whenever I have requested them.

I have also had the privilege of working on some other legislation of interest to optometry—Senator Randolph's amendments to the Randolph-Sheppard Act for the Blind and Senator Sparkman's amendments to the Federal Housing Act.

The proposed Randolph-Sheppard Act for the Blind Amendments Act (S. 2506), supported by your national association, would extend benefits of that program to more individuals and statutorily recognize optometrists as qualified to certify the visual condition of an individual who wishes to participate in Randolph-Sheppard programs. This would in many cases allow the visually handicapped person to enter the program earlier and provide the worker's family with assistance at the first possible moment. This bill will be considered in the near future by the Handicapped Subcommittee, on which I am the ranking majority member.

In the case of the FHA Title II program, S. 2269 is designed to reduce the number of practitioners required to qualify for Federally-guaranteed loans to build or remodel group practice facilities and properly equip them. This legislation could be of great help to residents of rural or inner city areas where it has been difficult to attract and retain health professionals. As a member of the Banking, Housing and Urban Affairs Committee, I voted for this bill, and believe it will aid many persons now deprived of convenient health services and help young practitioners seeking good opportunities to utilize their skills. The provisions of this bill will be considered on the Seante floor very shortly.

These legislative matters are but a few which will have both immediate and long-range impact on your profession and health care in America generally. Let me assure you that we in the Congress are today more health-conscious than any previous Congress. I fervently hope and believe we are turning to brighter days of being able to concentrate on domestic problems rather than undeclared wars. There is no doubt that the concept of health care as a primary right is one which has been laid down as a fundamental precept in these past few years. We must work now to ensure every American will share in the full fruits of the scientific and technological advances produced by members of all health and scientific disciplines.

As your great profession continues to broaden its horizons, the public will be better served, with optometrists an essential primary providers of a vital health service.

I'm pleased to be with a group of professionals who are so keenly aware of the goals of their own profession and how that profession can best serve the needs of the Nation. I urge you to continue and increase the interest you have demonstrated in good health legislation and your willingness to share your thoughts and recommendations with those of us who represent you in Congress.

RICHARD W. McLAREN AND THE ITT

Mr. HRUSKA. Mr. President, in 1969 President Nixon appointed one of the most distinguished members of the antitrust bar to be the new Assistant Attorney General in charge of the Antitrust Division of the Department of Justice. That man, Richard W. McLaren, has just completed 3 years of exemplary service to the Nation as the head of this important office. He recently resigned to become a U.S. district judge for the northern district of Illinois.

During his term of office, Mr. McLaren was hailed as the most vigorous enforcer of the Nation's antitrust laws in over a decade. Some scholars and businessmen did not agree with his interpretation of some antitrust statutes, particularly section 7 of the Clayton Act, but all conceded that he had brought new energy to the division and had acted in a decisive and forthright manner to curb anticompetitive elements in the economy. It was with regret tempered by the knowledge that he would make a splendid contribution to the Federal bench that we saw him leave the Department of Justice.

Recently, however, Judge McLaren has had occasion to return to Washington to discuss some of his actions as Assistant Attorney General. It was Judge McLaren who filed the three suits against ITT seeking the divestiture of Canteen Corp., Grinnell Corp., and Hartford Fire Insurance Co. It was also Judge McLaren who determined on the basis of the facts presented to him that a consent decree requiring the divestiture of numerous corporations and setting a 10-year restriction on the acquisition of additional companies while permitting ITT to retain Hartford was the best way to terminate these three cases from the viewpoint of all concerned.

Judge McLaren's testimony before the Judiciary Committee was most informative and straightforward. It set to rest any suggestion that pressure had caused

him to terminate these cases by means of consent decrees rather than by completing the litigation. His statements also clearly demonstrated that there was no connection between the settlement of these cases and ITT's pledge to the San Diego Tourist and Convention Bureau as some have alleged.

Last Sunday Judge McLaren was the guest on the CBS–TV news program "Face the Nation." His remarks at that time add greater emphasis to his Judiciary Committee testimony.

Mr. President, I ask unanimous consent that the transcript of that CBS interview be printed in the RECORD.

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

FACE THE NATION

(As broadcast over CBS, March 19, 1972)

Guest: Judge Richard W. McLaren.

Reporters: George Herman, CBS News; Morton Mintz, the Washington Post; Neil Strawser, CBS News.

GEORGE HERMAN. Judge McLaren, as Assistant Attorney General, you wrote Mr. Kleindienst that the ripple effect of making IT&T get rid of the Hartford Insurance Company would shake the stock market and the entire national economy. Isn't that exactly the kind of company that should be broken up for the health of the nation?

Judge MCLAREN. I think I said that it might—that there was a risk of an adverse effect on the economy, and I also said that if there was an alternative way of handling the thing, we should take that alternative, and we did devise an alternative that amounted to a billion dollar divestiture. And I don't think that that's ever really gotten across to the country, that this is the biggest divestiture in history.

ANNOUNCER. From CBS Washington, Face the Nation, a spontaneous and unrehearsed news interview with Federal Judge Richard McLaren, who was Chief of the Anti-Trust Division of the Justice Department during settlement negotiations with the International Telephone and Telegraph Company. Judge McLaren will be questioned by CBS News Correspondent Neil Strawser; Morton Mintz of the Washington Post, and CBS News Correspondent George Herman.

HERMAN. It may have been, as you say, Judge McLaren, the biggest divestiture in our history, but is it what you wanted? Did you not say afterwards that not getting the trial before the Supreme Court of your idea of anti-trust law, was your greatest disappointment in office?

Judge MCLAREN. Well, I think that it was a disappointment not to have the Supreme Court confirm our theories of conglomerate merger, what was and what wasn't a violation, but I don't feel that my own personal desires can really stand in the way of eliminating a very lengthy litigation, taking away the possibility of immediate settlement, a result right now in other words, just because I want a Supreme Court ruling. And when we were able to get this very good, and I might say tough settlement, that I think has acted as a deterrent in this field—I couldn't justify taking perhaps two or three or four more years to take the matter to the Supreme Court.

MINTZ. Mr. McLaren, isn't the settlement that you accepted in mid-1971 almost identical to the settlement that ITT proposed in November of 1970 and that you turned down because you wanted to go to court?

Judge MCLAREN. No. No, I think that what they offered in the latter part of 1970 was to divest the Canteen Company, which was one of the three lawsuits, one of the three companies that we were after, and I think that they also indicated that they might be willing to divest part of Grinnell. This was in no sense the kind of a settlement that I felt we needed. You see, the big issue was should they be entitled to keep the Hartford Insurance Company. This is the number six insurance company in size, and it's a billion and a half dollar firm, we'll say, I think a billion dollars of income. Owing to the way in which ITT acquired Hartford, it would have been a tremendous loss to their shareholders and to the company itself. I think it would have weakened the company itself if it had had to divest Hartford. On the other hand, we could achieve the same anti-trust objectives by having them divest other insurance-related firms. And I don't think maybe you understand the size of these companies that are going to be divested.

There are four firms, Avis Rent A Car, number two in its business, Levitt, which is about number one in community housing; there's the Grinnell Fire Protection outfit which is number one in its field; and there's Canteen, which is number one or number two in the field of vending machines. Now, to give you an idea of the magnitude of those, three of them are going to be in Fortune's 500 largest industrials. Now that is a very large divestiture, and the fourth one is about number 600 on the Fortune scale.

STRAWSER. Judge McLaren, some observers are still wondering what was suddenly so convincing about the financial hardship argument offered by ITT Board member Felix Rohatyn, when most aspects of that argument were really two years old, and had been rejected.

Judge MCLAREN. No, I don't think that's a fair statement, Mr. Strawser, for this reason—repeatedly ITT had come in—in 1969 and 1970—and urged settlement, but they always urged it on the basis that I was wrong on our theories of law, that we were going to lose the case. Later on they came in and they said, well, you shouldn't want any more than this, this would serve anti-trust purposes and so on, and in every case I turned them down. It was not until Rohatyn came in to see Kleindienst—and why he went to see Kleindienst instead of coming to see me, I don't know—but then is the first time they ever made a hardship argument, and I felt that when you're talking about the—I think ITT was number six industrial firm in the United States, I had to think very seriously whether my objective of divestiture and restoration of competition was going to do more damage to the country as a whole than a alternative divestiture system, which is the one that we worked out. And I don't think that it's come across either in the reporting of this thing that that settlement program that we did devise, which, incidentally, stops ITT from further acquisitions, was worked out by my staff. Four of us worked on it and I think—I figured up the other day we have between us a hundred years of anti-trust experience.

MINTZ. Well, Mr. McLaren, aren't you really proclaiming here, when you take into account the ripple effect, the effect on balance of payments and so on, a kind of doctrine of squatter's rights, that once a company gets big enough, the government can't force the anti-trust laws forcefully because what's good for ITT is good not only for the United States but for the whole western world?

Judge MCLAREN. Well, I think it's an interesting idea, squatter's rights, but what I did here is exactly what I understand Senator Muskie has now proposed as a statute. He wants to make it a requirement that if a company over $250 million of assets makes a significant acquisition, it has to spin off or split off an equivalent amount of assets. Well, that's substantially what I did here. And, incidentally, Mr. Mintz, I recall discussing this with you back in 1969, when I think the first time I did it was with the Atlantic-Richfield-Sinclair merger; we split off other properties and so on. We later did it in the Gould-Clevite merger, if you remember that one. And we did it in LTV. I don't think that there's anything strange about this, as a matter of fact, when we announced the settlement, the New York Times ran an article that said the day of the giant merger is over, and——

MINTZ. Is it really over? Isn't it really true that by not going to the Supreme Court you could have let that Grinnell case be decided and then use that as a pattern for settling the ITT cases, and you would have had the greatest possible deterrent to holding back the conglomerate merger wave? What you have now is that when the stock market gets ripe, that merger wave can resume. I believe this is correct but of course I may be wrong.

Judge MCLAREN. I dare them to try it.

HERMAN. One thing that you said puzzles me a little bit, and perhaps I don't understand you fully. You said that one of the things that worried you was that divestiture that you were originally pressing would damage the stockholders of IT&T——

Judge MCLAREN. Right.

HERMAN. . . . and that this was one of the reasons why. Now if that is a sort of rule of thumb or a rule of philosophy of the Justice Department anti-trust suit about any merger, doesn't that mean there will be no more anti-trust suits? Doesn't every anti-trust suit depress the company's stock?

Judge MCLAREN. Oh, no, no, I don't think that that's a fair analysis—it's——

HERMAN. I'm not analyzing it, I'm trying to understand what you were saying.

Judge MCLAREN. It's a very unusual thing to take into account a hardship remedy. In fact, the Supreme Court said in the DuPont-General Motors case that—the legal argument was made that this would hurt the stockholdings and so on, and the Supreme Court said we can't take this into account, this is a matter where the basic thing is effect on competition. My point is if you can avoid a devastating effect on the stockholders of a company by an alternative remedy that does take care of all the anti-competitive consequences, I think you'd be derelict in your duty as a public servant not to take the alternative. There certainly is nothing punitive about one of these suits. We're not out to fine them a billion dollars, and when we found a way that we thought would eliminate all of the insurance-related aspects of this thing, through these other divestitures, well that's the route we took, and I still think it's a good settlement. I've challenged during the course of this thing various people to poll law professors, and I understand they have polled law professors, and out of seven, seven said it was a good settlement.

HERMAN. I've gotten somewhat the same results checking with some lawyers, and some friends. The thing that I'm interested in in the statement you just made is what seems to me the key word—all the competitive effects. Are you satisfied that the settlement that you made with IT&T-Hartford does solve all the competitive problems, all of them that you were worried about?

Judge MCLAREN. That's an awfully hard question to answer. I think it does, yes. In other words, there comes a time where you take away from the acquiring company, in this case ITT, various operations that it had at the time it made its big acquisition that you're challenging. If it didn't own Avis, if it didn't own Levitt at the time of the Hartford acquisition, we probably never would have sued them—you follow me?

STRAWSER. Judge McLaren, does it disturb you in this case to find that the outside financial consultant that you employed, Richard Ramsden, billed the government for only two days of work in a multibillion-dollar case—billed it for 242 dollars, I believe?

Judge MCLAREN. Well, I think it was three days; but nonetheless, I believe the Treasury people indicated they worked a week on it.

This isn't a terribly hard thing to analyze for an expert in his field, as I understand it, and I brought in an expert on it because I thought that a financial expert could do it more efficiently, and so on. I feel somewhat competent myself to analyze things like that. I spent four years, many years ago, in an—with a Wall Street firm, and did securities work and so on. I don't think I'm a complete ignoramus in the thing. And basically, I finally had to rely on my own feeling on what was best for the government in this case. And that was the basis of the settlement.

STRAWSER. Do you think you should've checked a little more closely on Ramsden's possible conflicts of interest, now that it turns out that he did not file a report with the government, apparently, on them?

Judge MCLAREN. Well, I—I really don't have too many facts on that. I understand that he had the necessary report or statement of his interests, and so on, on file at the Commerce Department. You see, the first time I used Ramsden was in the LTV case. We had a similar analysis problem there. At that time he was a White House fellow—he was working for the government. And as far as I knew, when we referred this matter to him, asked him to make a whole study on ITT, he was still with the government. So, in retrospect, and as a matter of fact since that time, we have taken on an additional man at the department, a man who's a professor in this more financial area, and I think I probably would've—if we'd had him then—I'd have used him too, for another cross view.

MINTZ. Mr. McLaren, I'll preface this by saying that your claim that the—that the settlement was highly regarded has a lot of bipartisan support; if that hasn't come out, it is true. But let me get on to something else which I think is terribly important about the whole picture. Let's see if this is accurate. A corporation so big that it could be called a private government, so wealthy it can easily grant or deny large sums to politicians and political parties, is able to discuss and negotiate crucial antitrust matters in secrecy with an aide to the President, cabinet members and key figures on Capitol Hill. Between stints as the President's campaign manager, the Attorney General runs the Justice Department, where he controls the antitrust division. My question is, doesn't a setup like this create potential for abuse? Shouldn't antitrust be insulated from political pressures? And if you agree that it should, how would you do it?

Judge MCLAREN. I think that's a kind of a 64-dollar question, Mr. Mintz. I don't know the answer to it. My experience, as you know, was in private practice of law in the antitrust field up until 1969. When I came into the government, I had known of, oh, political rumors and some sensational things in the newspapers. And I talked to Mr. Mitchell about it before I ever accepted this appointment as Assistant Attorney General, and we had a firm understanding, which he lived up to, incidentally, and so did Kleindienst—that we were going to decide antitrust matters on the merits, and that there wasn't going to be any political consideration in the—in our decisions.

Now you say, how do you—how do you enforce that, and I'm at a loss to know how better you enforce it than in many other areas of government, and that is that you simply get good people and you rely on their honesty and integrity. Incidentally, I feel very, very badly about the way many of the newspapers and—and television reporters, and so on, are saying that we abandoned the prosecution in this case. One writer even went so far, in a sarcastic way, as to say that we quashed the indictments. I think that the public is getting a terribly misleading picture of what happened here, and I agree that this can destroy faith in government. But worse than that, it's going to destroy the ability of any administration to get good professional people to come down here and—and take these technical and professional jobs, if they're going to be pilloried in the press.

HERMAN. Aren't you getting into a little bit of a semantic quibble there? Didn't you ask for a delay and then not pursue it? Isn't that dropping it or abandoning it, or something of the sort? I just—

Judge MCLAREN. No, no—look——

HERMAN. I think you're—you're blaming semantics here, on—on reporters.

Judge MCLAREN. Oh, no, that isn't fair—it isn't a matter of semantics. This morning's paper, one of them, said that we halted the prosecution. Well, that's—as Dean Griswold said when he testified, that's like saying the prosecutor is guilty of halting prosecution when the defendant comes in and pleads guilty. We got decrees, judgments, in all three of these cases. We didn't halt the prosecution. They caved in, in effect. And I think that we got probably a remedy that's one of the best accomplishments of the antitrust division in the last ten years. It's—

HERMAN. What had they done—what had they offered—when you first asked for a delay before the Supreme Court?

Judge MCLAREN. Well, the delay really didn't have anything to do with it. We're talking about two different things, and I don't know whether I can explain it quickly. Mr. Walsh, who was an attorney for ITT, came in with a letter toward the end of our filing time in the Grinnell case. You see—

HERMAN. Is that the letter in which he said IT&T might well lose?

Judge MCLAREN. Right. Now we had lost the Grinnell case in the lower courts, and we had bad findings against us by the trial judge—finding of fact. We had also lost the Canteen case, incidentally, before we settled this thing, and I don't think that's generally known. We had also lost the Hartford case on preliminary injunction. I don't think that's generally known. So that was the—the status in which we were negotiating. But when Mr. Walsh came in with his letter requesting a delay, he named—or, I don't know—the Secretary of Commerce, Council of Economic Advisors, Secretary of the Treasury, and he indicated in his letter that they all had ideas different from mine on the overall conglomerate merger picture, and they wanted us to delay filing our brief to give those other agencies a chance to have a say in our brief.

Well, I wasn't averse to doing that. After all, I'm part of an administration, and if the administration has different views on this, I don't think I'm God. I'm perfectly willing to—to handle it on the basis of an administration matter. And all we did was to delay filing that brief, which didn't make any difference whatsoever in the taking up of the case, because it couldn't have been—oh, I think we filed—delayed from April till May. Well, the thing couldn't come up till October in any event—the next term of court.

STRAWSER. Judge McLaren, you testified repeatedly that you were not improperly influenced in this case. But do you perhaps feel you've been caught in the middle—with all that's gone on around you—the evidence of the paper-shredding in ITT's Washington office, the evidence of the intensive lobbying by ITT against the antitrust policy, the Dita Beard alleged memorandum and all that sort of thing?

Judge MCLAREN. Well, I hold no brief for ITT, and I think if—I don't like to second guess another lawyer, but I am confident that it would not have been my decision to shred those papers if I were consulted. But I don't know what their circumstances were, and I—I don't—I don't particularly want to comment on it. I think I indicated before, I don't see why ITT didn't come to me in the first place instead of sending Rohatyn to see Kleindienst. My door was always open when I was head of the antitrust division. I said it about twice a week in speeches, and we would give people advisory comments on proposed courses of action.

HERMAN. Since you've said what you would or would not do in another—you've opened a door, as the lawyers say, since you've said you might or might not do something. Had you been in Mr. Kleindienst's office, in his shoes so to speak, would you have held several meetings with Mr. Rohatyn without bothering to tell—as I think Mr. Kleindienst testified—without bothering to tell Mr. McLaren?

Judge MCLAREN. Well, I'm glad you raised that. I was very interested to read all the people that Geneen had gone to see in this administration; and you know, not one of those people ever said a word to me about that? I think that's quite a—a compliment to this administration that those people did not put pressure on me. Of course, there are people in the other party too. I noticed—

HERMAN. But Mr. Rohatyn had gone—

Judge MCLAREN. —that a lot of Democratic senators were on Geneen's list.

HERMAN. Mr. Rohatyn had gone to see Mr. Kleindienst to talk about the case which you were working on, and Mr. Kleindienst didn't bother to mention it to you as I believe he testified, for a couple of meetings before he finally did. Would you have operated in that—?

Judge MCLAREN. No, I think you're wrong. I think that what happened was, Rohatyn came in one day and said, here is the kind of a pitch we want to make to McLaren—will you see if you can get us a meeting with him? Why didn't he ask that, I don't know. But Kleindienst—it was a short meeting, according to what Kleindienst had said—and he did ask me, and I said sure, I'll hear them. And a week or ten days later, they brought in Professor Saulnier and other experts and so on. We had a big meeting in my office, and Kleindienst sat over to the side. It was my meeting, and I said what we were going to do after that, and Kleindienst really didn't have anything to do with it after that. I would like to say something also about this word secret meetings. You know—

HERMAN. And which—a word I did not use.

Judge MCLAREN. Well, it's all over the papers, and it's another thing that I kind of object to. Every time you see somebody privately, is that a secret meeting in the sense of a clandestine, improper thing? That's the thing that's getting across to the people, and I don't think it's fair.

HERMAN. I don't know, sir, I'm not prepared to try the newspapers here. Let me ask you one other—

Judge MCLAREN. I shouldn't either, and I apologize.

HERMAN. Let me ask you one other in-their-shoes question. Do you think it was right and proper and also wise for IT&T to make this large pledge to an organization connected with the Republican Party while it was engaged in this litigation or these negotiations?

Judge MCLAREN. I just have no way of commenting on that. I knew nothing about it. It never came to my attention, even where the convention was going to be, until long after our negotiations. I never met Mrs. Beard, I never had anything to do with that. According to their story, as I understand it, for the big hotels to make contributions, particularly on a big opening, as I understand that Sheraton's going to have out there, that's a pretty customary thing.

HERMAN. But by five times customary. They are the second largest chain, they gave five times as much, I understand, as the first largest chain.

Judge MCLAREN. Well, they've got three hotels—I don't—I can't argue that—I knew nothing about it at the time, and I guarantee you that that Republican convention site and ITT's contribution had absolutely 100 per-

cent nothing to do with this settlement that I made.

STRAWSER. If, as Mrs. Beard claims, that memorandum that did link the two was a forgery all along, do you feel that it was unnecessary for you to sit through all those days of hearings in the Senate?

Judge MCLAREN. I don't—I—Mr. Strawser, it's completely inexplicable to me. Based on my knowledge of the events, what I said before was that the memorandum is absolutely incredible. Now whether it's spurious, a forgery, or just name-dropping, I just don't have any idea.

STRAWSER. Does it seem a little late for this charge to come out?

Judge MCLAREN. I don't know. I just don't have any comment at all. I don't understand it, it never had anything to do with me, and I wish, I assure you, it had never come up.

MINTZ. Mr. McLaren, I'd like to ask you a question about consent decrees which was the legal instrument used in the ITT case, which was used long before you took office, and in Democratic administrations as well as Republican. As a matter of fact, it's been used in about 80 per cent of all anti-trust settlements which are conducted, as you prefer, in private—

Judge MCLAREN. Right.

MINTZ.—and they exclude the economists, they exclude the competitors, they exclude the stockholders. What I want to ask is I'll use a specific example—the Justice Department sued the auto industry for conspiring for many years to suppress the installation and development of pollution controls, for conspiring, to put it in plain language, to poison the air. The industry escaped criminal prosecution by signing a piece of paper promising to never do in the future what it denied having done in the past. Now, how can a human being, who could be accused of poisoning the air, the water, or a person, sign a piece of paper and get off, and how can that human being be led to understand that we have equal justice under law?

Judge MCLAREN. You know that's a stop-beating-your-wife question. They didn't escape prosecution by signing a piece of paper. They were investigated by a grand jury under the prior administration.

When I came in there was pending a civil case against them. Now the only thing I can get out of that civil case is a consent—is a court order, which requires them to cease and desist from this conspiracy, which requires them to start competing with one another instead of being cozy about this business of eliminating pollution. Well, I negotiated with them, and in '69 in a matter of a few months I got that decree. Now that's all I could have gotten by trying the case for five years, and I got it right then—

MINTZ. I'm talking about process.

Judge MCLAREN. Well, what more could you ask of the process than a decree that puts them under the requirements of contempt of court to compete on this?

MINTZ. A human being can suffer in a way that a corporation, which is a legal paper of figment, cannot. Now publicity is one of the things that a corporation can be made to feel that's done wrong. When you settled or when anybody settles—it's not personal—that is denied.

Judge MCLAREN. Are you saying that publicity was more important than our getting that immediate remedy? You know—

HERMAN. We have about 20 seconds if you want to finish that thought.

Judge MCLAREN. Well, I think that immediate relief where we would get to work fighting pollution was much more important than that publicity-punishment kind of thing because there were private suits brought against them anyway.

HERMAN. On that point I have to break you off. Thank you very much for being with us today on Face the Nation.

DEATH OF GEORGE P. DELANEY

Mr. WILLIAMS. Mr. President, last month the labor movement lost a very dedicated worker when Mr. George P. Delaney passed away.

Mr. Delaney was an active member of organized labor for more than 40 years and was a union official for more than 30 years. He served with the State and the Labor Departments for many years as an expert in the international labor field and had a very long association with the International Labor Organization both as a delegate and a member of its governing body.

Most recently Mr. Delaney was the Washington representative for the International Longshoremen's Association.

Mr. President, I ask unanimous consent to have printed in the RECORD an obituary from the AFL–CIO News of February 19 concerning Mr. Delaney.

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

GEORGE P. DELANEY DIES, ENVOY FOR U.S. LABOR

George P. Delaney, former international affairs representative for the AFL-CIO and retired State Dept. official, died Feb. 9 of a cardiac arrest shortly before his 63rd birthday.

Delaney, known to his friends as "Phil," had been with the State Dept. from 1963 until he retired last March as special assistant to the Secretary of State and Coordinator of International Labor Affairs. He served in the Labor Dept. 1959-63 in a similar capacity.

Born in Washington, D.C., Delaney became an apprentice molder at the U.S. Navy Yard in Washington in 1928. From 1938 to 1942 he was an international representative with the Molders.

After three years in the U.S. Navy during World War II, he joined the AFL as an international affairs representative and continued to serve in that post with the AFL-CIO following merger.

In a message of condolence to Delaney's widow and family, Federation Pres. George Meany and Sec.-Treas. Lane Kirkland called him a "devoted trade unionist who served his fellow workers with diligence in many crucial assignments . . . a warm friend, a true gentleman."

Delaney began a long association with the International Labor Organization in 1948 as a worker delegate and a member of the ILO Governing Body. He was influential in the adoption of ILO conventions on reduction of working hours and on the abolition of forced labor. He also was active in the formation of the International Confedration of Free Trade Unions.

Delaney left the AFL-CIO in 1958 to become the director of organization for the Operating Engineers. In 1959, he was named the special assistant for international labor affairs in the Labor Dept. and served on the U.S. government delegation to the ILO 1963-70.

Also, starting in 1964, he served as the first director of the Office of Labor Affairs in the Agency for International Development.

On his retirement from the State Dept. last year, Delaney was presented the department's Superior Honor Award and AID's Distinguished Honor Award.

Following retirement from the government, Delaney served as the Washington representative for the Longshoremen.

He is survived by his wife Margaret, four children and one grandchild.

POPULATION COMMISSION REPORT

Mr. PACKWOOD. Mr. President, the Commission on Population Growth and the American Future, on which I am honored to serve, has recently completed 2 years of intensive study and debate on issues related to this Nation's future. During our 2 years of work, we examined numerous aspects of population growth and distribution, and attempted to come up with recommendations which we feel would be of value in and of themselves, but which would also be significant in terms of restraining this Nation's population growth rate. Emphasis was and is on voluntarism. No form of compulsion was accepted, even by implication. Mr. President, these two points should be heavily underlined: First, that our recommendations are worthwhile in and of themselves. The demographic impact in many cases is marginal. And second, all recommendations support the voluntary approach to restraining our population growth rate. No compulsion is even implied.

Mr. President, the Commission is releasing its final report in three parts. Part 1 includes the Commission's findings. Parts 2 and 3 include recommendations. The first two parts have been released. Part 3 will be released in the next few days.

Although the text of the report is too long to be printed in its entirety in the RECORD, I commend it to my colleagues as "must" reading and urge their careful attention to the conclusions presented therein. Additionally, I ask unanimous consent that brief summaries of the first two parts be printed at this point in the RECORD, along with the statements of the Commission's Chairman, Mr. John D. Rockefeller III, upon releasing the report.

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

STATEMENT OF JOHN D. ROCKEFELLER III, CHAIRMAN, COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE ON PART I OF THE FINAL REPORT

For the first time in the history of our country the President and the Congress have established a Commission to examine the growth of our population and its implications for the American future. The Commission was asked to assess the impact of population growth as well as distribution upon our Government, our economy, our natural resources and environment, and to make recommendations as to the means by which our Nation can achieve a population level suited to its needs.

In carrying out of this assignment we believe we have benefited greatly from the diversity of the Commission's membership. The range of occupations, ages, religious, races and experiences when focused on such diverse issues lends special strength to our final report.

Today we offer the first section of our report which constitutes the Commission's findings. In subsequent sections we will submit specific recommendations based upon these findings.

In my brief opening remarks I wish to point up several of our principal conclusions after two years of research and deliberation.

1. Population growth in this country should be regarded neither as a crisis nor with complacency. Alarm or indifference are both inappropriate responses. While our

birthrate has been declining recently, there is no assurance as to its future course. If, however, it should continue to decline to the replacement level—an average of two children per family—our population will still continue to grow for nearly seventy years and mean the addition of 50 to 80 million persons by the end of the century. It takes a long time to arrest the momentum of population growth.

2. Because of the pervasive impact of population growth on every major facet of our lives, the Commission believes that the time has come for the United States to adopt a deliberate population policy.

3. The Commission concludes that in the long run no substantial benefits will result from further growth of the nation's population. Rather, it is our view that population growth of the current magnitude has aggravated many of the nation's problems and made their solution more difficult. The Commission believes that the gradual stabilization of our population would contribute significantly to the nation's ability to solve its problems. It would also enable our society to shift its focus inceasingly from quantity to quality; to assign higher priorities to what gives human life special meaning and value. As a Commission, we view population policy not as an end in itself, but as a means to facilitate the achievement of social goals desirable in their own right.

4. The nation has nothing to fear from a gradual approach to population stabilization. We have looked for, and have not found, any convincing economic argument for continued national population growth. The health of our country does not depend on it nor does the vitality of business or the welfare of the average person. In fact, a reduction in the rate of population growth would bring important economic benefits to all citizens, especially if the nation develops policies to take advantage of the opportunities for social and economic improvement that slower population growth would provide.

5. The Commission believes that slowing the rate of population growth would ease the problems facing government in the years ahead. Demands for governmental services will be less than they would otherwise be, and resources available to finance governmental activities greater. However, it would be a serious error to read these conclusions as comforting and reassuring. Under the most optimistic assumptions, as I have previously indicated, at least 50 million more people will be added to the U.S. population before the end of the century, increasing the demands on governmental services and making more difficult achieving a participatory political process responsive to contemporary conditions.

6. We must face the fact that Americans have suddenly become a metropolitan people. In 1970 roughly two-thirds of our population was metropolitan—it will approach 85% by the year 2000. Migration is from low-income rural areas to great metropolises and from inner cities to suburbs. Nearly 40 million, or 1 in 5 Americans, change homes each year. Of these, roughly 1 in 15, or 13 million, move across county lines. What is happening now is largely haphazard. What is needed is coordinated planning and assistance on a scale large enough to be effective.

7. Population growth is one of the major factors affecting the demands for resources and the impact on the environment in this country. From the standpoint of both resources and environment, the Commission believes considerable benefits would result over the next 25 to 50 years by a prompt reduction in population growth. This conclusion emerges with particular clarity with regard to water, agricultural land, and outdoor recreation.

We offer this report in the hope that our findings and recommendations will stimulate serious consideration and response by all of our citizens to an issue of great consequence to present and future generations. In doing so we would stress that in all of our deliberations our guiding objective has been the enrichment of human life, not its restriction. In advocating a national population policy, we seek to assure greater opportunity for all our citizens so that each may attain his full potential with respect and dignity.

COMMISSION RELEASE PART 1 OF FINAL REPORT

WASHINGTON.—The Commission on Population Growth and the American Future reported today that the nation can, if it must, solve the problems that continued population growth creates, but "we will not like some of the solutions we will have to adopt."

In submitting the first of a three-part Final Report to President Nixon and the Congress, the 24-member panel said that continued growth will commit the nation to:

"More rapid depletion of domestic and international resources, greater pressures on the environment, greater dependence on continued rapid technological development . . . and a more contrived and regulated society."

Continued growth of the magnitude recently experienced also will further aggravate many domestic social problems, making them more difficult to solve, the panel added, while slowing growth and eventually stopping it will buy time to address them.

"There is hardly any social problem confronting this nation whose solution would be easier if our population were larger," the Commission said.

But, cautioning that population policy is no substitute for social, economic and environmental policy, the Commission added:

"Successfully addressing population requires that we also address our problems of poverty, of minority and sex discrimination, of careless exploitation of resources, of environmental deterioration, and of spreading suburbs, decaying cities, and wasted countrysides."

The Commission noted that, because of the tight connection between population and these concerns, "what ever success we have in resolving these problems will contribute to easing the complex system of pressure that impel population growth."

These conclusions emerged in the findings of the Commission report, which followed two years of research and deliberations. Two additional parts will offer specific recommendations based on these and other findings.

Part One of the report focused on the national impact of population growth and distribution upon government services, the economy, the environment and natural resources.

While making no immediate specific recommendations, the Commission urged that a small group be established to act as a "lobby for the future."

This agency, the panel said, should identify potential population, resource and environmental problems well ahead of crises, establish priorities, sponsor research aimed at resolving these problems and formulate and recommend appropriate policies.

The Commission, headed by John D. Rockefeller 3rd, was established by Congress in March, 1970, at the suggestion of President Nixon.

More than 100 leading scientists and experts on economic, environmental, governmental and social problems were enlisted to assist in the Commission's program of inquiry.

In addition, more than 100 witnesses submitted testimony at public hearings in Washington, D.C., Los Angeles, Chicago, Little Rock and New York.

Noting that practically every aspect of life in this Nation acts upon and reacts to population change, the Commission urged the development of a coherent national policy on the subject.

The Commission said that even though the United States generally has a low population density, considerable open space and a declining birth rate, this should not eliminate concerns about population.

There is always a "population problem," the report noted "in the sense of achieving a proper balance between size, growth, and distribution on the one hand, and, on the other, the quality of life to which every person in this country aspires."

The "population problem" is long-run and requires long-run responses," the Commission observed. "It is not a simple problem. It cannot be encompassed by the slogans of either of the prevalent extremes: the "more" or the "bigger the better" attitude on the one hand, or the emergency-crisis response on the other. Neither extreme is accurate nor even helpful."

The issue of population, the Commission said, raises important questions of what people want and need, and what they are for, as well as where this nation is going and how it plans to get there.

Eventually, the panel said, the world and this nation will be unable to accommodate more growth, and that a judgment must be about on when that point will be reached.

"Our answer is that now is the time to confront the question: 'Why more people?'" the Commission said. "The answer must be given, we believe, in qualitative, not quantitative terms."

"Each one of the impacts of population growth—on the economy, resources, the environment, government, or society at large—indicates the desirability, in the short run, for a slower rate of growth."

"And, when we consider these together, contemplate the ever-increasing problems involved in the long run, and recognize the long lead time required to arrest growth, we must conclude that continued population growth—beyond that to which we are already committed by the legacy of the baby boom—is definitely not in the interest of promoting the quality of life in the nation."

The report described the history of population growth in the United States, noting that, at the peak of the baby boom after World War II, Americans were averaging more than three children per family, while today there are averaging about two and a half.

An average of three children per family would lead to a population of 322 million in the year 2000, nearly a billion in 2070, and ever-increasing growth, the report said.

A two-child average would lead to 271 million by the year 2000 and 350 million in 2070. The 2-child rate with no immigration, would eventually result in a stabilized population.

By two- or three-child families, the Commission said it meant "averages which can be made up by many possible combinations of family sizes, ranging from childless couples to those with many children."

The Commission said that, even though the birth rate has been dropping recently, "the baby boom is not over. The babies have merely grown older. It has become a boom in the teens and twenties. In a few decades it will be turning into a retirement boom."

The Commission said that strenuous planning efforts are required to accommodate the population this nation is committed to because, "we may be through with the past, but the past is not done with us."

HIGHLIGHTS OF THE COMMISSION'S FINDINGS

Population Growth

Since 1900, the United States has undergone a demographic revolution. Population has increased from 76 million to almost 205 million in 1970, an addition of 129 million Americans the nation has been called upon to accommodate over the past 70 years.

The United States has had a long history of diminishing growth rates—from an annual rate of 3.3 percent early in the 19th

Century to about 0.7 percent during the 1930's; up to about 1.9 percent during the 1950's, then down to its present level of 1.1 percent.

However, our population is now so large that even our low current rate of growth translates into about 2¼ million people a year—more than a city the size of Philadelphia.

We cannot predict how fast our population will grow in the years ahead, but we can be sure that, barring some unforeseen catastrophe, substantial additions to our numbers lie ahead. Regardless of transitory shifts in the birthrate, our population has a potential for further growth greater than that of almost any other advanced country. Even if we averaged only two children per woman and zero international migration, the population would continue to grow for another 65 or 70 years, adding another 70 million persons.

This is because of a pattern of early and nearly universal marriage and childbearing, fertility levels above those required to replace the parental generation, and a preponderance of youth in the population. Those born during the baby boom are reaching adulthood today and beginning to do many of the things their parents and grandparents did before them—finishing school, seeking jobs, developing careers, getting married, and having children of their own.

Population distribution

Americans are a metropolitan people. Our transition from rural to metropolitan has been rapid. At the beginning of this century, 60 percent of the people lived on farms or in villages. In 1970, about 70 percent of our population was metropolitan; it is expected to be 85 percent by the year 2000.

Natural increase is the primary factor affecting the growth of metropolitan population as a whole. Research showed that, assuming a 2-child family average, the metropolitan population would grow by nearly 40 million people between 1970 and the year 2000 through natural increase alone.

The shape of urban development is expanding from the scale of metropolitan areas, across adjacent counties to broad regions covering many counties and extending across state lines. Transportation technology, particularly our extensive highway system, permits us to move great distances within a short period.

Some people commute daily between New York and Boston or Washington. A century ago, Central Park was the city park for New York. Now the "city" is the urban region along the Atlantic seaboard and its park is the Shenandoah National Park. The scale at which we live is expanding well beyond formal metropolitan boundaries.

Urban regions appear to be a prominent feature of the demographic future, and, if our population distributes itself according to projections, 54 percent of all Americans will be living in the two largest urban regions—one stretching along the Atlantic seaboard and westward past Chicago, containing 41 percent of our population; the other in California, between San Francisco and San Diego, containing 13 percent.

Economy

Major economic changes are on the horizon regardless of future changes in population growth rates. In the year 2000, the average person is expected to consume more than twice what he or she does today.

The Nation has nothing to fear from a gradual approach to population stabilization bringing births into balance with deaths. Neither the health of our economy nor the welfare of individual businesses depend on continued population growth.

Average incomes could be as much as 15 percent higher with a two-child than a three-child growth rate.

While a slower growth rate would probably favor certain types of industries over others, it does not appear for several reasons, that a lower population growth rate will cause serious problems for any industry or its employees.

A gradual approach to population stabilization would not reduce demand from current levels for any specific industry. This is because even under a two-child average, there is no year in which there would be fewer births than in the previous year.

From an economic point of view a reduction in the rate of population growth would bring important benefits, especially if the United States develops policies to take advantage of the opportunities for social and economic improvement that slower population growth would provide.

Resources and the environment

Population growth is one of the major factors affecting the demand for resources and the deterioration of the environment. The further we look into the future, the more important population becomes.

So long as population growth continues, resource and environmental problems will grow and will slowly, but irreversibly, force changes in our way of life.

Increasing numbers press us to adopt new technologies before we know what we are doing. The more of us there are, the greater is the temptation to introduce solutions before their side effects are known.

We in this country are tampering with the ecosystem in many ways, the consequences of which we do not begin to understand.

Population growth is not the sole culprit in ecological damage, and any belief that it is confuses how things are done with how many people are doing them. But the overall effect is a product of numbers times styles of life taken together. One multiplies the other to produce the total impact.

With slower population growth leading to a stabilized population, we gain time to devise solutions, resources to implement them, and greater freedom of choice in deciding how we want to live in the future.

We would be considerably better off over the next 30 to 50 years if there were a prompt reduction in our population growth rate. This is especially true with regard to problems of water, agricultural land, and outdoor recreation.

Continued growth would cause the area of water shortage to cover half the land area of the United States a half-century from now, even if we make maximum use of dams and other water storage facilities.

Continued growth, in combination with increasing affluence, will cause great pressure on outdoor recreation resources—so great that, rather than "getting away" to the outdoors, people will be applying for admission to it.

We can have a growing population *or* a sound environmental policy that restricts use of agricultural pesticides and fertilizers and thereby retards the growth of per/acre productivity. But, in the long term, we may be unable to have both without forcing farm food prices well above levels that would otherwise obtain.

The American future cannot be isolated from what is happening in the rest of the world. There are serious problems right now in the distribution of resources, income, and wealth among countries.

World population growth is going to make these problems worse before they get better. The United States needs to undertake much greater efforts to understand these problems and develop international policies to deal with them.

Government

Public service costs will be considerably higher under a three-child population than under a two-child population.

For example, education, which accounted for about 7.5 percent of GNP, or $74 billion, in 1970, would account for 13 percent of GNP in the year 2000 under the larger population projection.

However, only 9.7 percent of GNP would be required to provide the same quality of education to all in the year 2000 under the lower population figure.

The country will have to spend more in absolute terms for health, welfare, and other public services for a population growing at the 3-child rate than at the 2-child rate.

Population stabilization poses no threat to national security, and would ease the increasing rate of strain on our federal system.

Even if national population stabilized, there would still be changes in population size and composition in states and localities.

Among local jurisdictions, population change shows even wider variety than among states.

The imbalance between resources and demands for services is especially acute in the contrast between suburban communities and the central cities of our large metropolitan areas. The unequal effect on demand for local government services is illustrated in Louisville, Kentucky, where the central city encompasses less than half the population of the metropolitan area, but has more than 90 percent of the area's public assistance recipients.

In 1967, there were about 16,000 nonschool local governments in metropolitan areas. If recent trends continue, by the year 2000 there are likely to be over 32,000 such governmental units in metropolitan areas. The proliferation of specialized districts will account for half the increase.

Government represents not only a universally and vitally important segment of our national life that is affected by population change; it also constitutes the channel through which a national concern with population must act to affect the causes and cope with the consequences of population growth and change.

In a time of headlong technological change, economic growth, and continuously rising population, the ability of Americans to deal with environmental pollution, public safety, economic opportunity, racial and ethnic discrimination, and many other urgent issues is far from assured.

But it is precisely in this field—establishing effective and democratic governmental systems in metropolitan areas—that our existing governments have been most deficient. Archaic governmental boundaries, incongruity between the location of many problems and the location of the financial resources to deal with them, and inequities on the distribution of public services, tax burdens, and the judicial system have been cited as problems.

Social aspects

Our population problems cannot be resolved simply by inducing our "have-not" groups to limit the number of children they have. Family size is larger among minority groups, but any idea that our population growth is primarily fueled by the poor and minorities having lots of babies is a myth. Those minority people who have "made it" into the system have adopted the small-family pattern. The problem is that so few have made it. The task is to make the system work for them as it has for the majority.

Unless we address our major social problems in the short run—beginning with racism and poverty—we will not be able to resolve fully the question of population growth. And unless we can resolve the question of population growth, in the long run, it not only will further aggravate our current problems, but may eventually dwarf them.

Our population is unusual among industrialized nations because the proportion who ever marry has always been high and our average age at first marriage is the lowest of

any advanced country in the world. The rising rate of marital dissolution does not mean, however, rejection of the married state. The evidence for this is that, increasingly, the divorced marry again.

While marriage is the common bond holding the family unit together, two developments are likely to have an impact on the family. One is the questioning of existing sex mores by young people, the other is the women's liberation movement which aims to improve the status of women and to change role relationships within the family.

None of these changes dictates the direction which reproduction within families will take or whether the responsibility for childbearing and child-rearing will be enhanced, or what will happen to the quality of family life.

Because of a history of relatively high birthrates, the United States has had a "young" population compared with that of many European nations. The median age in 1970 was 28. Future age structure will be affected by future rates of fertility. A 3-child level of fertility would lead to a median age of 27 in the year 2000. A 2-child level would lead to a median age of 37, leading some to be concerned that an older average population might be more resistant to change. However, we are led to the conclusion that the age structure of a population is unlikely to be decisive in the forms of social organization which emerge.

More and more Americans live in urbanized areas at densities far exceeding those in rural areas, but urban densities are not increasing. In fact, average density is actually declining because urban territory is expanding faster than urban population.

Other things being equal, we know that increases in density cause increases in air pollution and traffic and other forms of congestion. But in general, the research on the effects of population density on human behavior is sparse and the findings either inconclusive or negative.

It is just possible, however, that we may come to look at the decline in urban densities as a mixed blessing. If continued in the decades ahead, declining densities could produce a serious reduction of available open space where we can occasionally escape from the pace of urban life.

Population and public policy

In conducting the daily business of production and consumption, private market forces work well in general and over the short run to reduce costs, husband resources, increase productivity and provide a higher material standard of living.

But the market mechanism has been ineffective in allocating the social and environmental costs of production and consumption, primarily because public policies and programs have not provided the proper signals nor required that such costs be borne by those activities. Nor has the market mechanism been able to provide socially acceptable incomes for people poorly equipped to participate in the system for producing and distributing income.

Slower population growth opens up opportunities we would not otherwise have. But, even if a stabilized population is achieved, our economic, environmental, governmental and social problems will remain unless we develop policies to deal with the other sources of these problems.

Such policies have shown little conspicuous success in the past, not so much because of the impact of population on government, but because of the inadequacy of government's response to the challenge of population and the host of issues that surround it.

Long-term planning is necessary to deal with environmental and resource problems, but there are only beginning signs that government is motivated or organized to undertake it. A major commitment is required to bring minorities into the mainstream of American life, but the effort so far is inadequate. It is clear that the "real city" that comprises the metropolis requires a real government to manage its affairs; but the nation is still trying to manage the affairs of complex, interconnected metropolitan communities with fragmented institutional structures inherited from the 18th Century.

STATEMENT OF JOHN D. ROCKEFELLER 3D, CHAIRMAN, COMMISSION ON POPULATION GROWTH AND THE AMERICAN FUTURE, ON PART II OF THE FINAL REPORT

In this second section of the Commission's report we set forth our recommendations in regard to education, childbearing and childrearing. They represent two years of intensive deliberations by the Commission and its able staff, based on extensive research under contract to others.

1. From the beginning, the overriding goal of the Commission has been the enrichment of human life not its restriction. In advocating a national population policy we seek to assure greater opportunity for all Americans so that each may have a better chance of attaining his full potential with respect and dignity.

2. The Commission recognizes and would stress that many of its recommendations to achieve social goals desirable and important in their own right—for example, greater opportunities for women and children, and freedom of choice in reproduction. These recommendations, are, of course, also relevant to population growth.

3. There has been much talk and concern about controls and coercion in the population field. The whole thrust of the Commission's effort has been the attainment of social goals through voluntary action, to be determined by the individual in his own best interest.

4. We recognize that such voluntary action will only be meaningful if we have true freedom of choice. This will require changes in some of our attitudes, patterns of behavior, laws and governmental programs. Only in this way will all people have access to the full range of our society's opportunities and services—particularly we have in mind women, minorities and the young.

5. Underlying all its deliberations, the Commission has sought to strengthen the bonds of family life by enabling parents and prospective parents to plan their childbearing and child-rearing so that every new-born infant will be a wanted child, raised in an atmosphere of love, respect and responsibility, because his or her mother and father have chosen to become parents.

We of the Commission recognize that not everyone will agree with all of the statements and recommendations in our report. We ask you to think of the report as a whole and to remember the breadth and the importance of the subject with which we are dealing. We ask you to remember that the report represents the best thinking of 24 individuals from a cross section of our society in terms of race, religion, age, occupation, geography, and beliefs. More particularly we ask you to remember, as I have already indicated, that the overriding goal of the Commission is to raise the quality of life for all Americans.

FINAL REPORT: PART 2

WASHINGTON.—The Commission on Population Growth and the American Future today submitted to President Nixon and Congress Part Two of its Final Report, containing policy recommendations on education and childbearing and child-rearing.

The recommendations are designed to maximize understanding of human reproduction and its implications for the family, and to improve the setting in which children are raised, the panel said.

The 24-member Commission, headed by John D. Rockefeller 3rd, was established by Congress in March, 1970, at the suggestion of the President, to examine the impact of population change in the United States to the year 2000.

Part One of the Report, released last week, focused on the consequences of population growth and distribution for government services, the economy, the environment and natural resources.

The Commission will complete its two-year assignment with the submission next week of Part Three of the Report, which will include recommendations in such areas as immigration, distribution and research.

Principal recommendations in Part Two covered such subjects as childcare, contraceptive information and services, fertility control, fertility-related health services and research, status of women, and educational programs.

The Commission said that its aim was to develop recommendations "worthwhile in themselves, which at the same time, speak to population issues."

The panel said its recommendations are "consistent with American ethical values in that they aim to enhance individual freedom while simultaneously promoting the common good."

It listed four principal goals upon which the recommendations in Part Two were founded:

Maximize information and knowledge about human reproduction and its implications for the family;

Improve the quality of the setting in which children are raised;

Neutralize, so far as it is practicable and consistent with other values, those legal, social and institutional pressures that historically have been pronatalist;

Enable individuals to avoid unwanted childbearing, thereby enhancing their ability to realize their preferences.

The policies, the Commission added, are aimed at facilitating conditions which will "increase ethical responsibility and the opportunity for unbiased choice" in childbearing and child-rearing.

"At the same time, by enhancing the individual's opportunity to make a real choice between having few children and having many, between parenthood and childlessness, and between marriage and the single state, these policies together will undoubtedly slow our rate of population growth and accelerate the advent of population stabilization."

Highlights of the Commission's recommendations follow:

HIGHLIGHTS OF PART 2

Education

The amount and accuracy of information currently held by Americans on the subject of population leave much to be desired. Approximately six out of 10 questioned in our 1971 poll either did not know or could not guess the size of the world's population within one billion persons.

There is no evidence that anything approaching an adequate population education program now exists in our school system. The number of teachers trained is very low, and the number of teaching opportunities very small. Textual materials are scant and inadequate.

In view of the important role that education can play in developing an understanding of the causes and consequences of population growth and distribution, the Commission recommends enactment of a Population Education Act to assist school systems in establishing well-planned population education programs so that present and future generations will be better prepared to meet the challenges arising from population change.

To implement such a program, the Commission recommends that Federal funds be appropriated for teacher training, for cur-

riculum development and materials preparation, for research and evaluation, for the support of model programs, and for assisting state departments of education to develop competence and leadership in population education.

Life in the future will depend significantly on the characteristics of our children. Our interests is not limited to the number of children in our population, but extends to a concern for the quality of their development. How adequately are we raising our children and how can we insure that parents and children are given the opportunity for self-fulfillment?

The decision to marry and the decision to bring a child into the world should not be made lightly. Both marriage and parenthood should imply a deep personal commitment and a continuing emotional investment. As a nation, we have a responsibility to provide better preparation for parenthood. Some school systems throughout the country have included family life courses in their curriculum. The Catholic Church has been in the forefront in family life education and is working to inform children and their parents on issues involved in family living. Programs in home economics similarly provide training for marriage and parenthood. Supplementary to these school programs are the efforts of community groups, such as the Red Cross, in training and guiding prospective parents.

In proportion to the number of individuals who are and will become parents, our educational effort is insufficient. Community agencies, especially the schools, should become more sensitive to the need for preparation for parenthood and include appropriate subject matter in their programs. There is information and expertise in the various aspects of family life scattered throughout the public and private sector. The Commission suggests that the Department of Health, Education and Welfare provide financial support to programs designed to examine and coordinate existing information activities and resources in this field.

In our society today, many young people appear to be rejecting traditional sexual codes and experimenting with new life styles and new moralities. But, although there are many manifestations of change, it may be that the fundamental change consists of a greater willingness to submit our sexual attitudes and behavior to public discussion.

As a nation, we are reaching a consensus on the need for sex education; and there is widespread support for these programs from the general public. A number of states have passed legislation in support of sex education in public schools. Many responsible organizations have indicated their support for sex education programs.

A major goal of sex education is to improve human relationships by helping individuals deal more openly and reasonably with their sexual concerns. In addition, sex education programs aim to increase the individual's knowledge and appreciation of human sexuality.

Programs in sex education have the responsibility to present, in an appropriate manner, factual information on the emotional, physical, and social aspects of sexuality. Another goal of sex education is to enhance communications between the generations regarding sexual attitudes and behavior. Most would agree that the home should be the source of sound sex education. In fact, informal education about sexuality is constantly provided in the home environment as children are influenced by parental attitudes and behavior. Unfortunately, large numbers of parents feel factually and emotionally ill-prepared to handle the topic with their own children. Most adults have had no formal sex education and the characteristic lack of communication about sexuality is a source of great frustration and anxiety for parents and children alike. The community can assist in this difficult task by providing sex education for citizens of all ages—sex is a vital aspect of life for people in every age group, and education in sexuality should be an ongoing process.

The Commission recognizes that there is no best way to define or conduct sex education programs, and that local communities and groups must create programs which coincide with their values, resources, and needs.

Despite an increasing openness and public presentation of sexual matters, there remains a well-organized and vocal minority actively opposing programs of sex education. Some of these groups go so far as to interpret sex education as a politically inspired plot to teach young people how to engage in sexual activity, thereby officially condoning "immorality" and "perversion." We regret that these groups have successfully forestalled sex education programs in 13 states. The issue was underscored by the observation of a high-school girl at one of the Commission's public hearings that "the refusal to provide education will not prevent sex, but it certainly will prevent responsible sex."

Ignorance does not serve to prevent sexual activity, but rather promotes the undesirable consequences of sexual behavior: unwanted pregnancy, unwanted maternity and venereal disease. These problems seem particularly acute for the adolescent segment of our population. Unfortunately, society has been slow to face the fact that, with or without formal sex education, there is a considerable amount of sexual activity among unmarried people. A recent national study of unmarried teenage girls revealed that 14 percent of 15-year-olds and up to 44 percent of 19-year-olds reported having had sexual relations. Only 20 percent of these girls used contraception regularly. Such a low incidence of contraceptive use is particularly significant when less than half of these girls knew when during the monthly cycle a girl can become pregnant. Rates of illegitimacy among young women ages 15 to 19 increased by two to threefold between 1940 and 1968.

Venereal disease in the United States is considered by health officials an epidemic of unusual extent and severity. They estimate that over 2.2 million cases of infectious venereal disease were treated in the United States last year. The incidence of reported venereal disease is highest among persons under 25.

The Commission suggests that funds be made available to the National Institute of Mental Health to support the development of a variety of model programs in human sexuality. These programs should include school- and community-based projects in a number of different communities.

Sex education ideally should be focused in the home and supplemented by schools and other community groups including religious, medical, and service organizations.

The Commission supports those community agencies and educational institutions training professional sex educators, and urges more schools to include such training in their programs. Moreover, we encourage institutions involved in training professionals in the health and welfare fields, such as doctors, clergy, and social workers, to add courses in human sexuality to their curriculum.

Recognizing the importance of human sexuality, the Commission recommends that sex education be available to all, presented in a responsible manner through community organizations, the media, and especially the schools.

The children

There is no paradox in welcoming the trend toward smaller families and simultaneously viewing children as our most valuable resource. In the past, we have not given children as high a place in our priorities as in our rhetoric. Our nation's infant mortality rate is higher than that of 12 other nations.

Since 1935, the federal government has supported programs to extend and improve health services for mothers and children, especially in rural areas.

Federal support of these programs is not increasing significantly; and they are unable, as presently constituted, to meet the needs of all low-income women who are not receiving private health care.

Our nation should set a high-priority goal of providing comprehensive health care to all mothers and children. The costs to the nation are not excessive; the savings, in terms of improved maternal and infant health, would be considerable.

In 1970, almost 25 million children under 18 had mothers who worked at least part time; over 5.8 million of these children were under age six. Large numbers of these working mothers were the sole support of their families or supplemented incomes near the poverty level. Many middle-class women are also entering the work force.

The child-care arrangements made by working mothers, especially those whose ability to pay is limited, are frequently inadequate. Many children are cared for in their own homes by adult relatives or babysitters, but many are cared for by sisters or brothers who are themselves children. Only a small percentage are enrolled in nursery schools or day-care centers, and many of these are of low quality. At least one million young Americans receive no supervision at all—the so-called "latch-key" children who wander about after school or remain at home alone when ill. These conditions are unacceptable.

Many families would benefit from versatile part-day as well as full-day child-care programs, or from programs that could provide day and night care in case of a family emergency. Some of the opposition to the creation of a child-care system in this country is based on the beliefs that (1) it may be destructive of the family; (2) we cannot afford to undertake something as expensive as good developmental child care; and (3) by reducing the tension between motherhood and other roles, child care will encourage the birth of more children.

Aside from the quality of care, parents must be able to make the decision whether or not to use child-care services and to what extent. Any form of compulsory child care is unacceptable, including the requirement that mothers place young children in these programs in order to comply with regulations that exact training and employment as a condition for benefiting from assistance programs.

We believe that the demand for child-care services will continue to grow. The challenge is to make certain that they enhance the well-being of the child.

The Commission therefore recommends that both public and private forces join together to assure that adequate child-care programs, including health, nutritional, and educational components, be available to families who wish to make use of them.

Because child-care programs represent a major innovation in child-rearing in this country, we recommend that continuing research and evaluation be undertaken to determine the benefits and costs to children, parents, and the public of alternative child-care arrangements.

Status of women

The limitations on the rights and roles of women abridge basic human liberties that should be guaranteed to all, regardless of the future course of population growth.

Here, as in the control of reproduction, our goal is to increase freedom of choice. Just as we oppose coercion in the control of fertility, we oppose any effort—explicitly or implicitly—to penalize childbearing and parenthood. We reject the notion that either motherhood or childlessness is or should be made to seem unfashionable. Instead, we seek a greater range of options. Women should be

able to choose motherhood, some work, or other interests. Both men and women should be free to develop as individuals rather than to fit some sexual stereotype.

It would be desirable to end sex differentiation in school courses, to train guidance counselors to view students as individuals, to channel educational and vocational interests without regard to sex, and to revise school books to show men and women in attractive roles both outside and inside the home.

More and more women are entering the labor market; today 43 percent of all women are in the work force.

Women have experienced and continued to suffer discrimination in employment. Often, they are paid less than men for the same work, and are barred from certain job positions by protective laws. Generally, they have less chance for advancement even when they remain in the work force for extended periods of time. Minority women have suffered the greatest deprivation in the labor market. Black women are consistently the lowest paid of all workers and the most likely to live in poverty.

As we have learned in the struggle for equal rights for minorities, an end to legal discrimination does not guarantee equality. However, equal opportunity cannot begin until all legal barriers to equality have been abolished. Women in the United States occupy a separate and unequal status under the law. At common law women were afforded few rights. Our Constitution was drafted on the assumption that women did not exist as legal persons. The legal status of women has improved in the past century with the adoption of the Nineteenth Amendment, alteration of some common law rules, and passage of some positive legislation. But equal rights and responsibilities are still denied women in our legal system. We believe this should be remedied. The right to be free from governmental action that discriminates on the basis of race, color, or creed is written into our basic document of government. We believe the right to be free from discrimination based on sex should also be written into that document.

The Commission therefore recommends that the Congress and the state approve the proposed Equal Rights Amendment and the federal, state, and local governments undertake positive programs to ensure freedom from discrimination based on sex.

Tax policy and public expenditures

The costs to parents of bearing and raising children represent only a portion of the true costs of children. All citizens, regardless of whether or not they have children, pay for the public costs of children.

None of the tax policies or expenditure programs which benefit children was instituted with the expressed intention of encouraging childbearing.

Some programs have obviously benefited families with children, but there is no proof they have encouraged the birth of additional children. For instance, tax exemptions for children benefit parents; but the amount of the deduction is so small in contrast to the cost of child-rearing, that it is difficult to imagine that anyone would have additional children in order to secure additional exemptions.

Public assistance programs, especially aid to families with dependent children, are frequently cited as encouraging reproduction among the poor. This cannot be demonstrated except insofar as assistance payments make it possible for these families to be better fed and cared for, and thereby strengthen their reproductive capacities. For years, the argument has been that, because assistance payments are based upon the number of children in the family, welfare mothers have more children in order to increase their monthly payment. Welfare payments and standards vary widely. In November 1971, the average payment per family in New Jersey was $250; in Mississippi, it was $55. Neither is large enough to support a family of any size well. In addition, most state standards of need are set in such a manner that progressively less is paid for each child; and 20 states have set maximum payments for each family regardless of the number of children.

The welfare family is a half a child larger than the average United States family, despite the image of larger families. Between the year 1967 and 1969, when welfare payments were increasing, the average family size of welfare recipients was declining. In New York City where, according to the pronatalist view, steadily increasing payments and program utilization in the years 1959 to 1970 should have encouraged more births, the percentage of welfare mothers bearing children each year dropped from 18.9 percent in 1959, to 11.3 percent in 1970.

The type of program that offers direct financial rewards for limiting childbearing would almost certainly offer greater inducement to the poor.

Bonus payments would serve to discourage childbearing only among the relatively few who are poorest. Therefore, it would not affect our overall growth substantially, and would weigh unevenly upon decisions about childbearing in a manner we find unacceptable.

We cannot foresee any goal with a higher priority than insuring the welfare of future generations. We believe the public support of children, at least at the present level, is justifiable. In fact, some of the Commission's proposals would have the effect of increasing that support for reasons which we also believe are justifiable.

Human reproduction

Contemporary American couples are aiming to have an average of between two and three children. Given the fact of youthful marriage, far-from-perfect means of fertility control, and varying motivation, many of these couples will have children before they want them and a significant fraction will ultimately exceed the number they want.

Recent research has disclosed a substantial incidence of such unplanned pregnancies and unwanted births in the United States. According to estimates developed in the 1970 National Fertility Study conducted by the Office of Population Research at Princeton University, 44 percent of all births to currently married women during the five years between 1966 and 1970 were unplanned; 15 percent were reported by the parents as having never been wanted. In theory, this incidence of unwanted births implies that 2.65 million births occurring in that five-year period would never have occurred had the complete availability of perfect fertility control permitted couples to realize their preferences. And these estimates are all conservative.

Unwanted fertility is highest among those whose levels of education and income are lowest. For example, in 1970, women with no high-school education reported that 31 percent of their births in the preceding five years were unwanted at the time they were conceived; the figure for women college graduates was seven percent.

Not all unwanted births become unwanted children. Many, perhaps most, are eventually accepted and loved indistinguishably from earlier births that were deliberately planned. But many are not; and the costs to them, to their siblings and parents, and to society at large are considerable, though not easy to measure.

There are also health costs involved. As President Nixon observed:

. . . involuntary childbearing often results in poor physical and emotional health for all members of the family. It is one of the factors which contributes to our distressingly high infant mortality, the unacceptable level of malnutrition . . .

There are many "costs" associated with unwanted fertility, not only financial, but health, social, psychological, and demographic costs as well.

The Commission believes that all Americans, regardless of age, marital status, or income should be able to avoid unwanted births. Major efforts should be made to enlarge and improve the opportunity for individuals to control their own fertility, aiming toward the development of a basic ethical principle that only wanted children are brought into the world.

Approximately 22 states prohibit the sale of all or some contraceptives, though allowing exceptions for doctors, pharmacists, or other licensed firms or individuals. Roughly 23 states prohibit commercial advertising of contraceptives, though most make exceptions for medical and pharmaceutical journals.

The same 23 states also condemn the display of contraceptives and of information about them, and at least 27 states, either expressly or inferentially prohibit the sale of contraceptives through vending machines.

One way or another, these laws inhibit family planning education, as well as family planning programs, and/or impinge on the ready availability of methods of contraception to the public. Whatever the original justification for these laws, their result is to prevent contraceptive information and supplies from being easily obtainable in general and, in some instances, to make them totally unobtainable.

Merely removing such laws will not automatically ensure freedom of access and choice. More is needed in the way of affirmative programs to distribute such information and supplies to all who may wish to use them. Nonetheless, it is desirable and important that laws not operate as impediments.

The Commission has recommended that: (1) states eliminate existing legal inhibitions and restrictions on access to contraceptive information, procedures, and supplies; and (2) states develop statutes affirming the desirability that all persons have ready and practicable access to contraceptive information, procedures, and supplies.

Fertility and health services

Prior to the second quarter of the 19th century, the law applicable to abortion in the American colonies, and in subsequently the expanding United States, was the Common Law of England. Under that law, women were free to have abortions before "quickening"—the first perception of fetal movement by the pregnant woman, which usually occurs between the 16th and 20th week.

In the second quarter of the 19th century, restrictive laws were enacted in 12 states. The only known contemporary authoritative texts explaining the reason for the enactment of these prohibitions of abortion before "quickening" relate to New York and New Jersey. Both point to the life and health of the pregnant woman as the sole objective in legislative view. Before the introduction of ether anesthesia (1846) and antisepsis (1867), any surgery was likely to cause death from shock or infection. Actually, at the time New York State adopted such restrictive laws in 1929, serious consideration was given to banning all surgical operations except when necessary for the preservation of life. Thus, in the drafting of such legislation, the concern of the lawmakers was medical rather than moral. It was in the latter half of the century that the sensationalism of Anthony Comstock inspired a moral fervor which resulted in moral considerations becoming the dominant element in highly stringent laws against abortion.

Currently, in 34 states, abortion is a crime except to preserve the life of the mother; 12 states have changed their abortion statutes consistent with the American Law Institute

Model Penal Code provision on abortion which prohibits abortion except in cases where the mother's life or her mental or physical health is in danger, or to prevent the birth of defective offspring, or in cases of rape or incest. In 1970, abortion laws in Alaska, Hawaii, and New York were liberalized by law and in the state of Washington by popular referendum.

At its 1972 meeting, the House of Delegates of the American Bar Association passed a Uniform Abortion Act, stating that abortion may be performed by a duly licensed physician upon request.

The Commission recognizes that abortion is a complex issue requiring a thoughtful balancing of moral, personal, and social values. As the Commission moves toward a population policy for the United States, our principal objective is the enrichment of life, not its restriction. We share with our fellow citizens an abiding concern for the sanctity of all human life. Thus, we appreciate the moral decisions involved in abortion, as well as the possible insensitivity to all human life implied in the practice of abortion. It is from this perspective that we have approached three moral issues concerning abortion which we believe to be of foremost importance.

The first issue relates to the fetus, both as to the termination of potential life and determining when that life actually begins. The second relates to bringing into the world an unwanted child, particularly when the child's prospects for a life of dignity and self-fulfillment are limited. Third, there is the question of the woman who in desperation seeks an abortion. Our society faces a difficult decision when the woman believes her well-being is threatened and she sees no other way out but an illegal abortion with all its attendant dangers.

The Commission believes that a wise and sound decision in regard to the abortion question requires a careful balancing of the moral problems relating to the woman and the child along with those concerning the fetus.

In the development of western culture, the tendency has been toward a greater protection of life. At the same time, there is a deep commitment in our moral tradition to individual freedom and social justice. The Commission believes that the various prohibitions against abortion throughout the United States stand as obstacles to the exercise of individual freedom: the freedom of women to make difficult moral choices based on their personal values, the freedom of women to control their own fertility, and finally, freedom from the burdens of unwanted childbearing. Restrictive statutes also violate social justice, for when abortion is prohibited, women resort to illegal abortions to prevent unwanted births. Thus, medically safe abortions have always been available to the wealthy, to those who could afford the high costs of physicians and trips abroad but the poor woman has been forced to risk her life and health with folk remedies and disreputable practitioners.

Abortion is not new; it has been an alternative to unwanted birth for large numbers of American women (estimates ranged from 200,000 to 1,200,000 illegal abortion per year in the United States). The Commission regards the issue of illegal abortion with great concern and supports measures to bring this medical procedure from the backrooms to the hospitals and clinics of this country. It is becoming increasingly clear that, where abortion is available on request, one result is a reduction in the number of illegal abortions. Deaths as a consequence of illegal abortion have dropped sharply in New York since the enactment of a liberal abortion statute.

The Commission affirms that contraception is the method of choice for preventing an unwanted birth. We believe that abortion should not be considered a substitute for birth control, but rather as one element in a comprehensive system of maternal and infant health care. For many, the very need for abortion is evidence of a social and personal failure in the provision and use of birth control.

The demographic context

In reviewing the abortion issue, one central concern has been an evaluation of the demographic impact of abortion. We appreciate the historic importance of placing recommendations on abortion in a demographic context.

At the present time, it is difficult to make accurate quantitative statements concerning the demographic impact of abortion. We are unable to estimate the effect on the birthrate of an unknown number of illegal abortions. There is little doubt, however, that legal and illegal abortions exert a downward influence on the United States birthrate. Support for this general conclusion is found in the preliminary data from New York and the experiences of some other nations with liberal abortion policies, notably Japan and the Eastern European countries.

However, caution must be exercised in generalizing from the experience of other countries to the impact of abortion on United States population growth. The United States differs from these other nations socially, politically, economically, and most importantly, in the level of contraceptive practice.

Only limited data on the demographic consequences of abortion are available from New York. Our best estimate of the probable impact if the entire country were to follow the New York law would be a decline of 1.5 per 1,000 in the birthrate in the first year after restrictions were removed.

Public opinion on abortion is changing, tending to grow more liberal. Some 15 to 20 percent more women in 1970 than in 1965 approve of abortion for various reasons. The public opinion survey conducted in 1971 for the Commission indicates that half of all Americans believe that abortion should be a matter decided solely between individuals and their physicians; an additional 41 percent would permit abortion under certain circumstances, and 6 percent flatly oppose abortions under any circumstances. Estimates of the current state of attitudes on abortion doubtless depend very much on the phrasing of the question and the interpretation of the respondent.

The abortion issue raises a great number of moral, legal, public health, and demographic concerns. Based on their personal views, individual members of the Commission have ranked these concerns differently.

A few members of the Commission are opposed to abortion, concluding that it should be prohibited except to save the life of the mother.

Some Commissioners approve of abortion only under the specific conditions set forth in the American Law Institute model abortion statute. Their concern is that abortion be available only on a limited basis and that it be considered as a last resort to protect life or health.

The majority of the Commission believes that women should be free to determine their own fertility, that the matter of abortion should be left to the conscience of the individual concerned, in consultation with her physician, and that states should be encouraged to enact affirmative statutes creating a clear and positive framework for the practice of abortion on request.

Therefore, with the admonition that abortion not be considered a primary means of fertility control, the Commission recommends that present state laws restricting abortion be liberalized along the lines of the New York State statute, such abortions to be performed on request by duly licensed physicians under conditions of medical safety.

In carrying out this policy, the Commission recommends:

That federal, state, and local governments make funds available to support abortion services in states with liberalized statutes.

That abortion be specifically included in comprehensive health insurance benefits, both public and private.

Although current knowledge, if applied systematically, could bring about considerable progress toward reducing unwanted fertility, the successful control of reproduction depends greatly on the availability of efficient methods for regulation of fertility.

The development of the pill and the intrauterine device represent major innovations in contraceptive technology, but they are far from perfect solutions to the problem of control of reproduction. We must have contraceptives and other methods of fertility control that are safe and free of adverse reactions.

Methods of fertility regulation remain limited because our knowledge of basic reproductive biology is inadequate. We do not fully understand what governs ovulation, how long an ovum can survive, what governs sperm production, how long sperm survive, what governs a menstrual cycle, or how long it lasts. Such knowledge is essential for the practice of "rhythm" as well as for effective chemical or mechanical contraception. Unwanted and accidental pregnancies are only one consequence of our ignorance. Many couples avoid pregnancy only through use of methods that are cumbersome and produce a great deal of anxiety. Others who desperately want children cannot conceive. A large number of married couples suffer from problems of infertility; the ability to help them is sorely limited by the same lack of information concerning basic reproductive processes that inhibit effective contraception.

This knowledge is also essential for improving the outcome of pregnancy. Today, many mothers suffer the risk of serious injury, ill health or even death in pregnancy and childbirth. And too many children are born with physical and mental handicaps. We spend billions in therapy, remedial treatment, custodial care, and repair of damage that might have been prevented by a more complete understanding of the factors governing reproduction.

The Commission recommends that this nation give the highest priority to research in reproductive biology and to the search for improved methods by which individuals can control their own fertility.

In order to carry out this research, the Commission recommends that the full $93 million authorized for this purpose in fiscal year 1973 be appropriated and allocated; that federal expenditures for these purposes rise to a minimum of $150 million by 1975; and that private organizations continue and expand their work in this field.

Most Americans secure their health services through private physicians. Yet studies show that most physicians do not perceive it to be their function to actively provide fertility control services.

Very few current private or public health financing mechanisms pay for such items as office visits, drugs, and laboratory tests—the principal elements of contraceptive services.

With our growing recognition of the vital importance of adequate prenatal and infant care, it is regrettable that only a fraction of the costs of these services are defrayed by health financing mechanisms. Future generations of Americans should be born wanted by their parents, brought into the world with the best skills that modern medicine can offer, and provided with the love and care necessary for a healthy and productive life.

The Commission recommends a national policy and voluntary program to reduce unwanted fertility, to improve the outcome of

pregnancy, and to improve the health of children.

In order to carry out such a program, public and private health financing mechanisms should begin paying the full cost of all health services related to fertility, including prenatal, delivery, and postpartum services; pediatric care for the first year of life; voluntary sterilization; safe terminations of unwanted pregnancy; and medical treatment of infertility.

Estimates have been made of the costs to American society of such a program. At current fees and institutional charges, the entire gamut of services for all who would require them, regardless of age, marital status, or income, is estimated to cost from $6.7 to $8.1 billion annually in the next five years. More than 70 percent of this cost would cover maternity and pediatric care, while the balance constitutes the total cost of voluntary fertility control. Individuals, public and private third-party mechanisms, and public health programs already finance all but about $1 billion of this total cost. But many persons do not receive all or some of these critical fertility-related health services as a result of inadequate insurance coverage, lack of income, differential access to medical resources, and inadequate public and private programs.

Total United States health expenditures in fiscal year 1971 are estimated at $75 billion, and our gross national product at more than $1 trillion. The cost to our society of paying for all necessary modern medical care related to the bearing of healthy wanted children thus would constitute nine percent of our national health bill, and less than 0.7 percent of GNP. On a per capita basis, the total annual cost of such a comprehensive program would be $32 to $34. In fiscal year 1970, per capita health expenditures of all types totaled $358.

These estimates do not, in fact, represent a true "cost" to our society. The expenditure of these sums for adequate fertility-related medical care would, in all probability, be more than offset by the benefits to individuals and society of the delivery of healthy children and the prevention of unwanted pregnancies.

The achievement of such a financing concept would go a long way toward making services available. However, it would not, by itself, remedy the present inequities in the distribution of medical services. It would not create physicians in communities which presently have none or too few, nor build adequate health facilities to replace obsolete ones. It would not quarantee the availability of the necessary trained manpower, nor provide the means whereby individuals would receive the full range of information necessary for them to choose wisely the services which best fit their needs.

We therefore recommend:

Creation of programs to (1) train doctors, nurses, and paraprofessionals, including indigenous personnel, in the provision of all fertility-related health services; (2) develop new patterns for the utilization of professional and paraprofessional personnel; and (3) evaluate improved methods of organizing the delivery of these services.

Until the time that private and public health mechanisms have been altered to include adequate coverage and provision of fertility-related services, the present federal programs that provide family planning services and maternal and child care must be continued and expanded.

The five-year plan for family planning services projects the total fiscal requirements over the next five years at between $392 and $434 million. While state and local governments and private philanthropy can and should increase their commitment to this national effort, most experts agree that by 1975, not more than $50 million can be supplied from these sources. The bulk of family planning funds must come from the federal government.

Present specific statutory authorizations for family planning services are not sufficient to meet the level of funding required. Medicaid cannot be expected to provide much assistance.

The Commission therefore recommends:

(1) new legislation extending the current family planning project grant program for five years beyond fiscal year 1973 and providing additional authorizations to reach a federal funding level of $225 million in fiscal year 1973, $275 million in fiscal year 1974, $325 million in fiscal year 1975, and $400 million thereafter; (2) extension of the family planning agent authority of Title V of the Social Security Act beyond 1972, and maintenance of the current level of funding of approximately $30 million annually; and (3) maintenance of the Title II OEO program at current levels of authorization.

Services for Teenagers

As a society, we have been reluctant to acknowledge that there is a considerable amount of sexual activity among unmarried young people. A recent national study, conducted by Johns Hopkins University, disclosed that over 40 percent of unmarried girls 15–19 years old reported having had sexual relations. The study further reveals that girls have a considerable acquaintance with contraceptive methods; over 95 percent of all girls 15 to 19, for example, know about the pill. Contraceptive practice, however, contrasts sharply with this picture. Although many young women who have had intercourse have used a contraceptive at some time, this age group is characterized by a great deal of "chance taking." The majority of these young women have either never used or, at best, have sometimes used the birth control methods.

Adolescent pregnancy offers a generally bleak picture of serious physical, psychological, and social implications for the teenager and the child. Pregnancy is the number one cause for school drop-out among females in the United States. The psychological effects of adolescent pregnancy are indicated by the frequency of suicide attempts among teenage mothers. A recent study estimates that teenage mothers have a suicide attempt rate 10 times that of the general population.

The Commission is not addressing the moral questions involved in teenage sexual behavior. However, we are concerned with the complex issue of teenage pregnancy. Therefore, the Commission believes that young people must be given access to contraceptive information and services.

Toward the goal of reducing unwanted pregnancies and child-bearing among the young, the Commission recommends that birth control information and services be made available to teenagers in appropriate facilities sensitive to their needs and concerns.

The Commission recognizes that the availability of contraceptive services alone is insufficient. It has recently been reported that among teenagers, the single most important reason given for not using contraceptives was the belief that, for various reasons, they could not become pregnant. Our survey reveals that nearly two-thirds of citizens are in favor of high schools offering information on ways to avoid pregnancy.

The Commission therefore recommends the development and implementation of an adequately financed program to develop appropriate family planning materials, to conduct training courses for teachers and school administrators, and to assist states and local communities in integrating information about family planning into school courses such as hygiene and sex education.

THE EEOC BILL

Mr. JAVITS. Mr. President, the final approval of the conference report on the bill to give the Equal Employment Opportunity Commission power to enforce the equal employment guarantees of title VII of the Civil Rights Act of 1964 marks a significant gain for the cause of civil rights in the United States. Approval of the conference report climaxed one of the most grueling fights in the Senate in recent years. I think all of us who are interested in the enactment of this legislation owe the distinguished Senator from New Jersey (Mr. WILLIAMS), who serve as the chairman of the Committee on Labor and Public Welfare, and its Labor Subcommittee, of which I am ranking minority member, a debt of gratitude for the wisdom and stamina he displayed during the 5 weeks the EEOC bill was on the Senate floor.

Mr. President, an article published in the Newark, N.J., Sunday Star-Ledger of March 12, 1972, discusses Senator WILLIAMS' role in managing the EEOC bill to its successful conclusion. I ask unanimous consent that the article be printed in the RECORD.

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

WILLIAMS' JOB DISCRIMINATION MEASURE DRAWS PRAISE

(By Joseph Carragher)

WASHINGTON.—Civil rights leaders and liberals are hailing congressional approval of a measure designed to end job bias for 15 million more Americans despite the last-minute adoption of court enforcement powers.

The battle for job equality was spearheaded by Sen. Harrison A. Williams Jr. (D–N.J.) and took five weary weeks of filibuster—by a record 38 roll call votes—before the Senate gave the Equal Employment Opportunity Commission the legal clout to end job discrimination.

The Southern filibuster was broken when Republicans, led by Sen. Peter Dominick (R–Colo.), supplied the necessary votes, providing that the court procedure be substituted for Williams' original "cease and desist" method.

This move was viewed as a victory for the Nixon Administration which vigorously opposed "cease and desist."

But, in the final analysis, Williams, chairman of the Labor and Public Welfare Committee said even with court enforcement it makes a "dramatic change."

"We've gone from no enforcement powers to enforcement powers for the first time," he said.

The new bill gives the EEOC the power to take an employer to court. It puts the resources of a potent government agency behind an individual.

Williams said he is convinced that court enforcement, while perhaps slower and more cumbersome than cease and desist, will produce the same results—equality.

The bonus from Williams' standpoint is the broadened EEOC coverage to smaller plants and unions and more importantly to state and local governments as well as to the nation's private and public educational system.

He estimated that 10 million state and local government employes would be covered as well as five million in smaller businesses and unions.

EEOC was created under the 1964 Civil Rights Act but was limited to working out findings of discrimination by negotiations.

"That process, in operation, failed to get the job done," said Williams.

"In less than half of the instances where the commission made a finding of discrimination were the negotiations to resolve the problem successful," said the senator.

Williams explained that the individual could file suit himself but most who are discriminated against are those least able to afford the financial burden of a private law suit.

While most people think almost solely in terms of blacks when discrimination is discussed, Williams said the bill will help all minority groups and will be of major importance in eradicating discrimination against women.

The legislation still has a few hurdles to clear but no problems are expected enroute to final passage and law.

Because the House and Senate passed different versions, the bill had to go to a joint conference committee.

The Senate last week approved the House-Senate Conference report, which kept the expanded coverage intact.

Once the House acts favorably, the measure will be sent to the White House.

Signing of the measure will be the end of the trial for the legislation, which involved many hearings and research, that established a number of historic firsts.

For the first time, a civil rights bill was reported unanimously out of the Labor and Public Welfare Committee and for the first time, cloture was invoked on behalf of a bill coming out of that committee.

Fifty-three senators signed the final, successful cloture petition—a record for a civil rights bill—and 73 senators voted in behalf of cloture—another civil rights record.

But that doesn't mean it was easy, according to Williams.

That filibuster meant that Williams had to spend five solid weeks fighting off attempts to weaken the bill on the floor.

He had to marshal the support necessary to beat off the weakening attempts as well as the support required for cloture.

Williams did have strong backing, particularly from Sen. Jacob K. Javits (R-N.Y.) a co-sponsor and the ranking Republican member of the Labor and Public Welfare Committee.

Some of the comments by his Senate colleagues after final passage may serve to give an indication of Williams' performance.

"The fruit of his (Williams) efforts is a piece of civil rights legislation which is critical to our total effort to end discrimination," said Sen. Alan Cranston (D-Calif.)

Said Javits:

"The senator from New Jersey has given every fiber of his being to work which was involved and I think the entire country will appreciate that as the days go by."

NUCLEAR FISSION POWERPLANTS

Mr. WILLIAMS. Mr. President, the dialog about nuclear fission as a power source is growing daily. Since New Jersey is a very populous State with a rapidly rising need for power, this dialog is of direct interest to New Jerseyans, and they are becoming increasingly concerned about the possible risks inherent in the use of fission power. Since their concern is shared by citizens throughout the United States, I should like to present the following view to all those who are interested in this issue.

Mr. President, I ask unanimous consent to have printed in the RECORD for the benefit of the many readers of the RECORD, an article entitled "Do Nuclear Plants Make Deadly Neighbors," written by Dr. Barry Commoner, which appeared in the February 1972 issue of Today's Health, published by the American Medical Association.

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

DO NUCLEAR PLANTS MAKE DEADLY NEIGHBORS?

(By Barry Commoner, Ph. D.)

The once-bright promise of unlimited power from nuclear energy has been dimmed by growing fears of environmental damage and radiation-caused disease. In an excerpt from his new book, The Closing Circle, Dr. Barry Commoner, renowned ecologist and educator at Washington University, St. Louis, warns that "our capability to intrude on the environment far outstrips our knowledge of the consequences."

A sudden cloudburst drenched the city of Troy, New York April 26, 1953. As the rain fell, physicists in nearby university laboratories noticed a sudden surge on their instruments which measured "background" radiation.

They soon discovered that the rain was highly radioactive and surmised that radioactive debris—fallout—from nuclear tests in Nevada had been carried by winds across the country and brought to earth by the heavy rain. Some of the physicists warned their wives to bring the children inside; but they made no public report, for they were anxious not to violate rules of secrecy concerning U.S. atomic tests.

However, scientists have a strong tendency to communicate among themselves, and soon physicists in laboratories throughout the United States were privately testing the radioactivity in rainfall and in dust wiped off their cars. It was everywhere: air, rain, soil, food and water were contaminated by the radioactivity from nuclear explosions. Despite official secrecy, atomic energy had made its environmental debut.

The Atomic Energy Commission (AEC) had been created in 1946 to take charge of a massive U.S. program to develop the military, scientific and industrial potential of atomic and nuclear energy. By 1951, the United States had exploded 16 test bombs and the Soviet Union, 13. The following year Great Britain joined in with its first test.

These explosions took place in remote, uninhabited areas of the world and their results were blanketed in military secrecy. The AEC normally issued only a terse announcement that a test had taken place, that a bomb's radiation had been confined to a local area, and in any case was "harmless" to the public. Public discussion of the nuclear arms race was muzzled by Cold War hysteria and McCarthyism. But nature broke through these barriers.

All atomic radiation is destructive to living things, and many biologists regarded fallout as a potential hazard to everything alive. But, as the AEC was quick to point out, the fallout radiation reaching a person from the air, dust, or soil was low—not much higher than the intensity of radiation naturally emanated in the external environment from radium in rocks and by cosmic rays from outer space. And much of it was incapable of penetrating very deeply into the body. The hazard of such radiation, from outside the body, was slight—or so it seemed.

Then a new fallout term turned up in private conversations among scientists—strontium 90. My own experience is probably typical of most nonphysicists who had no professional interest in environmental radioactivity. I recall several cryptic remarks by physicist friends that radioactive strontium—strontium 90—had been detected in fallout. More meaningful was the worried look that accompanied the information; for some reason, which was never stated, strontium 90 appeared to be a particularly dangerous form of radioactivity.

As it happens, strontium, a natural, harmless element, and its radioactive isotope, strontium 90, both move through the environment in concert with calcium, a chemically similar element. And calcium is avidly withdrawn from the soil by plants, becoming incorporated into food and then taken up in the human body. Once fallout appeared on the earth, inevitably strontium 90 would accompany calcium as it moved through the food chain, ultimately becoming concentrated, along with calcium, in vegetables, in milk, in the bones of people.

Radiation from strontium 90 cannot penetrate through more than a small fraction of an inch of living tissue. However, once it is incorporated into the body, the isotope becomes closely packed around the living cells of the bone. These cells then lie within easy reach of strontium 90 radiation, and the risk to them—for example, from cancer—becomes enormously more severe than the risk from the same amount of strontium 90 outside the body. Suddenly, many of us in the scientific community began to worry about the fallout, and by the end of 1953 this concern broke through the screen of secrecy, and the fallout problem became public. Then a serious accident during an AEC test in the Pacific Ocean in March 1954 helped to dramatize the fallout problem—the unexpected exposure to fallout of the crew of the Japanese fishing boat *The Lucky Dragon*. A number of sailors suffered serious radiation sickness; several later died of it.

No one had *intended* to poison the earth with radioactivity or to threaten the health of human beings. But now, for the first time in the history of man, children grew up with strontium 90 built into their bones and iodine 131 imbedded in their thyroid glands.

What linked the secret, supposedly isolated, nuclear explosions to the children was the environment. Winds carried fallout debris from the test site across the face of the globe; rain and snow brought it to earth; the growth of grass and food crops drew it from the soil; foods carried fallout radioactivity into children's bodies; natural biological processes in their bones and glands intensely concentrated the radioactive elements and amplified the risk to the children's health.

The nuclear tests revealed how little we knew about the environmental network. When the test program began, it was assumed that fallout driven into the stratosphere by the force of a nuclear explosion would remain there for years, allowing time for much of the initial radioactivity to decay harmlessly. Only later was it learned that there are currents in the stratosphere that carry fallout to the earth in a matter of months and which, rather than allowing it to spread evenly over the globe, dump most of it in the North Temperate Zone. About 80 percent of the world's people live there.

We also learned, from fallout, how little was known about the risks incurred by large populations exposed to radiation or toxic substances. Before the advent of nuclear energy, medical experience with the internal effects of radiation was very limited.

Standards of radiation exposure were set on the assumption that, at some minimal level, the body would experience no harm at all from radiation, and the AEC used these standards in order to support their claim that fallout was "harmless" to the population as a whole. Finally, experiments showed that *every* exposure to radiation, however small, carries with it *some* risk, in the form of genetic damage or cancer; that there is no absolutely "harmless" exposure to radiation. So that in the end, despite its complex scientific features, the problem of exposure to radiation becomes not a scientific matter, but one of public morality. For no one can say, on scientific grounds, how many chil-

dren ought to risk thyroid cancer or genetic defects from fallout for the sake of developing a new nuclear weapon, which itself is only a step toward world catastrophe.

Fallout made its political debut in the 1956 U.S. presidential campaign of Adlai E. Stevenson. Mr. Stevenson lost the election, but his defeat convinced many scientists of the vital need to get the facts about nuclear weapons to the public.

In 1963, much to the surprise of political observers, the United States Senate overwhelmingly confirmed the United States-USSR Limited Nuclear Test Ban Treaty ending the testing of nuclear weapons in the atmosphere by the two great nuclear powers. This unexpected event was a tribute to the political effectiveness of the scientists' campaign to inform the public of the facts about fallout.

It was only a small victory, for U.S. and Soviet nuclear tests continue in underground vaults, and China and France, which are not bound by the treaty, continue atmospheric testing. But although the Nuclear Test Ban Treaty has failed to stop the nuclear arms race, it has had two important results. The first, and most important, result is that it has saved lives.

The human cost of fallout is not exactly known. What is known, and widely acknowledged, is that a number of serious hazards to human health—cancer, genetic defeats, general life-shortening—are instigated by radiation. A good part of the natural incidence of cancer and genetic defects, worldwide must be due to the "natural" (i.e., prefallout) level of radiation from radioactive rocks and cosmic rays. From a comparison of the natural rate of radiation-induced genetic defects with the rate of defects following the extra radiation due to fallout, it can be estimated that fallout had probably caused about 5,000 defective births in the U.S. population and about 86,000 in the world population up to 1963. The United Nations Scientific Committee on the Effects of Atomic Radiation has made a similar estimate: between 2,500 and 100,000 serious genetic defects, world-wide, due to tests up to 1958. On the other hand, Dr. Ernest Sternglass estimates that fallout may be responsible for 400,000 infant and fetal deaths in the United States alone. Dr. Arthur R. Tamplin of the AEC's Livermore (California) Laboratory believes that a better estimate of the number of such deaths due to fallout is 4,000. Obviously the exact estimate of the human cost of fallout radiation is a matter of dispute. But the crucial scientific fact, which none of the contending parties now denies, is that fallout has exacted *some* cost in human disease and death.

The second important result of the treaty is that it established that nuclear weaponry is a *scientific* failure. We now know that nuclear weapons are, in fact, incapable of defending the nation: regardless of the outcome of a nuclear war between the two major powers, neither society would survive the holocaust. It is now widely recognized that the failure of nuclear "defense" lies in the ecological disasters that it would surely set off.

In April 1964, Dr. Gerald W. Johnson, associate director of the Plowshare program (an AEC program to use nuclear explosions for peacetime purposes) was asked: "Has Project Plowshare ever done anything of practical benefit to us?"

His reply: "The answer is no."

Today the answer is still no. Plowshare has been a $138 million exercise in futility. It has foundered in the environment.

The only peacetime use of nuclear energy which is now *operational* is the generation of electric power. Like every other nuclear activity in the United States, this is under the aegis of the AEC. In its enabling legislation, the AEC is charged with promoting the domestic use of nuclear energy. It also sets the safety standards for the construction and operation of nuclear plants, grants the necessary licenses and checks for violations. With this unprecedented range of administrative powers concentrated in a single agency, along with the AEC's overriding importance in the national military program and its essentially unhindered access to funds, the nuclear power industry has grown rapidly from its inception.

The first full-scale nuclear power plant in the United States went into operation in 1957. By 1965 there were 11 operating plants. In 1970 14 plants were in operation, and 78 more were under construction or in preparation. By 1975 84 plants are expected to be in operation. Although nuclear plants now account for only one percent of the nation's total electric output, this figure is expected to rise to 37 percent by 1980 and to more than 50 percent by 2000.

In the light of these statistics, the nuclear power industry in the United States would appear to be a spectacular success story. However, in 1970 a new subject dominated the industry's annual meeting: ecology. For the first time, the industry had been forced publicly to face the environmental consequences of its operation. And the outlook was not very bright.

Unlike fossil-fuel power plants, nuclear power plants do not produce chemical pollutants such as sulfur dioxide or dust. However they do produce radioactive pollutants. The AEC claims that this is no cause for public concern because nuclear plants release radioactive materials into the environment in amounts which are well below AEC safety standards. Nevertheless, in recent years public concern has been sufficiently intense to delay, and in some cases block, the construction of several projected power plants.

In 1963—the year of the limited Nuclear Test Ban Treaty—the AEC decided to establish a research group to "plan and conduct studies of environmental contamination due to release of radioactivity from nuclear detonations for peaceful or military purposes." Dr. John W. Gofman, professor of medical physics at the University of California (which operates the Livermore Laboratory of the AEC), was chosen to direct the program. Since 1963 Dr. Gofman, in collaboration with Dr. Tamplin, has produced a long series of reports on radioactive contamination of the environment. A chief outcome of this work is their proposal that the AEC radiation standards be reduced to 1/10 their present level—a proposal which was then intensely opposed by the AEC and the nuclear power industry.

Some sense of the scope of this controversy can be gained from the following: Drs. Gofman and Tamplin concluded that if the radiation dosage "acceptable" under AEC standards were in fact received by the total United States population, the result would be 32,000 extra deaths each year from cancer and leukemia. In rebuttal, the late Dr. Theos J. Thompson, an AEC commissioner, asserted that radiation exposure to the general population due to the actual operation of the nuclear power industry is less than 1/17,000 of the exposure permitted by the AEC standard. On the other hand, Dr. K. Z. Morgan of the AEC's Oak Ridge National Laboratory has calculated that extra deaths annually due to all types of radiation-induced disease resulting from present nuclear industry operations are about one-half percent of the deaths expected from exposure at the acceptable standard. This would leave little room for complacency, for the expected expansion of the nuclear power industry might well take radiation exposures beyond even the present "acceptable" standard by the year 2000, which itself might be reduced as well.

In 1971, after strongly resisting proposals for more stringent reactor emission standards, the AEC gave in to a degree by proposing an appreciable reduction in permissible radioactive release. However, in taking this action, the AEC gave no explanation for its earlier opposition to more rigorous standards or for its continued opposition to the Gofman-Tamplin proposal. Until these discrepancies are cleared up, the controversy over the environmental effects of nuclear power plants will continue. Yet on the outcome of this controversy hangs the entire future of the nuclear power industry.

On one hand, the industry is pressed to construct new power plants as soon as possible; on the other, it faces the need to choose between nuclear generators and conventional ones. The hope that the bonanza of nuclear power would enable the nation to expand power generation without restraint has suddenly been shattered against the same barrier which nuclear technology has confronted—the environment.

Our experience with nuclear power warns us that our capability to intrude on the environment far outstrips our knowledge of the consequences. It tells us that every environmental incursion, whatever its benefits, has a cost—which may be survival.

Yet this same experience with the first 25 years of the nuclear age has a more hopeful message: seen in its true, environmental context, the power of nuclear technology is subject less to the control of the technologist than to the governance of the public will.

NORTHERN NEW ENGLAND AIR SERVICE—A CREDIBILITY GAP

Mr. COTTON. Mr. President, over the past several months the Civil Aeronautics Board has had under consideration two matters which will have a significant impact upon the level of air service to northern New England or, more appropriately, the lack of such air service. The first is the matter of the Delta Air Lines, Inc.-Northeast Airlines, Inc. merger—Docket No. 23315; the second, the New England Service Investigation—docket No. 22973.

Throughout the deliberations of these two matters before the CAB, I and other equally concerned Members of the Congress have repeatedly sought to obtain a firm commitment from Delta Air Lines, as the surviving carrier in the proposed merger, as to its intention concerning service to northern New England, most particularly the States of New Hampshire and Vermont. As a matter of fact, a third forum was provided for this purpose by hearings held at my request in Lebanon and Durham, N.H., by the Aviation Subcommittee of our Committee on Commerce in September of last year. I personally know of no occasion at which Delta Air Lines has come forward forthrightly and said what it would or would not do with respect to air service to our region. Rather, it has consistently taken such ambivalent and ambiguous positions as to "abide by whatever terms and conditions the Board may see fit to impose upon any certificate awarded to Delta." Quite frankly, I find a "credibility gap," if not a "credibility chasm," as far as Delta is concerned with respect to future air service to the northern New England area.

Nevertheless, Mr. President, the handwriting now is clearly upon the wall as a result of an article published in Commuter Airline World of January 1972, reporting on a luncheon at which Delta Air Lines was host to New England com-

muter air carriers, and a filing by Delta on March 14 for a new or amended certificate of public convenience and necessity. Delta is clearly out to "dump" certificated air carrier service from a number of points in northern New England. As a matter of fact, in a motion of March 21 filed with the CAB, Eastern alleges that Delta proposes "to abandon its postmerger responsibility to serve 18 of 26 New England area cities currently certificated to Northeast Airlines." In view of this, by letter of March 20 to Mr. Tom Beebe, chairman of the board and chief executive officer of Delta Air Lines, I have requested confirmation of such apparent intentions. At the same time, I have written to the Chairman of the CAB, the Honorable Secor Browne, requesting:

That action on the *Delta-Northeast Merger Case* (Docket No. 23315) be deferred pending clarification of Delta's intentions as the surviving carrier in the merger with respect to service for the northern New England area.

Mr. President, this is a most serious situation for States such as New Hampshire and Vermont. Except for trucks and buses, we have little reliable surface transportation. Adequate air service is our only remaining viable alternative for transportation necessary for the economic growth of our area. I, therefore, call upon all of those "bleeding hearts" at the Civil Aeronautics Board who for years have given us in northern New England lipservice and platitudes to act affirmatively for a change to insure that we are not once again "sold down the river" in the interest of expediency and economics. We need adequate air service to survive and to grow. We must have it, and I for one, on behalf of my constituency, am prepared to break out the "battle flag" to do everything in my power to see that we do get adequate air service.

Mr. President, I ask unanimous consent to have printed in the RECORD my letters of March 20 to Mr. Beebe and Chairman Browne, respectively, and a news release which I issued concerning this correspondence. I also ask unanimous consent that there be printed in the RECORD the March 14 motion filed by Delta Air Lines with the CAB; the motion filed by Eastern Air Lines in the pending merger case—docket No. 23315; and Delta's answer to that motion.

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

MARCH 20, 1972.

Hon. SECOR D. BROWNE,
Chairman, Civil Aeronautics Board, Universal Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of a letter which I have today sent to Mr. Tom Beebe, Chairman of the Board and Chief Executive Officer of Delta Air Lines, which I believe is self-explanatory.

I request that a copy of this letter be made available to each Member of the Civil Aeronautics Board and to all interested parties.

Thank you. With best wishes,

Sincerely,

NORRIS COTTON,
U.S. Senator.

MARCH 20, 1972.

Mr. TOM BEEBE,
Chairman of the Board and Chief Executive Officer, Delta Air Lines, Atlanta Airport, Atlanta, Ga.

DEAR MR. BEEBE: I recently had occasion to read an article appearing in *Commuter Airline World* of January 1972 reporting on a luncheon hosted by Delta Air Lines for New England commuter air carriers.

The article included a summary of what Delta told the New England commuter air carriers, noting in part the following:

(1) That Delta Air Lines favors certification for commuter air carriers;

(2) That "Delta is not interested in the Boston-La Guardia markets except as part of through service.";

(3) That "Delta is not eligible for subsidy in New England and will not inaugurate Allegheny Commuter-type arrangements in the area.";

(4) That "Delta does not intend to maintain the New England Northeast routes indefinitely and will conduct operations to provide the best return for its stockholders."; and

(5) That "Following the merger, Delta will eliminate F-227's as soon as possible and will require 6,000 foot runways for its DC-9's—the smallest aircraft it will operate."

If this report is accurate, then, when read in conjunction with your filing with the Civil Aeronautics Board of March 14th, my worst fears are about to be realized. I can only assume that if the merger between Delta Air Lines and Northeast Airlines is approved, it is the intention of Delta, as the surviving carrier, to sharply curtail service to such northern New England States as New Hampshire and Vermont. Accordingly, I would appreciate receiving from you at your earliest possible convenience a verification as to (1) whether the report as set forth in the publication, *Commuter Airline World*, noted above, is accurate, and (2) whether my interpretation of Delta's underlying intention in its March 14th filing with the Civil Aeronautics Board coupled with the report in *Commuter Airline World* does, in fact, portend a drastic curtailment of certificated air service to the northern New England area, especially with respect to north-south service to and from Boston and New York.

Your timely response to this inquiry will be greatly appreciated. Meanwhile, by copy of this letter to the Civil Aeronautics Board, I am requesting that action on the *Delta-Northeast Merger Case* (Docket No. 23315) be deferred pending clarification of Delta's intentions as the surviving carrier in the merger with respect to service for the northern New England area.

With best wishes.

Sincerely,

NORRIS COTTON,
U.S. Senator.

FROM THE OFFICE OF U.S. SENATOR NORRIS COTTON

WASHINGTON, D.C., March 20.—"My worst fears are about to be realized," said Senator Norris Cotton (R.-N.H.) today concerning the merger now pending before the Civil Aeronautics Board between Delta Air Lines and Northeast Airlines.

"Based upon a report on a luncheon in January hosted by Delta Air Lines for the New England commuter air carriers, and a March 14th filing by Delta with the CAB," said Cotton, "I can only assume that if the merger is approved, then it is the intention of Delta, as the surviving carrier, to sharply curtail service to such northern New England States as New Hampshire and Vermont."

"As a matter of fact," continued Cotton, "except for Manchester-Concord, New Hampshire and Burlington, Vermont, Delta's March 14th filing indicates an intention to provide no north-south service whatsoever in New Hampshire and Vermont."

"I can only speculate," said the ranking Republican of the Senate Commerce Committee, "that Delta is preparing to throw the last shovelful of dirt on the coffin of certificated air service to our northern New England area."

"For this reason," said the senior New Hampshire Senator, "I have today sent a letter to Mr. Tom Beebe, Chairman of the Board of Delta Air Lines seeking clarification of the intentions of Delta with respect to air service to our area and at the same time, I have requested the Civil Aeronautics Board to hold action on the merger in abeyance pending such clarification. We in northern New England have a right to know what Delta intends to do either for us or to us before this merger is approved, and Delta should be made to do so on the record without any more of its evasiveness!"

"Otherwise," concluded Cotton, "I fully intend to solicit the support of all equally-concerned Members of the Congress from northern New England to do everything in our power to prevent this merger until this is done. I do not think we in northern New England deserve to be sold another 'bill-of-goods'!"

[Before the Civil Aeronautics Board, Washington, D.C.]

APPLICATION OF DELTA AIR LINES, INC.

Application of Delta Air Lines, Inc., for a new or amended certificate of public convenience and necessity.

Comes now Delta Air Lines, Inc. ("Delta") and, on the assumption that Northeast Airlines, Inc. ("Northeast") will merge into Delta, files this Application for amendment of a certificate of public convenience and necessity now held by Northeast pursuant to Section 401 of the Federal Aviation Act of 1958, as amended, and the applicable rules and regulations of the Civil Aeronautics Board.

I

Delta is a corporation organized and existing under and pursuant to the laws of the State of Delaware. Delta's general offices are located at the Hartsfield Atlanta International Airport, Atlanta, Georgia 30320.

II

Delta is a citizen of the United States, as defined by Section 101(13) of the Federal Aviation Act. Delta has determined by reasonable investigation that its President, all of its directors, and all of its managing officers are citizens of the United States and that at least 75% of its voting interest is owned or controlled by persons who are citizens of the United States or one of its possessions. Delta is prepared to furnish at the hearing on this application such evidence, by affidavit or otherwise, as will satisfactorily prove the facts set forth above.

III

Delta holds permanent certificates of public convenience and necessity authorizing it to engage in scheduled air transportation of persons, property and mail on domestic Routes 8, 24 and 54 and international Route 114. Northeast presently holds similar certificates on domestic Route 27 and international Routes 27F, 154, 158, and 167, and presumably such certificates will be transferred to Delta upon consummation of the merger.

IV

Delta hereby makes application to amend and realign Route 27 so that Delta shall be permanently authorized to engage in sched-

uled air transportation of persons, property, and mail, over the following route:

1. Between the coterminal points Miami and Ft. Lauderdale, Fla., intermediate points Tampa, St. Petersburg-Clearwater and Jacksonville, Fla., Washington, D.C., Baltimore, Md., Philadelphia, Pa., New York, N.Y.-Newark, N.J., Hartford, Conn.-Springfield, Mass., Worcester and Boston, Mass., and Manchester-Concord, N.H., and (a) beyond Manchester-Concord, the intermediate points Portland and Bangor, Me., and the terminal point Presque Isle-Houlton, Me., and (b) beyond Manchester-Concord, the terminal point Burlington, Vt.;

2. Between the terminal point Presque Isle–Houlton, Me., the intermediate points Bangor and Portland, Me., Manchester–Concord, N.H., Lebanon, N.H.–White River Junction, Vt., Burlington, Vt., Cleveland, Ohio, Detroit, Mich., and the terminal point Chicago, Ill.;

3. Between the terminal point Miami–Ft. Lauderdale, Fla., and the terminal point Los Angeles–Ontario–Long Beach, Calif.

The service herein authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall render service to and from each of the points named herein, except as temporary suspensions of service may be authorized by the Board; and may begin or terminate, or begin and terminate, trips at points short of terminal points.

(2) The holder may continue to serve regularly any point named herein through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate, and may continue to maintain regularly scheduled nonstop service between any two points not consecutively named herein if nonstop service was regularly scheduled by the holder between such points prior to the effective date of this certificate. Upon compliance with such procedures relating thereto as may be prescribed by the Board, the holder may, in addition to the service herein above expressly prescribed, regularly serve a point named herein through any airport convenient thereto, and render scheduled nonstop service between any two points not consecutively named herein between which service is authorized hereby.

(3) The holder shall serve Hartford, Conn., and Springfield, Mass., only on flights originating or terminating at Manchester–Concord, or a point north thereof, or originating or terminating at Philadelphia, Pa., or a point south thereof.

(4) The holder shall not engage in air transportation with respect to persons and property between Ft. Lauderdale and Miami, Fla.

(5) Presque Isle–Houlton, Me., and Manchester–Concord, N.H., shall each be served through a single airport.

(6) All flights serving Cleveland, Ohio, or points west of Cleveland shall serve at least one of the following points: Presque Isle, Bangor, and Portland, Me., Manchester–Concord, N.H., Lebanon, N.H.–White River Junction, Vt., or Burlington, Vt.

(7) No single-plane service shall be operated between Boston, Mass., or Hartford, Conn.–Springfield, Mass., on the one hand, and Cleveland, Ohio or points west of Cleveland on the other hand.

(8) The holder shall not engage in single-plane air transportation between Hartford, Conn.-Springfield, Mass. and Worcester, Mass.

(9) Flights between Hartford, Conn.-Springfield, Mass. and Manchester-Concord, N.H., Presque Isle, Bangor, and Portland, Me., must serve Boston as an intermediate stop.

V

A map drawn approximately to scale, showing terminal and intermediate points which will be served, giving the approximate mileages between adjacent points and principal overall distances will be made a part of Delta's Exhibits submitted at the hearing upon this application.

VI

Delta has been engaged as an air carrier in scheduled air transportation for a period of approximately thirty years, and is fit and willing and able to perform the air transportation for which the application is made.

VII

The type of aircraft which Delta proposes to use in the service applied for hereunder will be such aircraft as may be deemed appropriate at the time service is inaugurated. Delta presently owns Convair–880's; both standard and so-called "stretched" DC–8 and DC–9 aircraft; Boeing–747 aircraft; and Lockheed's L–100 all-cargo aircraft. In addition, Delta has Lockheed L–1011 and DC–10 aircraft on order. Upon the consummation of the merger, Delta will acquire Northeast's aircraft, which include DC–9, Boeing 727, and FH–227 aircraft.

Wherefore, Delta prays that the Civil Aeronautics Board grant its application herein.

Respectfully submitted,

FRANK F. ROX,
JAMES W. CALLISON,
Attorneys for Delta Air Lines, Inc.

[Before the Civil Aeronautics Board, Washington, D.C.]

MOTION OF EASTERN AIR LINES, INC. TO REOPEN THE RECORD

In the matter of the Delta Air Lines, Inc.-Northeast Airlines, Inc. Merger.

Eastern Air Lines, Inc. (Eastern) respectfully moves that the record in this proceeding be reopened to permit further hearings upon the proposal of Delta Air Lines, Inc. (Delta), filed only one day in advance of the Prehearing Conference in the *New England Service Investigation* and long after oral argument in this case, *to abandon its post-merger certificate responsibility to serve 18*[1] *of the 26 New England area cities currently certificated to Northeast Airlines, Inc. (Northeast)*.[2] Since Delta would become the only air carrier with certificate authority at these New England points, if its merger with Northeast were approved herein, the issue of New England authority is critical to the Board's decision in this case. If the Board were to act on the record in this proceeding as that record now stands, it would be acting on a record which is fatally defective in that it nowhere reveals the true state of Delta's intentions with respect to New England service.

In support of this motion, Eastern states as follows:

I. THE STATE OF THE RECORD

Although Delta vigorously avoided throughout the proceeding below mentioning specifics of the New England authority it would operate if its merger with Northeast were approved, Delta repeatedly emphasized that it would effect substantial improvements in the service which financially ailing Northeast Airlines is currently providing. On brief to the Examiner the applicants deployed their argument more fully than they had been willing to do at hearing and said:

"The Surviving Corporation has . . . given concrete evidence in this case of its intention to improve service within New England. In this connection, Delta has a long history of *continuing* service to smaller cities. . . . Hence, Delta's basic service and developmental policies and philosophy should ensure the *utmost service possible for intra-New England markets* . . ." (Joint Brief of Delta Air Lines, Inc., Northeast Airlines, Inc. and Storer Broadcasting Co. to Examiner Arthur S. Present, Docket 23315, August 27, 1971, p. 35).

Further, Delta indicated that it had "tentatively" concluded that the surviving corporation should resume services at Keene, N.H. (JE–315, TR: 302) and that the surviving corporation would continue Northeast's truncated services in existence at the time exhibits were prepared (JE–315, JE–229, TR: 118, 125, 292, 688).[3] On the basis of these and other representations, the Examiner found—

"There is an extensive potential for improvements in single-carrier and single-plane services as traffic conditions justify and the opportunity to reinstitute and rearrange intra-New England services in the hands of a strong and very effective air carrier." (Recommended Decision of Examiner Arthur S. Present, Docket 23315, October 26, 1971, pp. 60–61).

Since Delta quoted this passage in its Brief to the Board in this proceeding, it clearly intended the Board to rely on the Examiner's finding that the Board could rearrange New England services *"in the hands of"* Delta. (See Brief of Delta Air Lines, Inc., Docket 23315, November 22, 1971, p. 5). Further, as Delta's counsel said in oral argument before the Board:

"If the merger is not approved, New England, Mr. Chairman, and Mr. Murphy, will lose the benefits of not only a strong and capable carrier, Delta, but a carrier with a long, successful history of service to smaller communities. Delta plans immediate improvements in some service in New England, and we will cooperate fully with the Board in a long-range program to solve New England's air service problems. While I am on this subject, I might point out that when this merger is approved, that Delta will acquire all of the certificate obligations of Northeast as well as the privileges. And this includes all of New England and the remainder of Northeast's system. We do not suggest in this case any amendment to Northeast's existing routes in this proceeding, and we impose no monetary limitations on our obligations to serve these communities pursuant to the certificates and in accordance with the Federal Aviation Act." (TR: 20, 21).

Unfortunately, this kind of puffery has already misled the Examiner and may also mislead the Board unless the true *facts* regarding potential New England authority are displayed on the record in *this* proceeding before the merger application herein is finally disposed of by the Board.

II. DELTA'S APPLICATION

In sharp contrast to Delta's statements now in this record are the changes proposed in Delta's application in Docket 24306. Delta not only seeks to rid itself of certificate obligations at all the points not now served by Northeast, but *also seeks to abandon six cities which even the allegedly-destitute Northeast has been capable of serving*. Delta seeks to "amend and realign" the Route 27 authority "on the assumption that Northeast Airlines, Inc. . . . will merge into Delta" (Application, p. 1) to *delete* the 18 cities noted previously and to eliminate restrictions now present in the certificate but not at issue in the *New England Service Investigation*.[4]

For example:

Delta seeks to delete Keene, New Hampshire, from the surviving carrier's certificate despite its prior indications to the contrary.

It also seeks to eliminate the north-south authority at Lebanon-White River Junction thus depriving it of all service to New York and Boston.[5]

Delta also seeks to *totally* abandon four Massachusetts points which Northeast has been serving on a seasonal basis: New Bed-

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Footnotes at end of article.

ford-Fall River, Martha's Vineyard, Nantucket, and Hyannis.

Since a prime rationale of a Northeast merger is the merged company's ability to provide better services to Northeast's certificated points, especially in New England where the poor quality of Northeast's services has long been blamed on its lack of adequate finances, it is particularly ironic that Northeast's wealthy suitor proposes to abandon service at these seasonal points which would have accounted for eight percent of the merged company's departures over the Northeast system in the forecast 1972 summer season.[6] Delta's decision to abandon Keene, Martha's Vineyard, Nantucket, New Bedford and Hyannis indicates the true nature of its commitment to New England. It is no wonder, in retrospect, that the firmest commitment Delta would actually make regarding New England service in this proceeding was that it would "abide by whatever terms and conditions the Board may see fit to impose upon any certificate awarded to Delta Air Lines in the *New England Service Investigation*" (TR: 300), and the omission of a general prayer for "such other, additional and/or different relief as the public convenience and necessity may require, including the award to Delta of authority to serve other points within the general area of the territory proposed to be served by Delta in this application . . ."[7] from its application may indicate an intention to fight, on legal grounds, the continuation of any certificate obligations not specifically applied for. Delta's waffling presents a vivid contrast with the proposal of Eastern and National herein to *retain* certificate responsibilities at points to be served by air taxis and to guarantee cross-subsidization of New England services up to $35 million over the next five years.

III. CONSIDERATION OF DELTA'S APPLICATION IN THE LIGHT OF THIS RECORD

Since Delta's application in Docket 24306 is predicated "on the assumption that Northeast Airlines, Inc. . . . will merge into Delta," the interrelationship between that application and this proceeding could not be clearer. The fact that Delta is seeking to enter markets awarded to Northeast for the primary purpose of supporting a better, superior New England service[8] requires that Delta's proposal for New England authority be considered in this case.

Further, Delta's Application in Docket 24306 and its Motion to Consolidate that application into the *New England Service Investigation* must be considered in this proceeding as the best evidence of Delta's intentions with regard to the authority it seeks in New England. By seeking significant changes in Route 27 certificate authority, Delta has at last provided *some* indication of what its plans for New England are. In addition, because Eastern did its best to secure some indication of Delta's plans for New England during the course of the hearing in this proceeding, it is also clear that Eastern cannot be faulted for failure to introduce evidence of this nature at an earlier stage of the proceedings.

Since Delta's application in Docket 24306 is subject to official notice pursuant to Rule 24(m)(1) of the Board's Rules of Practice, the Board cannot make any findings regarding the benefits to New England[9] from this merger without comparing, in open hearing, the proposals of Delta Northeast with alternatives to the merger.[10]

Since the timing of Delta's revelation of what cities it intends to serve in New England was solely within its control, Delta cannot complain that its delay in submission of that listing until the last possible moment should preclude a consideration of that listing as part of the merger case.[11] By refusing to reveal its plans for New England earlier in this proceeding Delta has been the sole cause of any delay which would be occasioned by consideration of potential New England authority at this time.[12] Only if the Board reopens the record in this proceeding can it evaluate the impact of approval or disapproval of this merger on New England. It is also important to note that the merger agreement between Delta and Northwest can be extended to June 30, 1972. It is quite possible that a reopening limited to the single issue raised by this motion, with expedited procedures, could reach the Board before that date.

Reopening the record in this proceeding would comport with Board precedents which allow reopening when significant material facts are revealed. In *Transpacific Route Case (International Phase)*, the Board found reopening required when "there is a substantial lack of specific details in the record essential to . . . proper disposition" of the case (34 CAB 106, 110 (1969)). The Board has reopened hearings on limited issues, such as those suggested herein, without reopening all the issues in the proceeding, (See *Pan American-Grace Airways, Inc., Mail Rates*, 11 CAB 535, 541, (1951)). Where a carrier has itself effected basic changes in its situation, the record has been reopened (See *Aerovias Interamericanos, Tocumen-Miami Service*, 18 CAB 510 (1954)), and such situations, wholly within the control of the applicant carrier, are clearly distinguished from the Board's denial of requests to reopen the record to include additional operating data relating to periods later than those utilized at hearing (See, *e.g., Great Lakes-Southeast Service Case*, 27 CAB 829, 852 (1958)). The relative merits of approval or disapproval of the merger proposed herein are so dependent upon the critical issue of service for New England that refusal to reopen this record would be an abuse of the Board's discretion.[13] Only if the Board compares evidence consistent with the Delta application and motion to alternatives to the merger can a meaningful and lawful evaluation of alternative plans for New England be made in formulating a decision in this proceeding.

Wherefore, Eastern Air Lines, Inc. respectively moves the Board to reopen the record and hearing in this proceeding to require Delta to submit evidence of its plans for New England consistent with its application in Docket 24306.

Respectfully submitted,

JAMES F. BELL,
R. BRUCE KEINER, Jr.,
Counsel for Eastern Air Lines, Inc.

FOOTNOTES

[1] Keene, Laconia, Whitefield, Berlin, and Portsmouth, New Hampshire; Brunswick, Lewiston-Auburn, Rockland, Augusta-Waterville, and Bar Harbor, Maine; New Bedford-Fall River, Martha's Vineyard, Nantucket, and Hyannis, Massachusetts; Montpelier-Barre and Newport, Vermont; Lebanon, New Hampshire-White River Junction, Vermont; and New London, Connecticut. Delta proposes to retain certificate obligations at Lebanon-White River Junction only with respect to the New England-Great Lakes route not in issue in the *New England Service Investigation*.

[2] On March 14, 1972 Delta simultaneously filed its "Application of Delta Air Lines, Inc. For a New or Amended Certificate of Public Convenience and Necessity" in Docket 24306 and a Motion to Consolidate that application into the *New England Service Investigation*, Docket 22973. Thus, whereas Delta would inherit the Northeast Route 27 certificate as it presently reads if its merger with Northeast were approved herein, the above-referenced Delta application in the *New England Service Investigation* seeks an amended certificate which would exclude the 18 points noted in footnote 1 and thus demonstrates conclusively Delta's future intentions with regard to New England service if the merger is approved.

[3] Since Mohawk has now terminated its substitute service arrangements with Northeast, the service *currently* provided by Northeast is greater than that which the surviving carrier projected during the hearing (See Exhibits JE–315, JE–229).

[4] Delta's desire to provide the intra-New England service under consideration in Docket 22973 must be tested against the fact that it seeks new Montreal-New York authority, increased Boston-Hartford/Springfield authority and retention of Miami-Los Angeles authority in its New England application, despite the fact that such issues are clearly outside the scope of that proceeding.

[5] Since the issue of the Route 27 east-west authority between Lebanon-White River Junction and the Great Lakes is not at issue in the *New England Service Investigation*, Delta was forced to leave segment 6 of the certificate intact. The likelihood of providing an economically viable east-west service at Lebanon-White River Junction without authority in its two largest markets is so slim that Delta may soon be seeking deletion of the point altogether.

[6] JE–229, p. 6.

[7] See, *e.g.*, Amendment No. 2 to Application of Delta Air Lines, Inc., Docket 20030, August 3, 1970, p. 4.

[8] See, *e.g., New York-Florida Case*, 24 C.A.B. 94, 100 (1956).

[9] This record is also defective in its failure to include the effect of Delta's proposal to amend the Route 27 certificate upon financial results, public benefits beyond New England, and the surviving carrier's employees.

[10] Eastern and National have proposed an alternative in Exhibit EA–100, which is the subject of Eastern's application in Docket 23900.

[11] Further, the resurgence of Northeast's traffic and recent profits negate any claim that expedition is required to continue Northeast's operations. Exhibit JE–400, p. 158, submitted by the joint applicants herein on March 6, 1972, shows Northeast had a February, 1972, profit of $261,000, compared to a $429,000 loss in February, 1971, and a revenue increase of 18.5%.

[12] Any delay caused by the reopening of this record would be less than the delay in the *Eastern-Caribbean-Atlantic Acquisition Case*, Docket 22690, which has been before the Board since June 30, 1971.

[13] *Cf. Atchison, Topeka and Santa Fe Ry. Co.* v. *United States*, 284 U.S. 248, 52 S. Ct. 146 (1932). Although this case has subsequently been limited to its facts, the courts have apparently not considered a situation in which an agency refused to reopen a hearing to consider critically relevant facts which an applicant carrier withheld until after the hearing was completed.

[Before the Civil Aeronautics Board, Washington, D.C.]

ANSWER OF DELTA AIR LINES, INC. TO MOTION OF EASTERN AIR LINES, INC. TO REOPEN THE RECORD

Delta Air Lines, Inc.-Northeast Airlines, Inc. merger:

On March 21, 1972, Eastern Air Lines filed a month with the Civil Aeronautics Board asking that the record in the *Delta-Northeast Merger Case* be reopened to receive evidence with respect to an alleged variance between the position taken by Delta in that case and the tentative position indicated by Delta's filings in the Prehearing Conference in the *New England Service Investigation*.

This is a procedural "gimmick" by Eastern, no more and no less, sired by the unchanging goal of obfuscating the issues and delaying the decision in the *Merger Case*, and born of desperation.

Eastern's paper, while rather liberally quoting carefully extracted portions of the record in the *Merger Case*, avoided the direct response of counsel for Delta to the question

of Delta's position with respect to service to New England, which was as follows:

"We suggest that you transfer to Delta the Northeast certificate as is, with the suspensions and with the substitutions of service as they now exist. Delta will continue the service which Northeast now operates as is. We will take the suspensions and the substitutions as they come up pending the New England Service Investigation just as Northeast would have to do. And that is where we stand.

"We stand in Northeast's shoes with respect to New England. And I might conclude by saying since you have been looking for a solution to the Northeast problem for a long time that we offer you the solution, the time is now, and Delta is ready when you are."[1]

There is no basic inconsistency between this position and that tentatively adopted by Delta in the *Service Investigation*.

The fact of the matter is that the *Delta-Northeast Merger Case* was set up to determine whether Northeast should be merged into Delta, and nothing more. The *Merger Case* is not the forum for determination of the long-range service problems of the New England area.

In contrast, the *New England Service Investigation* was established to determine the long-range air service needs of New England. If the merger is approved, Delta will participate fully in that proceeding, just as Northeast would do if there were no merger and if Northeast could survive as an operating entity without merger.

It is the Board's responsibility to determine immediately, with the approval of the President of the United States, whether Northeast should be merged into Delta and upon what terms and conditions. The Board and the President should proceed to immediate decision of those issues. Decision has already been long-delayed, and all concerned recognize that Northeast is now a "failing business" in both the legal and a practical sense of the word.

Indeed, it is no doubt Eastern's express recognition of the economic crisis faced by Northeast, one of Eastern's principal competitors, that has led Eastern to seek still further delay in decision of the merger application.

On the other hand, in the *New England Service Investigation* it is the Board's responsibility to determine what air services are needed for the indefinite future by the people of New England, and by whom those services should be provided.

Assuming approval of the pending merger proposal, obviously Delta must—and will—participate fully in the *Service Investigation*, spelling out in that record its position with respect to the long-range issues there presented to the Board. Again assuming approval of the merger, obviously Delta must—and will—do whatever the *Board* ultimately determines in the *Service Investigation* is required by the public interest in the New England area.

This Eastern Motion appears to be just one more delaying tactic intended to forestall implementation of a merger which has been approved by the stockholders of both companies, has been strongly supported by the staff of the CAB and representatives of other government agencies (including the Department of Transportation), was not opposed by the Department of Justice, has been supported by all interested civic parties and approval of which has been recommended by the CAB trial examiner. It is to be hoped that the CAB will not permit this last-minute and obviously self-serving filing by Eastern to delay approval and implementation of a merger so obviously in the public interest.

The Board should dismiss Eastern's Motion forthwith and expedite transmittal of its decision in the *Merger Case* for Presidential approval.

Respectfully submitted.

R. S. MAURER,
FRANK F. ROX,
JAMES W. CALLISON,
Attorneys for Delta Air Lines, Inc.

[1] Oral Argument transcript, page 236.

REHABILITATION OF PARAPLEGICS

Mr. WILLIAMS. Mr. President, approximately 125,000 people in this country are paraplegics, quadriplegics, amputees, or stroke victims. Five to ten thousand more individuals with significant spinal cord injuries are added each year.

Until a few years ago these people lived 2 years at the most after receiving their injuries; but the use of antibiotics, advanced surgical techniques, along with more skilled nursing care have now enabled them to survive a nearly average life span.

Yet today only a lucky few achieve a truly normal day to day life style. For most, the inability to move or to travel causes them to be restricted to beds or wheelchairs and dependent on others for the smallest tasks.

I have talked many times with Dr. Howard Rusk, director of New York University Institute of Rehabilitation Medicine, who is a leading authority in his field and who has dedicated his life to bringing hope to the handicapped. Dr. Rusk says that costs of rehabilitation are usually far less than costs of institutionalizing a patient. For example, the cost of rehabilitating a young quadriplegic, Dr. Rusk reports, is about $25,000. Institutionalizing such a 20-year-old patient with 50 years of life remaining can cost $750,000.

Responding to the need for more advanced mobility aids to help these patients, doctors in hospitals across the Nation have recently invented and experimented with a multitude of new mechanical and electrical devices.

At Rancho Los Amigos Hospital in Downey, Calif., quadriplegic patients are fitted in wheelchairs with a tongue-operated switch that provides finger, wrist, elbow, and shoulder motion, and powers the wheelchair, as well.

The new techniques required to develop devices such as this have sparked a new field of medicine called biomedical engineering which combines electronics, miniaturization and space-age materials to build the complicated aids for the handicapped.

One of the most promising methods of rehabilitative medicine stemming from this technological endeavor is the use of electricity to stimulate paralyzed nerves into action. Researchers have conducted experiments with implanted electrodes which the patients can trigger by other parts of his body and animals have been tested with implanted electrodes that are computer controlled. Another innovation is a wheelchair that uses eye movement to stimulate nerve action; although this particular device has received wide publicity it is still experimental and has serious drawbacks making it impractical as yet.

A major problem encountered with the advent of all of these new aids is the need to adapt almost every prosthetic or electrical aid to each patient who have varying kinds of disabilities requiring a variety of solutions. In addition, most hosptals do not have trained technicians or facilities equipped to repair most of the devices which have been invented.

Still, success stories are not uncommon among the people who are victims of paralysis or amputation. Some have achieved lives with a significant degree of self-reliance and self-respect which would not have been possible 10 or even 5 years ago.

In this area I have joined in sponsoring an amendment to H.R. 1, the Social Security Amendments of 1971, which would provide increased medicare and medicaid eligibility for the physically disabled. It would also include expanded outpatient services of physical and occupational therapy, testing, fitting and training in the use of prosthetic and orthotic devices as well as related rehabilitation counseling. I am hopeful that this measure will receive favorable action when H.R. 1 reaches the floor of the Senate.

Mr. President, I would like to have entered into the RECORD an article describing the new technology in rehabilitative medicine from Medical World News of March 10, 1972.

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

MAKING THE IMPOSSIBLE POSSIBLE—NEW TECHNOLOGY ADDS SURPRISING DIMENSIONS TO REHABILITATIVE MEDICINE

In a corridor of the Bronx (N.Y.) Veterans Administration Hospital, a man in his twenties sits strapped in a wheel chair, surrounded by other patients. He is flipping through the sports pages of the newspaper, using a tongue depressor held in his teeth. Suddenly, he calls their attention to two reporters versions of the same story, and a scoffer down the hall questions the veracity of a particular point. Anxious to confront the skeptic, the young patient butts a pressure-sensitive box with his chin and goes whizzing off down the hall in his motorized wheel chair.

The hallway scene is reminiscent of the easy camaraderie of young men relaxing together anywhere in the world, except everyone present is a quadriplegic. Their ambulation through a number of ingenious devices is one of the newest achievements of the increasing cooperation between rehabilitative medicine and engineering.

"Anyone can see that electronic wheel chairs have made the difference between life and no life for many of our quadriplegics," says Dr. Peter Hofstra, chief of the spinal cord injury service at the Bronx hospital. As recently as about a year ago, most quadriplegics were still generally regarded as being permanently bedridden.

The extent of the problem in paralysis alone was pointed up by Dr. E. Shannon Stauffer, chief of the spinal injuries service at Rancho Los Amigos Hospital in Downey, Calif., a part of the University of Southern California School of Medicine. He told last month's meeting of the American Academy of Orthopaedic Surgeons that from 5,000 to 10,000 spinal cord injuries with significant paralysis occur yearly in the U.S. Currently, the country has about 125,000 traumatic paraplegics and quadriplegics. Moreover, their numbers are a consequence of medical progress; decades ago, most would not have lived.

"These patients represent new problems and new challenges to this generation of

physicians and surgeons," says Dr. Stauffer. Before the antibiotic era, most of these patients suffered an early, rapid, and septic death due to atelectasis and pneumonia, or they suffered a slow lingering death due to chronic urinary tract infection, pressure-sore ulceration of the skin, hypoproteinemia, and cachexia. Few patients survived more than two years.

But death soon after injury in these patients is now rare according to Dr. Stauffer. Physicians now promptly recognize early stages of various complications. More skilled nursing care is available, along with modern methods of medical resuscitation.

The result, says renowned rehabilitation authority Dr. Howard Rusk, is that most paralyzed patients can expect to live within a year or two of a normal life span, "if they follow the ground rules learned during their rehabilitation." The cost of rehabilitating a young quadriplegic, Dr. Rusk reports, is about $25,000. But, he told the January meeting of MWN's Editorial Board, "we can't afford not to spend it." He compared the $25,000 rehabilitation cost with the cost of institutionalizing a 20-year-old patient with 50 years of life remaining. "Put in a second-rate nursing home with a modicum of attendant care, $15,000 a year would be a bargain. Multiply $15,000 by 50 and that patient will cost $750,000."

The scene at Bronx VA is duplicated in other centers across the country, including USC's Rancho hospital. There, a medicine-engineering team has developed a number of innovative devices that enable patients to make functional use of residual nerve and muscle. One device, that the staff and patients have come to call "the golden arm," is an externally powered brace, controlled by a tongue-operated switch, that provides finger, wrist, elbow, and shoulder motion for quadriplegics. The multichannel switch can also control an electrically powered wheel chair, and Rancho patients have 200 acres in which to "roam" on their tongue-controlled, motorized chairs.

These examples are typical of how biomedical engineering is joining electronics, miniaturization, and space-age materials to a growing knowledge of the physiology, anatomy, and psychology of handicapped patients. This technologic enhancement of rehabilitation medicine is increasing the function and thereby the prospects of relative self-sufficiency for paraplegics, hemiplegics, quadriplegics, amputees, and stroke victims.

One physician-designer, Dr. Wladimir T. Liberson, associate professor of neurology and orthopedics at the University of Miami School of Medicine, thinks the era of electronic rehabilitation is here. Others apparently agree with him. A manual on upper-extremity prostheses, issued by the Veterans Administration in New York, reports that several electric elbows and hands are under development in this country. Furthermore, such electrically powered prostheses are already prescribed in Europe: In Germany, some 600 hands as well as other electric components have been furnished to patients; in Italy, more than 500 electric hands are in use; and in Canada, more than 300 electric hands have been prescribed.

The number prescribed in the U.S., so far, is only a tiny fraction of the European number, the report says, primarily because of the difference in the prosthesis distribution systems in Europe and the U.S. "In this country, the preponderant majority of prostheses are fabricated by private commercial shops in a decentralized system requiring each shop to become fully informed on the nature and best application of each device."

There may be another typically American reason for the limited use of electrical prostheses: Who's going to fix the gadget when it conks out? Unlike many other physicians, Miami's Dr. Liberson knows exactly what to do when a delicate piece of electrical equipment malfunctions. Since he designed it, he can also fix it.

Among his inventions is an electronically powered device that attaches to the impaired leg of a stroke patient. By stimulating the peroneal nerve, the device helps speed ambulation of stroke patients. Dr. Liberson reports that the stimulator has been used, with varying degrees of success, on 100 such patients. The device works best, he says on patients who are intelligent and highly motivated.

The Miami physician, who is also chief of the physical medicine and rehabilitation service at the VA hospital there, has designed a motorized brace for use by stroke patients in their first weeks of retraining.

But to Dr. Liberson, there are still more compelling reasons why electronic medicine will enhance the role of the physician rather than diminish it. "You simply cannot give a patient a new gadget and send him home with it," he cautions. "You have to be sure he really wants to use it. You have to listen to his complaints about it. You have to check to see what it does to his body. There is no such thing as electronic medicine. There are only electronic aids that can help a physician help his patients to live more fully."

Some of the new electronic aids on the horizon represent a complete departure from traditional thinking. For example: Why prop up wasted muscles with traditional crutches and braces? Why not use electrodes to stimulate nerves that control muscle movements? This idea already has clinical application with Dr. Liberson's peroneal nerve stimulator for which the electrodes are externally applied.

How about internal electrodes? Perhaps the most farout project exploring this idea at the moment is the animal study being conducted by Dr. Lawrence R. Pinneo of the Stanford Research Institute. Dr. Pinneo has implanted electrodes into the head of a rheus monkey that was paralyzed in its right arm after two operations removed part of the animal's cortex.

In spite of the paralysis, the monkey could reach for food when a computer fired the electrodes in his brain in the proper sequence. The monkey even learned to direct his own motions electronically. He figured out how to press computer buttons that helped him feed himself, scratch his back, and make a fist. Dr. Pinneo has published the results of the Stanford project in *Stroke*. Nevertheless, it will be some time before a computer and implanted electrodes stimulate the human brain to move muscles in paralyzed extremities.

Well, then, why not try to control muscles by applying electrical charges directly to the nerves? Implanted electrodes are already doing this for heart patients. Couldn't some version of this idea help impaired persons walk?

A biomedical engineering project at USC's Rancho hospital is exploring just such questions. The team takes its cue from one of the most successful electric protheses to date—the cardiac pacemaker. Says Dr. Jacquelin Perry, chief of the kinesiology service and head physician on the stroke service: "The principle of stimulating nerves of the leg is the same as for other parts of the body."

The hospital's "peripheral nerve stimulator" is a tiny radio receiver that is surgically implanted in the upper medial thigh. An electrode leads from the receiver down the thigh to the anterior crural region where it is anastomosed to the peroneal nerve. Stimulation is activated by a transmitter worn on the patient's belt and a heel switch installed in the shoe.

During the past three years, about 20 stroke patients have benefited in varying degrees from the nerve stimulator. But the results were not precisely quantifiable, says Dr. Perry, because equipment was being continually refined during the trial and the patients being tested did not have exactly comparable types of disability. She explains, "There is no such thing as a stroke patient. There are different types of stroke patients with varying levels of disability." Dr. Perry sees current knowledge of stroke on a par with knowledge of arthritis two decades ago, when "medicine classed arthritis as one entity. We now know that nearly 60 different conditions comprise the disease known as arthritis. Much of the same thing is true of stroke. We are finding that patients are left with various levels and patterns of disability following a stroke."

Dr. Perry is guardedly optimistic about the future of peripheral nerve stimulation. For one thing, the causes of paralysis have changed from the time when most stroke victims died and when polio was a major crippler. "Polio destroyed nerves," she points out, "so there wasn't much we could do for polio patients. But the stroke patient is left with the peripheral motor system intact, opening the possibility of electronic stimulation. Our next goal is to try stimulating the nerves that influence the muscles that extend the hip."

Right now, the Rancho team is beginning a study of 20 more stroke patients using the peripheral nerve stimulator. Equipment design has been standardized, says Dr. Perry, so patients will have comparable units. Moreover, patients with closely similar disabilities have been selected for the test.

Dr. Perry thinks there is a future in medicine for electronic stimulating of leg and hip nerves and muscles. "We're going to get more and more people walking in this fashion," she predicts. "We're probably even going to be able to help patients with some types of spinal cord injury. Right now, we have the equipment developed to a point where it may cost about $1,000, which is not inexpensive, but it is a realistic figure. We no longer talk in terms of highly expensive equipment costing thousands of dollars. This is a reasonable direction in which to go."

Still another team at Case Western Reserve University School of Medicine has published preliminary reports on its attempt to implant electromyographic sensors directly into neck and shoulder muscles of severly paralyzed patients with high-level spinal injuries.

According to an engineer connected with the project, the Ohio team currently finds it possible to control one muscle at a time. "But human movement is a highly complex interrelation between various groups of muscles" he points out, "so you can see we're still in a very early stage."

This caution is echoed again and again by clinicians and technicians at various rehabilitation centers. One researcher groaned when shown a newspaper photograph of Dr. Wernher von Braun, the National Aeronautics and Space Administration's rocketeer, reportedly demonstrating "a sight-switch-controlled wheel chair."

"I wish NASA would give us a couple of their engineers for our hospital, to work with patients," the researcher said. "Maybe those fellows could make some real contributions in a real hospital setting, working with real patients, instead of blue-skying this stuff out of think tanks or blowing it up out of lunar dust."

Yet progress has been significant. A case history of hope vs realism in one new electronic rehabilitation aid lies in the electronic device known as the sight switch that powered Dr. von Braun's wheel chair. According to a NASA booklet, "the sight switch, designed to be worn on standard eyeglass frames, actuates electrical control devices by sensing variations in reflected light. The light source is a low-intensity beam directed into the white of the eye. A photodetector mounted adjacent to the light source senses the intensity of light reflected from the white of the eye." When the eye moves, the darker iris intersects the beam, a sudden decrease in reflected light is sensed by the photode-

tector, and a signal is generated to initiate an action.

However, because of differences in iris pigmentation, reflectivity of the sclera, and other reflective differences of the area around the eyes, the sight switch must be calibrated for each operator. Once the sight switch is adjusted for the individual operator, says NASA, no further adjustments are required.

This is fine, in theory, but unfortunately further adjustments are constantly required, according to Anthony Staros, director of the VA Prosthetics Center in New York City. The center performs research, development, and evaluations of various prosthetics, orthotics, and orthopedic aids for 166 hospitals in the VA program. Engineer Staros reports that changes in the ambient light—the light that differs from room to room—can activate the sight switch so erratically that the quadriplegic may lose control of the wheel chair. VA tests also found that the chair does respond to inadvertent eye motion, again causing the patient to lose control of the chair. One of the quadriplegics who volunteered to test the chair, reportedly needed a couple of days of bed rest after his experience. Nevertheless, the VA has not abandoned the principles. A sight switch prosthesis is now in the hands of engineer Ron Lipskin, at the Manhattan center, who is currently testing the instrument and conferring with engineers in government and industry in an effort to make the sight switch work as well for paralyzed veterans as it does on NASA drawing boards.

What's more, Lipskin already has a variety of electronic successes to his credit. One concerns an intra-oral tongue-activated electronic device that controlled a powered wheel chair.

The quadriplegic who tested the device complained that the switches were too small and too close together, because the box had to be tiny enough to fit inside his mouth. The patient despaired of every learning to differentiate among the tiny, closely packed switches. He also found that the unit caused him to salivate more than usual and later he reported getting electrical shocks because saliva had somehow seeped into the mechanical appliance.

But those few days in the motorized wheel chair had also triggered the patient's desire to be up and about. He asked Lipskin to figure out some kind of electronic switch for him. Lipskin did. He converted the tiny compact to an external unit that could be activated by the patient's chin. The quadriplegic then joined the dozens of others whooshing through the Bronx VA corridors.

Lipskin, an earnest young man with degrees in biology, chemistry, and engineering, uses this case history to pinpoint the stage at which most electrical prostheses are at the moment in this country: Just about every powered prosthesis has to be custom-made for each patient, or at least it has to be custom-adapted. In addition, the service provided by some well-known wheel chair manufacturers can be compared to the service provided by some well-known automobile manufacturers—generally, far from ideal. "What can a patient do with an electrical device that malfunctions?" Lipskin asks rhetorically. "Malfunctions bug us, and we're set up for them. Most hospitals are not." The need right now, he says, is for American or European manufacturers to come up with an electrical wheel chair that can be repaired by a trained, semi-skilled worker.

"Or perhaps motor units might be made in a simple, take-out unit, something like a battery-pack that is put into a flashlight. The patient could buy two units: one to run the wheel chair, and one to use as a spare for the time when the other is sent to the factory for repairs."

For each of Lipskin's problems, there is an eventual success story: One quadriplegic, enthused with the success of learning to use a powered wheel chair, decided that he would spend much of his time exploring the streets of the Bronx around the VA hospital. To help him in traffic, Lipskin fitted him up with a chin-controlled back panel of flashing red lights. To help keep him supplied with the water that a quadriplegic's kidneys need, Lipskin ran a thin plastic tube, also electrically controlled, from a water dispenser on the back of the chair.

Meanwhile, Dr. Stauffer points out that most of these patients are in their late teens or early twenties when they are injured. "With medical knowledge now available, we can give them and their families a prognosis of looking forward to a relatively normal life span. With this possibility of longevity goes the responsibility of improving the quality of life. These patients deserve and require the skilled medical care necessary to prevent and correct medical complications. It is not justified merely to keep them living."

Medical priorities for such patients include maintaining a bacteria-free, automatically emptying urinary tract, Dr. Stauffer says. There is increasing evidence that surgical techniques like hypothermia and myelotomy may be effective in reversing some early stages of pathophysiology that can progress to spinal cord destruction. Steroids may also be effective.

But at the present time, says Dr. Stauffer, no clinical studies indicate that early surgical procedures produce more benefit than closed reduction and traction treatment of the fractured spine. At the present time, skeletal traction for reduction and healing is the preferred method of treating fracture dislocations of the spine.

In some instances, where prolonged recumbency enforced by traction therapy is not desirable, it is possible to stabilize the spine surgically, and allow the patient to be mobilized out of bed soon after his injury. This can eliminate the complications of long periods of bed rest: muscle atrophy, skin-pressure ulceration, and joint contractures. Meanwhile, the patient is rapidly taught to be as functionally independent as possible.

This type of concentrated, special care is most effectively accomplished in specialized centers with personnel skilled in aiding these patients, Dr. Stauffer points out. And even after they are discharged from these special centers, such patients must be examined at least once each year for complications. The patients must also be checked to make sure that they are getting the help they need to adjust to their new lives.

For the family physician, perhaps the greatest hazard is thinking that a patient has been "rehabilitated" because an operation has saved his life and a prosthesis has been successfully fitted. Much more needs to be done. The prosthesis may need readjustment, which may require a number of visits. The patient must be taught to use it with self-confidence, which may take months. Sometimes, the entire process has to be repeated several times, until the happy combination clicks into place—the right prosthesis and the right attitude on the part of the patient.

Despite all of the exciting electronic advances on the rehabilitation horizon, the most important part of the entire process is still being able to tap the patient's will to live, and then his will to overcome his handicap. Without this, even the most newfangled appliance will just gather dust.

One man whose working life has been dedicated to these principles is Dr. Rusk, the director of New York University's Institute of Rehabilitation Medicine. During a career that has made the Rusk institute renowned throughout the world, Dr. Rusk has seen dramatic changes in society's attitude toward the physically handicapped. "As late as the 1940s, it wasn't unusual for amputees—think of it, amputees!—to be resigned to spending their lives in some back bedroom, even in our own country. In Poland right after World War II, I saw kids who hadn't been out of the house for years. I'll never forget that."

Today, thanks to the efforts of Dr. Rusk and others, it is not unusual even for quadriplegics to explore ways of earning their own livings.

One of the institute's prize pupils is a 23-year-old woman, born with bilateral upper hemimelia, and one leg dislocated at the hip. But she finished high school and college at the top of her class, and now earns her living as an occupational therapy assistant at the institute.

She lives alone, in a midtown Manhattan apartment. Each morning, she dons her mechanical hands by herself, takes a shower, cooks breakfast, catches a bus, and works a full day. "She teaches by precept and by example," Dr. Rusk says. "She's a living symbol of what hope can do."

Hope is dispensed in large helpings at the institute. "It doesn't do anyone any harm to be praised," says Dr. Rusk. "Sometimes, we have to search for things to praise. Something like this: 'Six steps today. Great. Yesterday you did only four. Tomorrow, you'll do eight. You'll see. Just keep working. Just don't give up.'"

In the foreseeable future, Dr. Rusk does not see electronics completely replacing hope or the doctor-therapist-patient rehabilitative relationship. "Naturally, I'm pleased to see all these new electronic aids," says Dr. Rusk. "Some of them have great potential. But right now, you almost have to provide an engineer to go along with each of them. We have a great variety of new mechanical appliances already in use, doing a magnificent job."

Some of the most exciting new advances in mechanical appliances are in the field of braces. For the first time in more than a century, the design of conventional leg braces is undergoing radical changes. Some of these changes result from new lightweight metals and alloys and a variety of tough new plastics. But the major reasons for the new designs lie in some findings on the nature of human locomotion. For example, recent studies show that transverse rotation is an important component of human motion. This transverse rotation may be considerable, as much as 30 degrees of relative rotation between the pelvis and the foot. Thus, this basic fact should have an important bearing on brace designs.

Most conventional braces, however, still restrict motion only to one plane. But a new plastic spinal brace, designed at the institute, provides for controlled motions in all planes. By its ability to wind and unwind, this tough, flexible plastic brace adapts to transverse rotation, as well as to motions in the frontal and sagittal planes. It is indicated for patients who lack motor power in the ankle-foot complex. Some advantages of the brace are immediately obvious: It weighs 6½ oz. It is not permanently attached to any one shoe, so patients can wear it with different shoes.

Summing up his career to date, Dr. Rusk says good-humoredly: "I started out as an honest internist, and now I'm regarded as part family doctor, part Billy Graham, and part Lydia Pinkham." Whatever else all of these interesting characters may have in common with Dr. Rusk, one obvious similarity is their knowledge of human psychology. All of them know what makes people tick.

Invariably, the basic problem with any amputee, or with any person needing physical rehabilitation, is getting him to accept his disability: This point came up again and again at several workshops at last month's American Academy of Orthopaedic Surgeons meeting. Without this acceptance, no prosthesis, no matter how ingenious, is likely

to be beneficial. But this acceptance can transform even the simplest acts into an exhilarating adventure. Witness the young quadriplegic in the Bronx, to whom the most exciting adventure in the world is being able to order his own hamburger in a modest little cafe on a neighborhood street in the Bronx. To the ambulatory, it's nothing much; to him, it's everything.

AMPUTEE, NOW M.D., TEACHES OTHERS TO SKI

The ways of reaching into a patient's psyche, and tapping hidden sources of strength and endurance that may lie there, are infinitely varied. One young surgeon who knows this from personal experience is Dr. Michael B. Mayor, clinical instructor in orthopedics at Dartmouth Medical School. Now 34, Dr. Mayor was just 17 when his right leg was amputated because of a recurring tumor.

A tall, intense young man, Dr. Mayor vividly recalls the psychological stresses and strains. The hardest problem for his father, a highly intelligent man, was to resist the temptation to seek out "medical miracles" and to accept his son's amputation. And for the son, the hardest problem was to accept the fact that his leg was gone. He had had some months to realize that the amputation was inevitable. Still, he never truly realized what the word amputation meant until after the actual operation.

But Dr. Mayor found the strength necessary to finish high school, college, and medical school, and he was aided by a mechanical artificial leg. Currently, he wears an above-knee, artificial limb with a Gracinger foot and ankle, and a Du Paco hydraulic swing-phase control unit.

In addition to his immediate family, Dr. Mayor found emotional support from an orthopedic surgeon who was a family friend. Consequently, Dr. Mayor functions today in spite of his handicap and, reminiscent of his family's physician and friend, he is anxious to help other amputees to find their way to a new life. Dr. Mayor is hoping to set up a course in the Dartmouth area to teach amputees to ski. Unlikely as it may sound, the young orthopedist taught himself to ski. And when he lived in Cleveland, prior to accepting the appointment in Hanover, N.H., he conducted such a course. Moreover, skiing holds numerous pleasant memories for Dr. Mayor. The exhilarating rush down the slope, the sense of participation and even competition. There is still another nice memory. He met the woman who is now his wife while returning home from a skiing trip.

IMPROVED LAW ENFORCEMENT IN THE TREASURY DEPARTMENT

Mr. HRUSKA. Mr. President, earlier this month Secretary of the Treasury Connally announced a reorganization of some significance in the Treasury Department. He indicated that, effective July 1, the Alcohol, Tobacco, and Firearms Division would be transferred from the Internal Revenue Service to a new bureau directly under the supervision of the Assistant Secretary of the Treasury for Enforcement—at present, Eugene T. Rossides.

Mr. President, this is another example of the continuing effort on the part of the Nixon administration to upgrade and improve the quality of Federal law enforcement. This transfer has been under consideration for some time, and a sufficient period has been allowed for its implementation so that there should be no personnel difficulties or administrative entanglements. It will place some highly significant law enforcement functions closer to the policymaking level, where they will be subject to better coordination and control. I look forward to the completion of this transfer and the benefits to the entire country which will no doubt result from its implementation.

A fact sheet has been prepared by the Treasury Department which describes in some detail the activities which will be involved in this reorganization. Mr. President, I ask unanimous consent that the fact sheet be printed in the RECORD.

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

FACT SHEET

TRANSFER OF THE ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES PROGRAMS WITHIN TREASURY DEPARTMENT

Secretary of the Treasury John B. Connally has directed that the Alcohol, Tobacco and Firearms Division and related support activities be separated from the Internal Revenue Service and established as a new bureau under the supervision of Eugene T. Rossides, Assistant Secretary (Enforcement, Tariff and Trade Affairs and Operations). This transfer is to be effective July 1, 1972.

The Alcohol, Tobacco and Firearms Division is responsible for the administration and enforcement of several statutes concerning alcohol, tobacco, firearms and explosives. For example, the Division:

Collects excise taxes on alcohol and tobacco products;

Regulates and supervises the alcohol and tobacco industries;

Administers consumer related and trade oriented controls on alcoholic beverages;

Investigates violations of alcohol related laws;

Interdicts illicit distilling and bootlegging;

Administers certain controls on the manufacture, import, trade and disposition of firearms and explosives;

Collects transfer, occupational and excise taxes on firearms; and

Investigates violation of the gun and explosives control regulations.

The Alcohol, Tobacco and Firearms Division now employs nearly 4,000 people distributed among the National Office, seven Regional Offices, 42 Branch Offices and 376 local posts of duty. About 1,500 of these employees are concerned with the regulatory and tax collection activities while the other 2,500 are responsible for the related enforcement work. Congress appropriated $72,277,000 for fiscal year 1972 operations of the AFTD. Revenue collections by the Division during 1969, 1970, and 1971 came to $6.7, 6.8, and 7.0 billion, respectively.

This transfer is being undertaken as result of a comprehensive study of the optimum organizational placement within Treasury of the functions of the ATF Division. Placing these functions under the supervision of the Assistant Secretary who also supervises other Treasury law enforcement programs is expected to result in improved coordination and control of enforcement activities, and greater flexibility and effectiveness in the use of enforcement resources, without disturbing the revenue collection and regulatory control activities.

SUNNY ARIZONA

Mr. FANNIN. Mr. President, a wise man once said:

If a guy can't get himself into shape in Arizona, he doesn't deserve to be in the game.

In case you do not recognize the quotation, it came from Oakland baseball player Mike Epstein.

Mr. Epstein's astute observation was published in a very interesting article written by Washington Post staff writer Leonard Shapiro.

It is with some trepidation that I invite the attention of Senators who are in Washington on this cold and windy day to the article.

The temptation is great to fold up our operations here and head for sunny Arizona. I know, however, that Senators can resist this urge since we have so much important business before us in the coming weeks.

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

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

SPRING TRAINING IN ARIZONA TEMPTS THE UNWARY

(By Leonard Shapiro)

PHOENIX, March 21.—When Willie McCovey finally pricked holes in the Great Acupuncture Adventure last week, San Francisco baseball writers were more than a bit embarrassed over their failure to go directly to the source for their information.

They had heard that the Japanese doctor accompanying the visiting Tokyo Lotte Orions had examined McCovey, who has been suffering from bone chips in his hip the last four years.

The next day, written reports appeared, saying that the Giants' slugger actually had undergone acupuncture treatment.

"But he was only considering it," said Cappy Harada, who scouts the Orient for the Giants and had undergone acupuncture himself last week. "Nobody ever asked Stretch McCovey if he had it."

Contacted last week the day after the story broke, McCovey denied he had ever been pierced, adding that no one had been able to tell him the treatment did not hurt.

McCovey was somewhat upset, the writers hastily printed retractions, and the good life here in the Valley of the Sun had claimed a few more complacent victims.

The temptation to shirk responsibilities, particularly when covering baseball spring training, is constant in this area of sun and heat.

One columnist, sipping a drink on the shaded patio overlooking the pool at the motel home of the Giants, boasted that he had been in town two weeks and still had not been to a baseball park.

"It's too easy to catch them (players and coaches) in the lobby or at the pool," he said. "Sooner or later everybody shows up anyway. It's the easist assignment you could ever want."

The Giants, Brewers and Oakland A's are quartered in two hotels directly across the street from each other. The Chicago Cubs stay a few miles down the road in Scottsdale, and the San Diego Padres and Cleveland Indians take two-hour bus rides from their respective spring sites in Yuma and Tucson to play exhibition games here.

The Angels fly in from Palm Springs, Calif., and stay, for a week at a time, in the same hotel as the Giants and Brewers. One day last week, when the Padres decided to remain over night, five teams were quartered in the two hotels.

Players thrive here. No rain has dampened Phoenix since Dec. 29. There has been no visible accumulation of clouds in the past 10 days, and wind is almost nonexistent.

"You couldn't ask for better conditions," said Oakland's Mike Epstein, who had spent the last four springs in Pompano Beach, Fla., with the Washington Senators. "In Florida, you never could tell about rain or the wind. Here you just know you'll be playing every day.

"If a guy can't get himself into shape in

Arizona, he doesn't deserve to be in the game."

Baseball has been coming west since the Giants and Cleveland moved to Arizona in 1947. The hot, dry climate, and more important, lower prices than in inflated Florida, were the main attractions.

Hotels and restaurants are plentiful, and rather reasonable. Accommodations are easily obtained, and the area offers a wide variety of extra-curricular activities—horse racing, dog tracks, theaters—that also have attracted many vacationing baseball fans.

The Giants have a huge San Francisco following, with many of their supporters vacationing here with the team in the spring. Even the Chicago Cubs "bleacher bums" manage to find time and money to head for the desert.

Phoenix seems to have something for everybody, including a malady known as Valley Fever, which should not be visited upon even one's worst enemy. A peculiar stench emanates from nearby stockyards but, fortunately, they do not operate during the day, and not many people go out at night.

Still, the players love it. The Latin Americans may choose from a great many Mexican and Spanish restaurants. Blacks, sometimes targets of subtle and not-so-subtle discrimination along Florida's Gold Coast, have few problems here. Even Jewish ball players have managed to discover a kosher delicatessen in nearby Scottsdale.

"Great lox and bagels," said Epstein, a frequent visitor. "Who could ask for anything more?"

PERSECUTION OF UKRAINIAN INTELLECTUALS BY THE SOVIET GOVERNMENT

Mr. WILLIAMS. Mr. President, in recent months the Soviet Union has relaxed somewhat its previously stringent policies on emigration—by allowing members of the Jewish minority to emigrate to Israel and other countries. The increase in the number of Jews granted emigration permits has been at least partly due to the role of world opinion. The uniform sense of outrage produced by reports of harassment and persecution of the Jewish community and of individual Jews in the Soviet Union led to a great outpouring of statements condemning Soviet policies and placed effective pressure on Moscow to adopt more humane policies.

We should not be deluded into thinking that a slight change in one aspect of the Soviets' treatment of their minorities implies a general liberalization in their attitude toward religious groups or toward what is called the nationalities question. Although official Soviet statements extoll the idyllic state of the "fraternal family of nations" which the U.S.S.R. claims to be, the validity of these pronouncements is belied by constantly increasing reports of persecution, particularly among the intellectuals of the various nationalities.

The dissident intellectuals of the Ukraine provide a typical and tragic example of the treatment meted out by the Soviet Government to those who dare to speak out in favor of human rights and national consciousness and against injustice and oppression of one culture by another. The list of prominent Ukrainian authors, poets, clergymen, students, professionals, and others who are known to have been sentenced to lengthy periods of incarceration and forced labor is a vast one and grows longer by the month. Let me briefly cite but a few of the most well known cases which have received attention, and see what principles their "crimes" have violated.

Archbishop Vasyl Velychkivsky was given a 3-year prison term in 1969 for allegedly committing "ideological sabotage under the cloak of religious functions, in favor of international imperialism." Clearly, his arrest was an example of religious persecution. Previously reported to have died in prison, he was released in poor health and arrived in Rome on February 24 of this year.

During the 1960's literary critic Ivan Dzyuba and journalist Vyacheslav Chornovil both wrote revealing books protesting the Soviet regime's policy of Russification in the Ukraine—through population transfers, neglect and distortion of Ukrainian culture and history, and the arrests and trials of the many intellectuals who opposed these policies. Chornovil, who smuggled out his accounts of the secret trials, was himself sentenced to hard labor for "anti-Soviet actions and slander" and was released in 1969.

Valentyn Moroz, a history lecturer, was sentenced in 1966 to a 4-year term at hard labor. After his release, he was once again put on trial in November 1970. In his writings, Moroz has denounced Russification of the Ukraine and the open violation of common justice in the Soviet Union generally.

In asking for the preservation of Ukrainian traditions and institutions, Moroz spoke in universal terms for the rights of oppressed nations not only within the Soviet Union but throughout the world. During the trial, Vyacheslav Chornovil was called upon to testify but refused to do so on the grounds that it was being held secretly, in violation of Soviet law. Moroz was sentenced to 9 years in prison and 5 years of exile.

In January of this year, Soviet secret police arrested 11 leading Ukrainian intellectuals including Vyacheslav Chornovil, on charges of dissemination of "deliberately false fabrications defaming the Soviet state." Conviction on this charge would carry a maximum sentence of 3 years. Prior to the arrests a series of house searches were carried out by the secret police, including a search of the house of Ivan Dzyuba. It is significant that all of the arrested intellectuals have been in the forefront of the Ukrainian nationalist movement, and it is significant that the arrests and searches tend to concentrate again and again on the same individuals.

What are the crimes that these people have committed? From a reading of their published underground works, it becomes obvious that in no way can they legitimately be accused of being anti-Communist, or even anti-Soviet. They are merely asserting their people's rights as outlined in the Universal Declaration of Human Rights, which was signed and ratified by the U.S.S.R., and in the Soviet Constitution. Article 18 of the declaration says that everyone has the right to freedom of thoughts, conscience and religion; clearly the treatment of Archbishop Velychkivsky was in violation of this most basic of humanitarian principles. Article 19 says that everyone has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

This article was conveniently overlooked in the Soviet Government's policies toward Chronovil, Dzuba, and Moroz. The Soviet Constitution guarantees its citizens freedom of speech, freedom of the press, and freedom of assembly. It is not necessary to point out the dispensability of these freedoms when a Soviet prosecutor chooses to focus on "intents to undermine or subvert" the Soviet regime.

In light of the inhumane policies of the Soviet Government toward these and countless other intellectuals of the Ukraine and of the other Soviet nationalities, I think it is most appropriate for concerned citizens of the United States and of other countries to become actively involved in the struggle to achieve the justice which they deserve and are being denied. If world public opinion were mobilized as it has been in prior instances of flagrant violations of human rights, then perhaps the day will come when the Soviet Union will be able to tolerate the idea of a "fraternal family of nations" coexisting on an equal basis.

INNUENDOES, DISTORTIONS, AND OUTRIGHT LIES

Mr. FANNIN. Mr. President, I must once again protest the continuing innuendoes, distortions, and outright lies which are spewing forth from a columnist named Jack Anderson.

This morning's Washington Post contains another Anderson column and another Anderson lie.

This column states that I delivered a speech prepared by the Republican National Committee in an attempt to discredit him.

Mr. President, the fact is that the speech which I delivered here 1 week ago was not written by the Republican National Committee.

The speech was written in my office, at my direction, under my close supervision, by a member of my staff. If anything, the speech understates the contempt I feel for this journalistic garbageman.

Mr. President, it is obvious that I cannot testify as to all the allegations in the latest Anderson column. I can tell you, however, that the reference to me is totally erroneous and, therefore, I must assume that the rest of the column also is a figment of Mr. Anderson's fertile imagination.

This is not the first time that Mr. Anderson has carried erroneous information about me in his column. I am talking about factual information, not opinions he may have. He is entitled to his opinions, as warped as they may be, but he does have an obligation to get the facts straight.

Mr. President, the Senate has been used as a circus arena for Mr. Anderson's antics. He has made charges and failed

to prove them. The Senate Judiciary Committee has not been presented with any reliable information which should affect in the slightest the recommendation that we confirm the nomination of Richard Kleindienst as Attorney General of the United States.

Mr. President, there has been frequent talk recently about a return to the so-called McCarthy era.

I would suggest that what has happened in the past month or so is McCarthyism in spades.

Jack Anderson is a self-appointed inquisitor.

When he makes his charges, the victim of his allegations is guilty until proved innocent He pleads journalist privilege when it comes to meaningful documentation: he must protect his sources.

The most frightening aspect of this amazing episode is the fact that Members of this Congress are paying any attention to what Anderson writes.

If the charges he makes came from reputable reporters—and there are thousands in this city—then I too would be alarmed by the allegations.

Mr. President, I make this statement simply to correct the misstatement of fact in today's Post and in a attempt to urge that we regain our perspective in this entire matter. I also wish to make it clear that this statement was prepared in my office. This is my statement; these are my deeply felt sentiments. These are the facts as I know them to be.

GEORGE MEANY ON BUSING

Mr. KENNEDY. Mr. President, in a forthright and sadly accurate statement today, AFL–CIO President George Meany analyzed the blatant flaws in the President's message on busing.

Mr. Meany noted that contrary to the impression given to millions of viewers, the President was not recommending a single additional dollar of Federal funding beyond what is already programed in title I and in the emergency school aid bill now in conference.

The AFL–CIO leader also aptly characterized the administration's course as one "that, at the least, is at the margin of constitutionality."

I commend to the attention of my colleagues the comments of Mr. Meany which I ask unanimous consent to have printed in the RECORD.

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

FROM THE AFL–CIO

AFL–CIO President George Meany today made the following statement on President Nixon's busing message to the Congress:

The President's message on busing significantly omits any commitment on the part of his Administration to enforcing the law of the land—quality, integrated education for America's school children.

He does not commit his Administration to the expenditure of one penny in new money to improve the educational opportunities of disadvantaged children. The Elementary and Secondary Education Act—already on the books—authorizes in Title I far greater expenditures than the President is proposing. The Emergency School Aid Act—already passed by both the House and Senate—is the source of the rest of the money the President proposes spending. In fact, the $2.5 billion the President talks about is far short of the authorized spending level in ESEA for the improvement of disadvantaged schools.

Ever since his inauguration, the President has consistently opposed increasing the appropriation for the program designed to improve schools attended by the disadvantaged.

He twice vetoed congressional efforts to increase federal funding of the nation's schools—including tens of millions of dollars for aid to disadvantaged schools. One of these vetoes was carried out in front of a national television audience.

Now the President is back on national television trying to convince the American people that he has changed his opinion on improving the educational opportunities of disadvantaged children. This is political chicanery.

No new legislation is needed to improve educational opportunities for the disadvantaged. An excellent law is already on the books. What is needed and what has been lacking, however, is Presidential leadership to encourage the Congress to increase the appropriations to their full authorized level.

Further, the "busing moratorium" President Nixon proposes is a cynical attempt to reward those who said "never," and to undermine the moral leadership of those citizens who endeavored to comply with the Constitution and the Supreme Court's 1954 decision.

The Administration has chosen a course that, at the least, is at the margin of constitutionality. The real loser in this Nixon-inspired constitutional confrontation will be the integrity of our legal system.

The Administration, while invoking the slogan "law and order," has repeatedly struck at the courts, which, since the time of John Marshall, have been regarded as the ultimate line of defense for constitutional liberty. It now proposes, in the guise of regulating the courts' jurisdiction, to deprive them of the power to enforce the 14th Amendment by busing orders designed to eradicate the last vestiges of the segregated "dual school" system, even where that is the only method sufficient to secure true desegregation. If the 14th Amendment can be deprived of its vitality in this way then none of our constitutional rights is secure.

The harm to the constitution is no less severe because the proposed legislation is of limited duration—to expire five months after the presidential election. For the rights in question are those of individual school children and once lost for any school year cannot be recaptured.

The AFL–CIO remains firm in its commitment to quality, integrated education. We are, therefore, opposed to the President's current political maneuvers on this question.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. STEVENSON). Is there further morning business? If not, morning business is concluded.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS ON THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Chair now lays before the Senate Senate Resolution 280 which the clerk will state.

The assistant legislative clerk read as follows:

S. Res. 280, authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of Article I, section 6, the so-called speech and debate clause of the Constitution.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, it is anticipated that if and when we get through with the pending business, the Senate will then turn to the consideration of Calendar No. 653, S. 3178, a bill to relieve broadcasters of the equal time requirements with respect to candidates for President and Vice President. That very likely will take the rest of the day, and it will be followed on tomorrow by the naval vessel loans bill, the egg bill, and a few other matters of importance which are on the calendar and which are debatable.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

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

The legislative clerk proceeded to call the roll.

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

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

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS ON THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

The Senate continued with the consideration of the resolution (S. Res. 280) authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

Mr. ERVIN. Mr. President, I urge the Senate to adopt this resolution in order to protect the prerogatives of the Senate under article I, section 6, of the Constitution, which says that for anything said in a speech or debate, a Member of Congress shall not be questioned in any other place.

We have had some very illuminating opinions from the Supreme Court on this subject. The case which is now pending before the Supreme Court, and which involves the conduct of the Senator from Alaska (Mr. GRAVEL), presents a point

which has not yet been elucidated by Supreme Court decisions.

We have had two leading cases heretofore decided in the Supreme Court, one of which was the case of Tenney against Brandhove, which the Supreme Court handed down on May 21, 1951, and which is reported in 341 U.S., page 367.

This case involved the question of immunity, under a similar constitutional provision of the State of California, of the action of a legislative committee.

Another case is the case of Dombrowski against Eastland. That decision was handed down on May 1, 1967, and is reported in 385 U.S., at page 82.

In both of those cases there were statements to the effect that the privilege given to a Senator by the speech and debate clause in the Constitution might not be sufficient to exonerate from responsibility and answer elsewhere an aide of the Senator.

I submit that the statements to that effect in those two opinions do not take note of the realities of the situation. All of us who are privileged to serve in the Congress of the United States know that it is absolutely impossible for a Senator or a Representative to do, in person, all the things which he undertakes to do in the execution of his office, and that it requires the assistance of others if he is to perfom even a small fraction of the obligations which devolve upon him.

When the Gravel case was heard in the circuit court of appeals for the first circuit, the court accepted this reality in its decision and held that under the circumstances of that case the immunity which excuse a Senator from answering elsewhere for acts committed by him in the execution of his office is shared by anyone who aids him in the execution of his office.

To my mind, it is highly important that the Senate should intervene in this case as amicus curiae and insist that the Supreme Court recognize this wise ruling made by the Court of Appeals of the First Circuit.

Manifestly, if this rule is not recognized and sustained by the Supreme Court in the appeal, the speech and debate clause of the Constitution will be of mighty little value to a Member of the Congress.

When the Gravel case originated in the District Court of the District of Massachusetts, the Government undertook to subpena and question Dr. Rodberg, who has been found by the Federal courts to have been an aide to Senator GRAVEL, concerning the activity of Senator GRAVEL and the activity of Dr. Rodberg in connection with the use by Senator GRAVEL of the so-called Pentagon papers, in a meeting of the subcommittee of which Senator GRAVEL was chairman.

Personally, I believe that the Senate should file an amicus curiae brief and claim the widest possible scope for this prerogative established by article I, section 6. I think an effort has been made and will be made on the part of the Government in this case to hold that the courts may inquire into the question of whether there was any irregularity in a committee meeting in which a Senator has expressed himself on a question of great public importance. I like to believe that the privilege was intended to grant immunity not only to the Senator, but also to any aide of the Senator in connection with anything which happens within the ambit of the Senate.

We have a very interesting case which was decided by the Court of Appeals for the District of Columbia on June 6, 1930, entitled Cochran against Couzens. This was a suit brought against then Senator Couzens for remarks made by him on the floor of the Senate. The plaintiff alleged in the suit that the Senator made a speech which had no relevance whatsoever to any matter then pending before the Senate, and that he made that speech on the floor of the Senate for the purpose of slandering the plaintiff, and that therefore Senator Couzens' conduct was not covered by the speech or debate clause.

The court of appeals in that case had this to say—and I think that this is something of the greatest significance:

> It is manifest that the framers of the Constitution were of the view that it would best serve the interests of all the people if Members of the House and Senate were permitted unlimited freedom in speeches or debates. The provision to that end is, therefore, grounded on public policy, and should be liberally construed. Presumably legislators will be restrained in the exercise of such a privilege by the responsibilities of their office. Moreover, in the event of their failure in that regard, they will be subject to discipline by their colleagues.

The court cited on that last point—that is, that Senators or Representatives who fail to restrain themselves as they should would be subject to discipline by their colleagues—article I, section 5 of the Constitution, which gives each House the power to discipline one of its Members for disorderly conduct.

I respectfully submit that the Senate has the power, under article I, section 5, to discipline a Senator for conduct which, in the eyes of the Senate, constitutes disorderly conduct. In other words, a Senator can be called upon by his colleagues to answer for his conduct and be questioned as to his conduct by his colleagues. But he cannot, I submit, under any possible interpretation of the speech or debate clause of the Constitution, be questioned elsewhere for his conduct in the execution of his office as Senator. To my mind, it is inconceivable that the speech or debate clause of the Constitution gives the executive branch of the Government or the judicial branch of the Government the power to make inquiry as to whether or not a meeting in which the Senator participated was regularly called in accordance with the rules of the Senate, or whether or not the Senator abused the rules of conduct which the Senate has the right to establish for its Members. If any such conclusion as that should be held, the speech or debate clause of article I, section 6 of the Constitution would be absolutely worthless.

Furthermore, I cannot conceive that the executive branch of the Government or the judicial branch of the Government can inquire as to whether or not the Senator's conduct was germane to some question then pending before the Senate, or germane or relevant to some question pending before a committee of the Senate. That is precisely the way I interpret the very vital opinion in the Couzens case, because here the allegation was that Senator Couzens was not acting in an official capacity, that his speech had no relevancy to any matter pending before the Senate, and that he made his speech for the purpose of slandering the plaintiff.

The court held that Senator Couzens was not liable, despite these allegations, because it said that the matter was governed by the averment of the complaint that the words which the plaintiff alleged to be slanderous were uttered in the course of a speech on the Senate floor.

This privilege is not confined to what happens on the Senate floor. We draw the necessity and some information about the scope of the privilege from the precedents of England. During the days of Queen Elizabeth, members of the House of Lords and members of the House of Commons were sometimes prosecuted by the Crown in the courts of England for seditious libel, based upon the allegation that the speeches they made in the House of Lords or in the House of Commons were punishable as seditious libels.

So this prerogative of Members of Congress secured to them by article I, section 6 of the Constitution, grew out of what transpired in respect of the Englishmen serving in the House of Lords or the House of Commons.

So in the Couzens case the court quotes with approval the opinion of Lord Denman in *Stockdale* v. *Hansard*, 9 Ad. and E. 1, as follows:

> The privilege of having their debates unquestioned, though denied when the members began to speak their minds freely in the time of Queen Elizabeth, and punished in its exercise both by that princess and her two successors, was soon clearly perceived to be indispensable and universally acknowledged. By consequence, whatever is done within the walls of either assembly must pass without question in any other place. . . .

I venture the assertion that the words "any other place" which appear in the Constitution were borrowed by the drafters of the Constitution from the Stockdale decision.

If the privilege created by article I, section 6, is to be of any value to a Senator, it must not only cover what he says on the floor of the Senate or what he does on the floor of the Senate but also must cover anything which he does within the ambit of the Senate—that is, within the walls of the Senate, within the walls of any committee meeting.

This is what I conceive to be the result of the opinion of the Supreme Court in the case of Tenney against Brandhove. This case expressly holds that it covers whatever is done in committee. It also says that they cannot inquire into the motives of this Senator. In that case, the opinion was written by Mr. Justice Frankfurter, who quoted with approval the statements of Chief Justice Parsons in the very famous case of *Coffin* against *Coffin* (4 Mass. 1, 27), which was decided in 1808, and which involved a provision

of the constitution of the Commonwealth of Massachusetts similar to article I, section 6. I read from the Coffin opinion as it was quoted by Justice Frankfurter:

These privileges are thus secured, not with the intention of protecting the members against prosecutions for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal. I therefore think that the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate; but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature, and in the execution of the office; and I would define the article as securing to every member exemption from prosecution, for every thing said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules.

I think it would be wise for the Senate, as an institution, to intervene in the Gravel case and to assert that the privilege certainly extends as far as set forth by Chief Justice Parsons in Coffin against Coffin.

I should like to call attention to why this is necessary. In the Tenney case, Justice Frankfurter said:

In times of political passion, dishonest or vindictive motives are readily attributed to legislative conduct and as readily believed. Courts are not the place for such controversies. Self-discipline and the voters must be the ultimate reliance for discouraging or correcting such abuses. The courts should not go beyond the narrow confines of determining that a committee's inquiry may fairly be deemed within its province.

I invite the attention of the Senate to this significant statement:

To find that a committee's investigation has exceeded the bounds of legislative power it must be obvious that there was a usurpation of functions exclusively vested in the Judiciary or the Executive.

In concluding this opinion, Justice Frankfurter said:

We conclude only that here the individual defendants and the legislative committee were acting in a field where legislators traditionally have power to act, and that the statute of 1871—

That is, the Civil Rights Act—

Does not create civil liability for such conduct.

I contend that it would be wise for the Senate to join in the intervention in this case and assert that the Senator has this privilege, that the Senator has this privilege regardless of whether his conduct is regular or irregular according to the procedures of the Senate, and that this privilege also extends to any aide who assists the Senator in doing the things which the Senator honestly believes to be within the execution of his office.

Certainly, if anything has become a tradition in the Senate, or if we can cite recent things as traditions, it has been for Senators to stand on the floor of the Senate or to rise in the meetings of the Senate committees and express their views in respect to the war in Southeast Asia. Certainly, that is not a usurpation of any function which is given, in the form of government, to the executive or to the judicial departments.

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

Mr. ERVIN. I yield.

Mr. BROCK. Is the classification of material a function assigned to the legislative branch?

Mr. ERVIN. The Senator has asked a very interesting question.

I think that the executive branch of the Government—this is an expression of my individual opinion, and it is inferentially supported, I think, by the majority of the nine separate opinions which were handed down in the New York Times and the Washington Post cases—has a right to classify material where the classification of that material is necessary to the national security, or where the classification of that material is necessary to protect the Armed Forces of the United States when they are engaged in hostilities with an enemy, or when the classification of that material is necessary to protect from exposure the plans which are contemplated for the operation of the Armed Forces of the United States.

I agree with the validity of the executive privilege, insofar as executive privilege covers the right to withhold from the Congress or the public discussions between members of the executive branch in arriving at the matter of policy. I would seriously question whether there is any basis for any absolute privilege on the part of the executive to classify material or to go beyond the scope of the executive privilege.

Mr. BROCK. Has not Congress given to the executive, by law, the right to classify and declassify information? I would further ask: Is there any law, anywhere, which allows an individual Senator to declassify information?

Mr. ERVIN. Well, the Senator has asked a very broad question. There is a very eminent scholar in the field of free expression, Prof. Thomas Emerson, who says that it is the obligation of the executive branch of the Government to maintain the security of documents that it wishes to withhold, and that when those documents come into the possession of another person, by any means whatsoever, that other person has the right, under the first amendment, to publish it.

Mr. BROCK. I think the Senator misses the point. The Senator quoted a case where Justice Frankfurter said we can only find in this particular situation a condition of culpability when the individual has usurped the function of the executive or judicial branches. I do not think the Senator has addressed himself to the question of whether classification or declassification is a function of the legislative branch and, if it is not, whether or not the action undertaken by the Senator from Alaska was not, in fact, usurpation.

Mr. MATHIAS. Mr. President, if the Senator will yield, I should like to comment very briefly on that. I think he has raised an interesting question and one that really commands the attention of the whole Senate because it involves the responsibility of the whole Senate.

Mr. BROCK. That is correct.

Mr. MATHIAS. I do not think that here we are dealing with the question of whether, if the law is violated, the violator may be a Member of the National Legislature, but I think that what we are dealing with here is who shall call him to task, whether it shall be the legislature itself or whether it shall be, as the Constitution expresses, "at some other place."

Now, whenever the Senate is in session—and the same is true in the House—the desk is open and any Member of the Senate can file a resolution of censure or any other disciplinary action he feels is required under the circumstances. I think that the Senate bears a heavy responsibility for the upright behavior of its own Members. I do not think that we should condone, either by silence or otherwise, things with which we disagree. It is healthy to discuss them. The point here is, as I have expressed it, not that one is excused from the observance of the law by being a Member of the National Legislature, but to whom he shall be responsible for any violations or alleged violations.

Mr. BROCK. I fully agree with that. I think there is a second question, if the Senator from Maryland will permit me to pursue the matter, and that is the question of how far this immunity can extend. In the New York Times case he was given immunity under freedom of the press. The Senator from Alaska was given immunity under section 1, subsection 6 of the resolution. Then the immunity is extended to a purported member of his staff—to wit, Dr. Rodberg, and then, apparently, the request is made to extend immunity further to the printing operation.

I think at some point it is relevant for the Senate itself and perhaps for the Supreme Court to consider what the absolute limits of immunity are. I do not really think that matter has been adequately debated in this body. Do we have the right as Senators to anoint those on whom we want to confer immunity? Is this simply the principle as indicated by some?

Let me pose to the Senator from Maryland another question, if I may. What if a friend or member of a staff of a Congressman—House or Senate—went into another Member's office and stole private documents and, on the basis of those documents, he prepared a speech for that particular Congressman, a political speech, which could be used in a campaign against that person who was offended?

I assume that under the rules being proposed, both the Senator and his staff member would be fully exempted from the operation of the law, unless the Senate or the House took action against him personally. But what action could be levied against the staff member for theft?

Mr. MATHIAS. Let me first of all say that I am sure the Senator from Tennessee agrees fully on this, that we would hope, if such a hypothetical circumstance should actually occur——

The PRESIDING OFFICER (Mr.

GAMBRELL). The time of the Senator from North Carolina has expired. Who yields time?

Mr. BROCK. Mr. President, will the Senator from Ohio permit the Senator from Maryland to answer?

Mr. SAXBE. I yield 2 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 2 minutes.

Mr. MATHIAS. If this hypothetical fact situation should occur—and I would hope that the good sense of the people who elected us would in itself be a sufficient guarantee that that kind of thing would never happen—but if it did, I would expect that the Senate would rise up in righteous wrath and strike down any Member who would condone that kind of activity, on his own part, or on the part of anyone else who stood in a confidential relationship with him.

Mr. BROCK. So would I.

Mr. MATHIAS. And so face a disciplinary tribunal of the Senate itself.

Mr. BROCK. What if the man who did it was a friend of the Senator's and he did not tell him that the documents were, in fact, stolen, and the speech was delivered in all honor and good conscience? Who prosecutes the friend?

Mr. MATHIAS. The part on which Mr. Justice Rehnquist expounded to the Subcommittee on Separation of Powers, clearly indicates that it has to be someone who is within the realm of being an adviser, someone who stands in a confidential relationship. I do not think that some volunteer who goes out without instructions and does not stand in a confidential relationship with respect to this transaction, but goes out, as they say in law school, on a frolic of his own and commits a crime, is within the protection that we are talking about here.

Mr. BROCK. That is the concern I have. The point I make is that the Senator from North Carolina has asked the Senate to file a brief presenting the most liberal possible presentation of the Constitution in this matter. I am deeply disturbed with the kind of case I have mentioned which would extend the prerogatives and privileges of an individual who happens to be an occasional adviser and personal friend and who had, in fact, committed a crime.

I think that there must be a more severe limit upon the constitutional privilege, so important to the freedom of debate in this body. The rights of the people are terribly important, too. I do not think the Constitution itself was ever intended to extend to that degree.

I am very conscious about how this privilege is presented and with what it concerns. It is a matter of great personal concern to me.

Mr. GOLDWATER. I do not want the Gravel resolution to pass or fail to pass without making known my basic feelings about the whole matter. I do not think we are on the right track when we appeal to the Supreme Court relative to the freedom of debate. The real problem has been the abuse of classified material. I imagine that every Senator has been cleared by the FBI for secret and top secret matters, and I have always thought that every Senator understood the nature of these papers. We can question the validity of a particular classification but the fact remains that if it is classified, it should not be discussed with anyone unless that other person is also cleared for the same level of classification. This to me, is the root of the Senator GRAVEL problem, and I will say here I dislike bringing his name into it but he is a Senator who made public papers called "The Pentagon Papers" which carried high classification at that time. This is not only a problem that has been brought up by the Senator's action, but we have seen a man named Ellsberg do the same thing, and we see a columnist named Anderson engaged in this practice almost daily. The question then comes down to this: How long will the Government tolerate these abuses? How long will it be before someone is placed before a court to test the laws which prohibit the divulging of classified material? The major point to my mind in this resolution is that portion which calls for the payment of all court costs, printing, and so forth. I will have a difficult time explaining to Arizona taxpayers why the costs involved in a case brought on himself by a Senator from another State should be borne in part by Arizona taxpayers. The language of the resolution is practically limitless and having experienced court costs quite recently, I know we are talking about something in six figures and if it becomes known that the Government is going to pay these costs, it could well go higher. I sincerely hope this resolution is defeated and then if the Senate is truly concerned about preserving its right to debate, I would suggest that a wiser, more sensible approach be made to it. To me, this is a very high priced can of whitewash.

AMENDMENT NO. 1080

Mr. SAXBE. Mr. President, I call up my amendment No. 1080.

The PRESIDING OFFICER (Mr. GAMBRELL). The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 2 strike lines numbered 6 through 12 and insert the following:

Resolved, That any expenses incurred pursuant to these resolutions in the above-mentioned litigation in the Supreme Court shall not be paid from the contingent fund of the Senate or any other public moneys.

Mr. SAXBE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SAXBE. Mr. President, I think that we have heard a very learned discussion here this morning about issues on which we generally agree, issues that have to do with the immunities of the Senate, traditional immunities that go back to the very birth of democracy when parliaments and legislative bodies first assumed authority.

I might say they assumed that authority after a great struggle, because the monarchs of the time were extremely reluctant to give up the power which they then exerted over the judicial as well as the legislative. This is why it is so jealously guarded.

Mr. President, I listened with interest to a whole string of cases which point out that this immunity had been fought over through the years. And we have a great precedent. However, I think that when we come down to the real nitty-gritty, what we are talking about this morning is dollars. And we are talking about assuming a cloak of responsibility in something that we do not want any part of. The minority are refusing to fund expenses that in any way can support the actions of the Senator from Alaska. They do not want to be included even by reference in these actions.

We feel that we can provide an adequate amicus brief to the Supreme Court of the United States. We have agreed to do so and are now preparing such a brief at no cost to the taxpayers.

What we are coming down to here and what the amendment I have offered would take care of is the nitty gritty of the matter: Who is going to pay the expenses of the Senator from Alaska in hiring lawyers to try to defend himself from an action which was wrong. We have discussed the fact that the Senate should adopt legislation, carefully washing its hands of what the Senator did, taking out any reference to his action, involving even his brief and record, over which we want no control.

We say as a minority that we will file a brief, and we will file a good brief. We will let the Supreme Court know what the precedents are. We will represent this situation. And what it is shaping up to be is that the Democratic majority, because they have in effect rallied to the support of a Senator who did something wrong, are attempting to bail him out. They will pay for the attorney's fees and pay the cost of prosecuting this action through the courts and the costs of hiring downtown lawyers who will prepare the brief.

We want this clearly delineated at this point. We, the minority, agree that a brief should be filed. But we think that the people who make the laws can defend those laws and can defend the action of the body of which we are a part.

We can do this without cost to the taxpayer and are willing to sacrifice our time, if necessary, to put together an adequate brief.

It was brought out in the discussion yesterday that laid the groundwork for this that there is no idea of what this fee will be. The fee can be set at any amount. There is no limit. There is no idea of what the total costs are going to be, whom they are going to hire, or how much they will pay. It is as open-ended as it can be. It is something that no legislative body, I believe, should adopt.

So what I foresee here today is that the Democrats with their votes, although very likely they may not like what he did, will nevertheless say: "He is one of ours. We will protect him. We will give him a color of responsibility in his disclosure of these secrets of our Government."

The Republicans say: "We do not want any part of it. We will vote against it. We will prepare our own brief. We will go our own way."

I think that the people of this country when they see that public funds have been expended and see the protection that is extended, will rise up and in no

uncertain terms will let the people and will let the Members of this body know that they consider it to be beyond the scope of his activity.

That is our attitude, and that is why I think this amendment, on which the yeas and nays have been ordered, sets out the first ground that we have to establish, that we are not going to extend the credit of this body for a Member with whom we do not agree and who we think did a wrong thing. We believe that we can offer our own brief and offer a good one.

Mr. DOMINICK. Mr. President, will the Senator from Ohio yield?

Mr. SAXBE. I yield.

Mr. DOMINICK. Mr. President, I rise to support the amendment and support it with great conviction. For the life of me, I cannot understand why the Senate as a body should take the position that it is going to spend its money on legal fees and filing expenses in a case in which an individual Senator has voluntarily intervened in a case in which his own brief goes much further than I would think 90 percent of the Senators of this body would agree to. This case arises out of a blatant disregard for the classification of documents by the executive department and, in the process of doing this, not only disregards it but in fact violates the very laws which we have on the books to protect classified documents.

To ask the taxpayers of this country now to pay the costs of defending actions of this kind, seems to me to go far beyond anything that has ever been suggested in the Senate previously.

I gather that what the Senator's amendment does is to strike out not only the payment of the legal fees and expenses of the Senator from Alaska, but also says that we are not going to pay out of the contingent fund—namely public moneys—any of our own fees or expenses for any intervention by the Senate itself. Is that correct?

Mr. SAXBE. The Senator is correct.

Mr. DOMINICK. Mr. President, it is estimated, I would presume, that we have enough capable lawyers, such as the Senator from Ohio and the Senator from North Carolina, to file a brief which would be agreeable to the rest of the Senate and that the cost of filing of the brief and the printing fees would then be taken care of by voluntary subscription from Members of the Senate and other persons who might want to contribute funds for that purpose.

This gets away from using public tax funds for this purpose. It seems to me that this amendment goes to the heart of what we were discussing at some length last night and what has in fact been described this morning in connection with the colloquy between the Senator from Maryland and the Senator from Tennessee because this gives us some control over our own brief. It gives us some degree of control over how far we want to go in this brief, and it does not impose upon the overburdened taxpayers of this country an additional burden of taking on expenses which they, I am sure, do not want to take on either for the Senator from Alaska or for the protection of the Senate itself.

I want to say in the process of this debate that there are grave problems in the credibility of people in high office these days, be they in the Senate, in the House, or even in the executive branch of government. One finds this wherever he goes in this country. If the Senate should, as a result of our actions here, spend public tax funds on issues which the taxpayer himself feels should not be dealt with, we are further reducing the credibility of this body to be effective in a legislative way as well as in protecting the interests of the people of this country.

Mr. President, you know and I know that we are going to be accused of spending tax money for the purpose of protecting our own membership. Whether it is right or wrong makes no difference. This is going to be the attitude of almost anyone who is not a lawyer or a Member of the Senate. It is an attitude that I am sure will be taken in the public media. As I intended to point out last night, already there has been an editorial in the Scripps-Howard newspapers, in the Washington Daily News, at any rate, stating we should not take any action whatever in paying any fees or expenses of the Senator from Alaska. I certainly subscribe to that wholeheartedly, but I go further. I am not sure we should pay any of the expenses of the Senate in trying to preserve our own immunity in filing our brief before the Supreme Court. We have enough people in this body who are sufficiently concerned and who, I might add, are being paid out of public tax funds already at a fairly high level, that we could do something about the payment of necessary printing fees and court costs on our own without further burdening the taxpayers.

So I rise in wholehearted support of the amendment and I sincerely hope that it will be adopted. I wish that more Senators were in the Chamber so they might be influenced by this discussion. I know how busy everyone is but I think this is a matter of real principle. I wish we could get the membership here so they would be able to listen to the debate.

I thank the Senator from Ohio for yielding.

Mr. SAXBE. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I am in complete agreement with the remarks of the Senator from Ohio and the Senator from Colorado. My only disagreement with the proposed amendment, which I will vote for, is that it does not go far enough.

Mr. President, I am not a lawyer; I can only speak as a layman interested in the processes of the Senate. I do not see this particular case as a trial over whether or not we have immunity in debate and statements on the floor of the Senate. I think it is a case of whether or not it is proper for a U.S. Senator to divulge classified material. This, I think, should have been determined by the Senate when the case first occurred. I so said on the floor of the Senate.

We are seeing in this country today the divulging of classified papers by a Dr. Ellsberg, by a columnist named Anderson, and the divulging of these papers by a U.S. Senator.

I think most of us are cleared for secret and top secret by the FBI and other agencies, and I think every Member of Congress understands it is against the law to divulge these classified materials.

I respect this so highly that I have adopted a policy of not keeping secret papers in my office safe any more. I am afraid of what might happen to them. Here at a time in our Nation's history when we are being attacked not only from without but more so from within, I think it is more important than ever that we maintain the classification prerogatives which have been granted to us by the executive branch of Government. We can argue whether or not these classifications are proper—I happen to think we are overclassifying—but nevertheless when a Member of this Congress sees a paper marked confidential, secret, top secret, or for your eyes only, I think it is highly improper and illegal for any Member to divulge this source in any way and at any time. I feel so strongly on this that I have been trying to find ways to bring suit against the newspaperman I have mentioned for his divulging of secret papers and for continuing to do that. Unfortunately, I find there is no way a civilian can do this; it has to be carried out by the U.S. Government; and I am urging the proper authorities to do this.

We are risking the future of our country, we are risking our defense plans, we are risking the future of our defense thinking, and we are risking the future of our foreign policy thinking when we allow anybody to see classified papers.

I would hope, although it is a late date, and with no disrespect to the Senator from Alaska, that we can look into this matter as the U.S. Senate, as suggested at that time and turned down by the leadership on both sides, to determine the propriety of the actions. I think this is what should be determined. I do not think there is any question about our right of freedom of discussion, but I do maintain there is a matter of propriety in the use of materials and papers that come to us in a highly classified way.

I agree wholeheartedly with the amendment. I do not think we should pay one dime, one cent of taxpayer money in the defense of any Senator at any time. I would be perfectly willing to paritcipate in a fund to provide printing costs. I understand they are relatively low. But I think we would be taking an action here that would be highly improper and distasteful.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator's time has expired. Who yields time?

Mr. SAXBE. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

Mr. ERVIN. Mr. President, I ask unanimous consent that the quorum call be had without the time being charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN. 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 send to the desk an amendment in the nature of a substitute for amendment 1080. Since I have written it out in my own handwriting, and my handwriting is extremely difficult to read——

The PRESIDING OFFICER. The Senator's amendment would not be in order until he has yielded back his time on the pending amendment.

Mr. ERVIN. I thank the Chair. I have some thoughts on the pending amendment.

I oppose the amendment offered by the distinguished Senator from Ohio. I personally think that the Senate should authorize at least the costs incurred in preparing and filing an amicus curiae brief. The amendment offered by the distingiushed Senator from Ohio would preclude even the payment of this item of expense, because it would exclude the payment of any item of expense incurred or to be incurred by the Senator from Alaska as a party to the proceeding in the Supreme Court, and it would also preclude the payment of any cost of expense incurred by the subcommittee in the filing of an amicus curiae brief.

I think it is a proper part of a diligent defense for the Senate to pay the expenses incurred by a Senate committee. I just do not believe that private individuals should defray the costs of the filing of an amicus curiae brief for the Senate.

I agree with the distinguished Senator from Ohio that other Members of the Senate are capable of filing a brief in this case. I would number among those the distinguished Senator from Ohio, who has had a most distinguished career as attorney general of his own State.

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

Mr. ERVIN. I yield.

Mr. SAXBE. I thank the Senator for the fine compliment.

To avoid getting into an involved parliamentary situation here, in an area where I think that we can present this issue rather rapidly, if we yield back our time on the pending amendment and then the Senator offers a substitute, it would mean, then, that if I wanted to strike that part of the Senator's amendment dealing with the filing fees and the printing fees, it would be in the third degree and would not be proper. I have here an unedited transcript of a discussion we had this morning in that regard.

Would it not be true that if I were to ask unanimous consent to withdraw my amendment without prejudice, and then the Senator offered his substitute, then I would be in the first degree were I to offer an amendment to strike?

Mr. ERVIN. That would simplify the procedure very much.

Mr. SAXBE. Mr. President, I ask unanimous consent that the amendment which is before the Senate, on which the yeas and nays have been ordered, be withdrawn without prejudice at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 2676) to provide for the control of sickle cell anemia, with amendments, in which it requested the concurrence of the Senate.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 208) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The PRESIDENT pro tempore subsequently signed the enrolled joint resolution.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS OF THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

The Senate continued with the consideration of the resolution (S. Res. 280) authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

Mr. ERVIN. Mr. President, I send to the desk a substitute resolution.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read the substitute resolution, with its preamble, as follows:

Substitute resolution replacing S. Res. 280.

Authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

Whereas the Supreme Court of the United States on Tuesday, February 22, 1972, issued writs of certiorari in the case of Gravel against United States; and

Whereas this case involves the activities of the junior Senator from Alaska, Mr. Gravel; and

Whereas in deciding this case the Supreme Court will consider the scope and meaning of the protection provided to Members of Congress by article 1, section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" clause, including the application of this provis.on to Senators, their aides, assistants, and associates, and the types of activity protected; and

Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas a decision in this case may impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Resolved, That the President pro tempore of the Senate is hereby authorized to appoint a bipartisan committee of Senators to seek permission to appear as amicus curiae before the Supreme Court and to file a brief on behalf of the United States Senate; and be it further

Resolved, That the members of this bipartisan committee shall be charged with the responsibility to establish limited legal fees for services rendered by outside counsel to the committee, to be paid by the Senate pursuant to these resolutions; and be it further

Resolved, That any expenses incurred by the Committee pursuant to these resolutions including the expense incurred by the Junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall be paid from the contingent fund of the Senate on vouchers authorized and signed by the President pro tempore of the Senate and approved by the Committee on Rules and Administration; be it further

Resolved, That these resolutions do not express any judgment of the action that precipitated these proceedings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of these resolutions to the Supreme Court.

Mr. ERVIN. Mr. President, the Senator from North Carolina has been informed that under the rules of the Senate, a substitute changing the preamble to the resolution is not in order at this time. For that reason, I ask that the preamble as stated in the proposed substitute be withdrawn.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The Senator will state it.

Mr. DOMINICK. It is my understanding that this is offered as a substitute for the resolution which was originally before us and as such would be considered as a whole.

The PRESIDING OFFICER. The Chair will state that this is a substitute for the whole resolution but that the amendment to the preamble would not be in order at this time.

Mr. DOMINICK. Is it the ruling of the Chair that all we were considering in this are resolving clauses, even though the entire amendment is before us?

The PRESIDING OFFICER. The Senator from North Carolina is offering a complete substitute for the resolving clauses of the resolution.

Mr. MATHIAS. Mr. President, reserving the right to object, I ask the Senator from North Carolina whether it is his intention, at a proper time in these proceedings, to offer the substitute for the preamble.

Mr. ERVIN. Yes.

In other words, as I understand the rules of the Senate, it would be improper at this time to attempt to change the preamble to the resolution, but if the resolution is adopted in its present form or in an amended form, then it would be entirely in order to amend the preamble itself; and the Senator from North Carolina will certainly offer an amendment to that effect at the proper time.

Mr. MATHIAS. I rest on the Senator's assurance.

(At this point Mr. GOLDWATER assumed the Chair.)

Mr. ERVIN. Mr. President, I think the crucial question presented by the original resolution and by the proposed substitute for the original resolution is whether the Senate, as an institution, should file an amicus curiae brief in its own behalf.

The Senator from North Carolina rec-

ognizes that the distinguished Senator from Alaska has incurred counsel fees in the U.S. district court, has incurred counsel fees in the U.S. Court of Appeals for the First Circuit, and has incurred various expenses in connection with the litigation in those two courts. While the Senator from North Carolina would be glad to support a resolution of the Senate to reimburse the distinguished Senator from Alaska for reasonable counsel fees and expenses incurred in this litigation, the Senator from North Carolina believes that that question should not be combined with the question of whether or not there should be reimbursement for past counsel fees or reimbursement for future counsel fees incurred by the Senator from Alaska. To my mind, that question, while of great importance to the Senator from Alaska, is of secondary importance to the Senate.

The changes in the original resolution which were made by the substitute can be stated to be three in number.

In the first place, the substitute strikes out the word "legislative" before the word "activities," in referring to the activities of the Senator from Alaska which gave rise to the case now pending in the Supreme Court. There is some objection by some Senators to the use of the word "legislative," on the ground that the event which gave rise to the litigation was not strictly legislative. I think that question is immaterial for present purposes, because what is material is the activities involved and whether or not they were within the scope of the speech and debate clause of the Constitution. So that is an amendment to which I think no one can reasonably object.

Second, there is a provision in the substitute which puts in a restriction which I think prudence requires to be placed in the resolution, authorizing the expenditure of money for any purpose under the resolution, and that is that those expenses shall be subject to the determination of the Senate or the rules of the Senate and not result in haggling between outside parties and the Members of the Senate or the Committee on Rules and Administration.

The most crucial change that is made by the substitute is this: The original resolution provided, in substance, that the expenses of the Senator from Alaska for counsel fees and other expenses in presenting his case to the court should be paid out of the contingent funds of the Senate. This provision has provoked a considerable difference of opinion in the Senate, and it poses a danger with respect to the crucial question—that is, whether the Senate, as an institution, shall intervene in the case in order to establish the prerogatives of Senators—and is combined with a matter which is alien to that.

So the Senator from North Carolina believes that the Senate should pay out of the contingent funds of the Senate the cost of printing the briefs and the cost of printing the records devolving upon the Senator from Alaska in order that the question might be presented by him. This expense would be comparatively small, and the substitute resolution would provide for the payment of that expense—merely the expense to be incurred or which has been incurred thus far by the Senator from Alaska solely in printing records and briefs for the Supreme Court.

That, in effect, is the sum total of the changes made by the substitute amendment.

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

Mr. ERVIN. I yield.

Mr. DOLE. I am wondering whether there is any precedent either for paying or for not paying such fees, whether they be printing fees or attorney's fees. Has another Senator been involved before in a similar situation?

Mr. ERVIN. Yes; there is precedent.

Some months ago, all the members of the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations were sued in the U.S. district court by a man——

Mr. DOLE. I understand. As the Senator has said, two questions are involved—first, the Senate as an institution; second, a Senator as an individual and his conduct.

I understand that the attorneys' fees are paid in cases involving the Senate as an institution. But I do not see the point when considering individuals acting on their own behalf.

For example, did Senator Joseph McCarthy have legal fees that were picked up by the Senate?

Mr. ERVIN. Senator McCarthy refused. It was proposed at the time of the censure proceedings against Senator McCarthy that the Senate should pay fees for the counsel, who was Edward Bennett Williams, who appeared on behalf of Senator Joe McCarthy at the hearing before the Watkins committee of which I happened to be a member. Senator McCarthy said that he did not desire to have those fees paid by the Senate. Edward Bennett Williams, his counsel, said that he did not desire to have the fees paid by the Senate. That was done in that case. But the case I started to mention is the one where I was sued for $50,000, which I did not have, as well as other members of the Permanent Subcommittee on Investigations. The obtaining of counsel and the payment of counsel fees were authorized by the Senate notwithstanding the fact that the case has never yet come to trial, and I trust that it never will come to trial.

I think of the case where Senator JAMES EASTLAND of Mississippi, as chairman of the Internal Security Subcommittee of the Committee on the Judiciary, and Mr. Sourwine, chief counsel of the Subcommittee on Internal Security of the Committee on the Judiciary, were sued for actions taken by Mr. Sourwine, as the Senator's counsel. In that case, the Senate paid the fees of counsel for both parties.

Mr. DOLE. There, the suit was brought against a group of Senators, but here the Senator from Alaska voluntarily intervened. That may make no difference. I am not certain which is why I am asking the distinguished Senator from North Carolina. But, I do see some difference. The McCarthy case is the only one I recall which involved the issue of revelation of classified information by a Senator. There were probably others prior to that time. We must also keep in mind that the Public Works Committee, which is a part of the Senate and has certain jurisdiction, met and did not agree to pay any transcript costs. Thus, I wonder why the full Senate would agree to pay any other costs of an individual Senator.

Mr. ERVIN. Well, of course, that is a question for the full Senate. I can see why there might be differences of opinion on that point. The Senator from North Carolina believes, however, that this is a justifiable expense the Senate might well incur; and so the Senator from North Carolina offers this substitute with the provision that the Senate pay out of its contingent fund the cost of the printing of the records and the briefs, but no other costs incurred by the junior Senator from Alaska.

Mr. DOLE. I assume it will be, but recently it has been discussed in our conference, and perhaps individual Senators might want to intervene in this case. Will this cover those? Will it pay for preparing their records and briefs?

Mr. ERVIN. No; I doubt seriously whether the Supreme Court would entertain a petition for intervention of amicus curiae on behalf of an individual Senator. Usually, that is restricted to organizations. This would cover only two items. It would cover the items incurred for all purposes by the bipartisan committee in connection with the filing of an amicus curiae brief on behalf of the Senate as an institution, and it would cover, in addition to that, only expenses incurred by the Senator from Alaska in the printing of the records and the briefs in the Supreme Court.

Mr. DOLE. But any other Senator——

Mr. ERVIN. I might add, and it is right interesting in this connection, that this case has three sides to it: the Senate side, the side of the Senator from Alaska, and the side of the Government.

Certainly, printing the briefs and the records of the Senate should be paid for by the taxpayers. The printing of the records and the briefs of the Department of Justice will be paid for by the taxpayers; so that I think as a matter of equity, to make certain that the Senator from Alaska can present his case in printed form, the taxpayers should also pay for the cost of printing his records and briefs as incurred by him.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. MANSFIELD. Mr. President, it appears to me that we are getting away from the main subject; namely, the integrity and the protection of the Senate, and that we are concentrating our fire erroneously on the merits of a case including an individual Senator, a Senator who happens to be a Member of this body in good standing. I might say that in my judgment this Senator had the right to do what he did when he did it, when he took the floor of the Senate on that night some months ago. This Senator also has incurred a great deal in the way of expense since that time. This Senator has, regardless of our personal

feelings, been carrying on primarily not his fight but our fight.

No matter which individual Senators were involved, I would take the same position. I would, therefore, hope that we would not become so undignified in this body as to quibble over an amount which probably will not exceed $500 or $600. I think it is undignified for this institution to act in this manner. But even more importantly, I would hope we would recognize the larger issue—the only issue—that is here at stake.

If we want to find fault with a Senator—his name is hardly mentioned except that he is from Alaska—then the Senate should take what it considers the necessary action. But the Senate should do it on its own, apart from what the executive branch is trying to do—and I think that branch is entirely without the scope of its constitutional authority and responsibility—and what the judicial branch may do; and what those two branches of Government, together, may be able to accomplish unless challenged properly, amounts to a degradation of the Senate and constitutes waiver of our immunity.

As the distinguished Senator from North Carolina has said, this goes back to the days of the English kings. Mr. President, if you have not got immunity within these four walls, or in undertaking tasks in connection with these four walls, then you are losing the right to speak freely in this body.

That is the big issue.

If we want to "get" the Senator, then bring it out in the open and get him.

If we want to protect this institution, the Senate, I think we had better think twice and act together, because the Senator is not on trial. Basically, the Senate is on trial.

Mr. SAXBE. Mr. President——

The PRESIDING OFFICER. (Mr. BENTSEN). The Senator from North Carolina has the floor.

Mr. ERVIN. Mr. President, I want to say that I concur fully with what the distinguished majority leader has just said. I think that this question of classification in the case of the Pentagon Papers is largely beside the point. The Supreme Court has held that the New York Times and the Washington Post which acquired possession of the Pentagon Papers, in some way unknown to the Senator from North Carolina, could not have their rights under the first amendment to print the Pentagon Papers in the daily press restrained by the courts.

I think that is beside the point. There may be involved some argument on the question of law, as to the extent a Senator's counsel can go in the matter, but the important thing here is whether the Senate is sufficiently concerned about an attempt, not to exonerate a Senator, but an attempt to make a Senator answer, in some place other than the Senate, for his actions.

I take the position that if any individual Senator—I do not care much whether he disagrees with me, and I do not care how unpopular his views may be—cannot say what he wants to say at any time, then freedom in this Republic of ours is drawing to an end.

Certainly, on the question of classification or declassification, I can see a lot of controversy, as I have seen some of the most foolish things done in the name of classification that ever happened in this country.

It goes to the principle and the scope and the effect of the speech or debate clause and is of the greatest concern to the Senate. And I think it is justifiable to defray the mere cost of printing the brief and record which may be incurred by the Senator from Alaska in presenting this case to the Court and in making it possible—he and the Government making it possible—for the Senate to intervene.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Ohio is recognized.

Mr. SAXBE. Mr. President, first I want to commend the Senator from North Carolina for introducing a substitute which goes a long way to correct some of the things that we found wrong with the original resolution. He makes it a bipartisan committee. He makes it a committee that can determine and fix the fees for any counsel that this committee needs. This committee will represent the Senate. In other words, we are not turning it over to outside counsel. But they will be empowered to employ counsel.

I think the Senator has gone a long way in recognizing that there are areas here that are repugnant to a great many Members of this body.

Some of the things are still not acceptable. However, in reply to the statement of the Senator from Montana, I point out with reference to his statement that we are isolating a Senator and censoring him, that I can only recall that this incident happened last June and not one step has been taken in the Senate toward any censure. It seems to me that, if we have a case to come before the court and say to the court, "You keep out of our business. We will police our own house," it will be very evident that nothing has been done.

I think, too, that, when the Senator from Montana says that the Senator from Alaska was fighting our fight, the Senator from Alaska was then before a rump session of the Buildings and Grounds Subcommittee in a room at midnight and disclosing classified documents of the U.S. Department of Defense and he is not fighting my fight. Such an idea is repugnant to me.

The very fact that we find ourselves in this situation is in itself a sorry reflection on the behavior of this Member of the Senate.

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

Mr. SAXBE. I yield.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, what I am referring to in my remarks was the court actions which had been undertaken. Although I am not a lawyer, I think I am on good constitutional grounds when I state again that on the basis of the participation of the Senator from Alaska in these court fights he was upholding the interests of the Senate under the Constitution.

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

Mr. SAXBE. Mr. President, I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, like the Senator from Ohio, I want to inject a couple of statements about the statement made by the Senator from Montana. I know how deeply he loves the Senate. I know how deeply we all love the Senate. We may disagree with other Senators back and forth on certain matters, but as Members of this body we cherish what has been going on here for nearly 200 years under the Constitution.

I do not think, as the Senator from Montana said, that we are quibbling over $500. We are not quibbling about that. We are quibbling about a matter of principle. The question raised is whether the Senate and the taxpayers should—because they provide the funds by way of taxes—pay for the brief of the Senator from Alaska who was trying to extend immunity and anoint everyone that he has been in contact with since he has held office. That is not my idea of what the taxpayers or what the Senate of the United States ought to be asked to do. Insofar as secret sessions are concerned, we have had them in this body. They have been held in executive session. The galleries have been cleared and the press galleries have been cleared any time that anyone wanted to reveal any secret or classified information for the benefit of the Senate.

This particular material that was printed in a subcommittee hearing record by the Senator from Alaska was for the express purpose of publicizing classified information. It is exactly the opposite of what we have done in every other case.

I cannot say that we can put this on a par with other cases. Going beyond that and doing my best to be levelheaded and doing no more than expressing my disagreement with what went on, I point out that this substitute is certainly much better than the original measure. However, it does include, as I have said, the very problem over which we started the debate: Is there an obligation on the part of the Senate to try to extend—I should say try to extend by paying the expenses of the Senator from Alaska—the immunity in the words that are within article I, section 6, not only to a Senator and his aide, but also to every associate with whom he has ever dealt?

That is what we will do if we pay for the printing costs and for the costs of the filing of the brief, which has been done by the Senator from Alaska, as I understand it.

It has been said on the floor that this needs to be done because otherwise we do not have a case on behalf of the Senate to get before the Supreme Court. That is not so. We have the Government brief, and we have the petition granted by the Supreme Court.

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

Mr. DOMINICK. I am happy to yield, if that is all right with the Senator from Ohio.

Mr. SAXBE. That is perfectly satisfactory.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, I would like to ask the Senator a question. I sympathize with him. There is a certain amount of rationality to his position. That is beyond dispute. However, I would like to ask him this question: Would we have felt differently if this were not what has been termed a "rump session"?

Mr. DOMINICK. If the Senator from Alaska had classified documents and had them written into the record and distributed them, I think I would have felt the same way.

Mr. PASTORE. Regardless of whether or not it were a legally called session?

Mr. DOMINICK. Yes; I think that does not involve the principle of privilege or the principle of law that the Senator from Alaska tried to establish.

Mr. PASTORE. The principle of law is senatorial immunity.

Mr. DOMINICK. No; that is the difficulty. If I may say so, senatorial immunity has been granted. And it has been granted to Rodberg by both lower courts.

The Senator from Alaska is appealing the decision to say that the immunity should be extended to everybody he has dealt with, whether on his staff or not.

Mr. PASTORE. Provided there is that intimate confidentiality and contact whereby that person in question acts in a certain way to enlighten the Senator so that the Senator can talk for the benefit of the people he represents.

Mr. DOMINICK. Well, the Beacon Press and the Massachusetts Institute of Technology Press, are all considered to be under this blanket. Certainly they are not all intimate confidants of the Senator.

Mr. PASTORE. I think we should draw a line of demarcation here between the jurisdiction of the Senate in deciding the qualifications of its Members and the jurisdiction of the executive branch or the judicial branch to tell us what they tolerate.

The Constitution says merely that the Senate should be the judge of the qualifications of its own Members.

Mr. DOMINICK. The Senator is correct.

Mr. PASTORE. The point is: When we brought up this matter in the Policy Committee—and I mean no disrespect of the Senator from Alaska—the consensus was that we did not agree with what the Senator had done. All were unanimous however that he had a right to do it. As the Senator from North Carolina has said—and I think this is strong language and I hope the Senator does not take offense, because this is not personal but merely an hypothetical illustration—if a Senator wants to make a fool of himself, that is his responsibility. But if he violates the rules of the Senate or if he violates the decorum of this body, that is another matter. The Senator has mentioned censuring on the part of the Senate. But what we are talking about here is this:

If GRAVEL loses his case before the Supreme Court is it really GRAVEL who has lost or have some of us lost in the future when the question of immunity arises? Is it the Senate that has lost? That is the important question and it is what the Senator from Montana is talking about.

We had hoped we could have made this a bipartisan measure; we would have lifted this up from a judgment whether you agree with the Senator or not.

Frankly, I tell the Senator from Alaska while he is here I would not have done what he did. I do not agree with what he did. But in my heart I cannot say he did not have the right to do it. The very prerogatives and the very rights of the Senator are now in question and the big question is: Who passes upon that? Who determines that?

Do we determine it here in the Senate or do we let the court of the executive branch do it? It is as simple as that.

Mr. DOMINICK. Mr. President, I say to the Senator from Rhode Island that I commend the major portion of his speech but I think we have some very difficult questions, some of which were raised by the Senator from Tennessee earlier.

Suppose, for example, the Senator and I both, as we do, serve on the Joint Committee on Atomic Energy and in the process we get highly confidential information. Suppose one of the Senators or one of the House Members, whoever it might be, decides for himself that he is more sensible about these things than anybody who classified them and gets up and makes a speech on the floor. I would say he is not subject to question on this, despite the fact he might have been a fool and might have jeopardized the security of the information. Whatever body is then in charge, whether it be the House or the Senate should take action and do something about it, and do it promptly. That is one case.

But that is not the case facing us here and that is my point. What we are saying here has been decided already by the court. The Senator from Alaska is trying to extend that immunity not just to himself and his aides but all associates who were in any way connected with the publication of the documents which were classified as secret and sensitive when released.

I know the Senator from Rhode Island could not be here yesterday; but at that time, I said that if that is done we are taking on the right of the anointment of anybody in the country by telling them material which is classified and having them repeat what we told them and because we have told them they are immune also. I do not think we can go that far.

That is why I am unwilling to pay printing costs and legal fees for this position in the Supreme Court.

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

Mr. ERVIN. I yield.

Mr. PASTORE. Would the Senator from Colorado question the right of the President to exercise executive privilege in having one of his aids not answer a subpena of Congress?

Mr. DOMINICK. No, I would not.

Mr. PASTORE. Then, why does not that same privilege extend to one of my employees who is operating for my benefit in order that I can execute my job.

Mr. DOMINICK. I think it does, and I hope it does.

Mr. PASTORE. Is that not what this case is all about?

Mr. DOMINICK. No. The question is whether the Senator can anoint anyone not on his staff and make them immune. That is the issue.

Mr. PASTORE. We are trying to interpret the immunity of the Senate and how far it goes as to its Members, and the question here is: How far does it go? I think the Senate should decide that question and not the court.

Mr. DOMINICK. I say to the Senator that I think we are largely in agreement, but having studied this matter very carefully I think we are going far beyond that. I agree with the Senator that we should do whatever is necessary and take whatever disciplinary action is warranted and as the Senate we should do it ourselves.

Mr. SAXBE. Mr. President, I offer an amendment in the nature of a motion to strike.

The PRESIDING OFFICER. The amendment is not in order until time has expired on the amendment.

Mr. ERVIN. Mr. President, I think a most serious question is involved in the Gravel case, a question which concerns the Senate and whether it is going to function in an effective way as a legislative body or an investigating body.

As I construe the appeal of the Gov- the Government has appealed to the Supreme Court. A writ of certiorari has been issued, as the Senator from Colorado said, and that is what gives me pause; that is what makes me feel the Senate as an institution should intervene in the case.

As I interpret the record in this case, the Government challenges a decision of the court of appeals for the first circuit that the speech or debate clause extends to an aide of a Senator. I do not think this Senate could possibly function effectively in the present day, when the Federal Government is concerned and Congress is concerned with multitudinous affairs, if the immunity of the speech and debate clause of the Constitution did not extend to aides. This is so because a Senator could not possibly function for a single day without the assistance of his aides.

It is true, as the Senator from Colorado said, that the U.S. Court of Appeals for the First Circuit has held, and I think for the first time—it is the first holding of this kind I know of—that the immunity given to a Senator, under the speech or debate clause, not to have to be called on to answer for his actions in the execution of his office, extends to his aides. I think it is absolutely essential for the Senate to intervene in that case and assert that point.

We are not trying the Senator from Alaska. It is not a question of whether the Senator from Alaska acted wisely or foolishly when he convened the subcommittee and read part of the Pentagon records into the minutes of that committee.

We had a judge in my town one time who was elected superior court judge. He went out into a strange county and held court. There was an old lawyer there named Colonel McLean. Colonel McLean went in the courthouse and listened to the judge operating and he came out of the court and somebody stopped the colonel and said, "What do you think about the new judge?" The colonel said:

The Constitution gives every man a right to make a damn fool of himself but I think the judge is abusing his constitutional right.

Now, the question of whether a man who is a Member of the Senate is making a damn fool of himself and the question of whether he is abusing his constitutional right to do so is a question which the Constitution reserves exclusively to the Senate and it is a power which the Constitution denies to the court and the executive branch of Government.

The question, as I see it, of whether the committee was regularly convened or irregularly convened is beside the point. I read to the Senate this morning from the opinion of Chief Judge Parsons of the Supreme Judicial Court of Massachusetts, as quoted by Justice Frankfurter in the case of Tenney versus Brandhove.

Chief Judge Parson's statement is quoted with approval by Justice Frankfurter as follows:

I would define the article as securing to every member exemption from prosecution, for every thing said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules.

That is beside the point.

The Constitution of the United States gives the Senate the exclusive power to judge the conduct of a Member of the Senate occurring within the Senate or within a committee or within the scope of his office. It provides, in article I, section 5, that each House may punish its Members for disorderly behavior. That is the provision of the Constitution under which the late Senator Joe McCarthy was censured by the Senate. That is the provision of the Constitution under which the late Senator Dodd was censured by the Senate.

The court of appeals, in the case against Senator Couzens, put its finger squarely on this proposition. We are not trying the Senator from Alaska for disorderly conduct. We are merely determining whether the Senate as an institution should intervene in this action in order to protect its prerogatives as a Senate and the prerogatives of each Senator.

The court said, in the Couzens case:

Presumably legislators will be restrained in the exercise of such a privilege—

That is, the privilege of speaking and taking action—

by the responsibilities of their office.

Then it says:

Moreover, in the event of their failure in that regard, they will be subject to discipline by their colleagues.

As the distinguished Senator from Rhode Island has so well said, the question before us at the present time is not whether the Senator from Alaska acted wisely or foolishly, or whether we approve or disapprove of his conduct. The question before us is whether the constitutional provisions say we are the only ones who can judge a Senator on the basis of his conduct within the four walls of the Senate, or whether that power could be exercised by the executive or the judicial branches.

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

We have a classic case right here at the moment which should be dramatized. We have both the Senator from Ohio and the Senator from Colorado conferring on the floor with their assistants.

Let us assume, by some stretch of the imagination, that the Attorney General was displeased with something suggested by the Senator from Ohio or the Senator from Colorado during the progress of this debate. Could he then justifiably bring before a grand jury the two aides who had been whispering in their ears? Is that not the question? Here they are, and they are sitting here, and they are consulting. It is part of their function as Senators to have advisory employees, and if the principal could not be reached, could the Attorney General, by subterfuge, reach the assistants, bring them before the grand jury, and ask, "What did he say to you and what did you say to him"?

Mr. ERVIN. That is my interpretation of the position of the Government. The Government contends that they could do exactly what the Senator from Rhode Island suggests—that they could subpena the aides to testify not only on what occurs on the floor of the Senate, but what occurs between them in a senatorial office or in a senatorial committee.

I think it is essential for us to sustain the ruling of the court of appeals on this point.

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

The PRESIDING OFFICER. All time of the Senator from North Carolina has expired.

Mr. DOMINICK. Will the Senator yield me 30 seconds or 1 minute?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator may have 1 minute.

The PRESIDING OFFICER. The Senator from Ohio has time, the Chair will point out.

Mr. SAXBE. Mr. President, I yield 1 minute to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I wanted to reply to the Senator from Rhode Island, because I think he brought up a very interesting point. I would say to my colleagues that there is no doubt whatsoever that aides should not be subject to subpena or cross-examined as to anything that happened on the floor. I am not so sure as to whether they might be summoned and questioned about their connections with other people other than their Senator-employer. It is on that point that I believe the Justice Department has taken issue with the court decision toward giving total immunity. Anyhow, it is not the aide situation in this case that the Senator from Alaska is contending for. It is not that. He is already immunized. He is seeking to extend the immunity to people who are not aides, who are so-called associates, who have been contacted outside the burden of any legislative duties.

Mr. SAXBE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has expired or been yielded back.

Mr. SAXBE. Mr. President, I send to the desk an amendment in the nature of a motion to strike.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

On page 3 in the third resolution, after the word "resolutions" strike the following: "including the expense incurred by the junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall" . . .

Mr. SAXBE. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. SAXBE. Mr. President, this amendment goes directly to the disagreement we have on the substitute. I think we can resolve the disagreement and we can accept the substitute as a reasonable compromise between both the minority and the majority in seeing that the Senate is adequately represented by a committee of the Senate, and that this committee would have the services of any attorneys they thought they were required to have to give them further advice.

We questioned whether we could not do all this on our own, but we do come to the conclusion that the part in the original amendment which has to do with the substitute, which has to do with paying the printing expenses of the Senator from Alaska, has been accepted. Therefore, this motion, which I deem is a simple motion, strikes that language, so that it will read that any expenses incurred by the committee pursuant to these resolutions be paid from the contingent fund of the Senate.

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

Mr. SAXBE. I yield.

Mr. DOLE. Mr. President, I support the amendment of the Senator from Ohio, and wanted to comment on the statement made earlier by the Senator from Montana. I do not believe there has been any effort by anyone to embarrass the Senator from Alaska. I serve on the Public Works Committee and I see the chairman is here. I do not believe there has been any effort on the part of that committee to bring any embarrassment to anyone. This was a matter for the leadership to determine, but there is a matter of principle involved, whether we should be represented in the court.

I find it particularly interesting, as a minority member of this body, and with all the rights and privileges that we have, that there may be some precedent set on the basis of what the Senate does in this case, without any reference to the Senator from Alaska or any other person. Certainly, it is not the intention of the Senator from Kansas

or any other Senator to embarrass anyone. But I do believe, even though there may be no direct relation between that and what the issue before us is, what we do here today may set precedents and guidelines on the conduct of Senators, and particularly, minority members. We may have certain rights, too, as minority members.

As said yesterday—and I was challenged for making it partisan—we should consider at some time, if not in this debate, at some executive session, some guidelines on the rights and privileges and just how far a Member of the Senate may go. Can a Senator conduct an unauthorized meeting? Can a Senator invite the press to that meeting and then read classified documents? Can a Senator investigate any matter that he may want to investigate? Can I call a meeting in my office and investigate, as I said yesterday, the I.T. & T. or the A.T. & T., or anything else that may come to mind?

Apparently so and apparently I can make a public record of it if we establish this precedent.

I believe the Public Works Committee answered the question the Senator from Ohio has raised. It is my recollection that the Public Works Committee took no action on the cost of the transcript, and since we did not pay for the transcript, I see no reason for the Senate to pay from its contingency fund any amount for the brief. But if we are going to pay the cost of the brief, the Senator from Alaska's attorney's fee should be paid also. Either it is all right or all wrong; not half right and half wrong.

There is no question about the amount of the money, as the Senator from Colorado has said, whether it be $2,500 or $25,000. I have no information as to whether there was any profit made from the Beacon Press on the publication of these matters. That may be relevant as to whether we should pay any amount at all. But I do believe that at a meeting of the Public Works Committee, without any staff or official reporter present, it was decided that we take no action. The committee neither condoned nor condemned, as I recall, the actions of the Senator from Alaska.

The Senator from West Virginia is here, and he can state whether or not that is correct, that we did not agree to pay for the transcript, and that payment was made by the Senator from Alaska and the Senator from Connecticut.

Mr. RANDOLPH. Mr. President, will the Senator yield at that point?

Mr. DOLE. I yield.

Mr. RANDOLPH. What the Senator has said is correct.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, it is important to realize, as the Senator from Colorado has pointed out, that the Senator from Alaska applied for a writ of certiorari and the Department of Justice applied for a writ of certiorari. It is important to see what the Department of Justice is attempting to persuade the Supreme Court to rule on the appeal. I hold in my hand the petition of the Department of Justice on behalf of the United States for a writ of certiorari from the ruling of the U.S. Court of Appeals for the First Circuit. Let us see what the Department of Justice complains about, as a basis for procuring review of the decision of the Circuit Court of Appeals. I read from page 8 and the following pages of the petition. It complains of the following ruling by the Circuit Court of Appeals, and I think by the District Court:

> Dr. Leonard S. Rodberg may not be questioned about his own actions "in the broadest sense, including observations and communications, oral or written, by or to him, or coming to his attention" while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment.

This is the ruling of the Court of Appeals to which the Department of Justice excepts, and asks the Supreme Court to review it.

I read further from the Department of Justice petition:

> This case presents important issues under the Speech or Debate Clause of the Constitution. The court of appeals has interpreted the Clause more expansively than is justified by its language, by decisions of this Court or by the basic purpose of the Clause. It has also created a novel common law privilege that prevents questioning a legislative aide about matters not reached by the Speech or Debate Clause. The immediate impact of its rulings is effectively to bar inquiry by a grand jury into possible serious violations of the federal criminal laws. The decision also has the potential of impeding future grand jury investigations and precluding institution of otherwise legitimate criminal prosecutions. A decision of that significance warrants review by this Court.

This is the basic position of the Department of Justice, and the position it is going to press upon the Supreme Court in hearing the appeal.

The petition continues:

> The basic purpose of the Speech or Debate Clause is "to insure that legislators are not distracted from or hindered in the performance of their legislative tasks by being called into court to defend their action" (*Powell* v. *McCormack*, 395 U.S. 486, 505). Its goal is "to prevent intimidation by the executive and accountability before a possible hostile judiciary" (*United States* v. *Johnson*, 383 U.S. 169, 181). Although the primary intent of the Clause is to protect Congressmen from legal accountability, there is substantial justification for the court of appeals' conclusion that it also immunizes Senator Gravel from questioning "about" his legislative conduct by a grand jury, even though there is no possibility of his criminal prosecution.

The petition then goes on to the question of the aide, and whether the aide has or should have any immunity. The Department of Justice, and the position it is that point:

> No similar justification exists, however, for extending the Clause to immunize persons other than members of Congress from questioning by grand juries about Congressmen's legislative conduct. Conceivably the grand jury testimony of those persons touching on the performance of legislative acts might embarrass or impugn the motives of a legislator and conceivably that possibility might inhibit a Congressman in performing his legislative activities. But such inhibitions mght also result from the possibility of criticism of a legislator's speech or conduct by constituents, other members of Congress or the press; legislators are no less sensitive to criticism than other people.

I digress from the reading to observe that if the Senator from North Carolina reads that rightly, the Department of Justice takes the position that the right of a grand jury to summon the aide of a Senator to testify about the Senator's conduct is to be likened unto the right of a constituent to criticize the Senator, or the right of the press to comment on the Senator's action.

That is a strange argument to the Senator from North Carolina, in view of the restrictions in the speech or debate clause.

I read further from the petition for certiorari:

> This kind of hypothetical hindrance of legislative activity is of a different order from that which would occur if the legislator himself were required to answer to the Executive or Judiciary or appear before a grand jury. His own time is in no way being expended. Nor is he personally being distracted in the performance of his legislative duties. See *Powell* v. *McCormack, supra*, 395 U.S. at 505.
>
> Whatever minimal added protection against harassment the legislator would receive if third-party testimony were barred is substantially outweighed by the strong public interest in unimpeded grand jury investigation of crime. Testifying before a grand jury is a public duty of the highest importance. The interest of society "is best served by a thorough and extensive investigation * * *." *Wood* v. *Georgia*, 370 U.S. 375, 392. See also *United States* v. *Johnson*, 319 U.S. 503, 513; *Blair* v. *United States*, 250 U.S. 273; *United States* v. *Bryan*, 339 U.S. 323; *Brown* v. *Walker*, 161 U.S. 594; *Hannah* v. *Larche*, 363 U.S. 420, 499 (Mr. Justice Douglas, dissenting). The public interest requires that all witnesses having knowledge of relevant events give their testimony. The court of appeals has seriously restricted the ability of the grand jury properly to perform its function in a manner that is unnecessary to implement the protections of the Speech or Debate Clause.

I digress from the reading to say it is rather astounding to the Senator from North Carolina that the Department of Justice overlooks the fact that there are many provisions in the law, such as the self-incrimination clause and many other rules of law, that prevent testimony being given to grand juries, or even to petit juries; and to place a higher value on the function of a grand jury to make an inquiry than upon the duty of a legislator to legislate for the interests of 200 million people in the United States seems to me to be acting upon a basis which is not only contrary to the Constitution, but also to what we call, in North Carolina, good horsesense.

I read further:

> Neither the language of the Clause nor relevant judicial interpretation requires this result. The Clause covers only "Senators and Representatives." As this Court pointed out in *United States* v. *Johnson*, 383 U.S. 169, 177–178, the constitutional provision is based on the formulation contained in the English Bill of Rights of 1689, which refers to "Freedom of Speech, and Debates or Proceedings in Parliament."

I invite the attention of the Senate to the next sentence:

Neither of these provisions even suggests that the privilege was intended to extend to other persons merely because they have working or business relationships with a legislator.

In other words, the objective of the Department of Justice in applying for a writ of certiorari is to have it held that the Federal grand juries can subpena an aide of a Senator to testify about his connection and his activities within the scope of his employment by a Senator.

If the Supreme Court should accept that kind of view of the speech or debate clause, the speech or debate clause, under modern conditions, would have no value whatever for a legislator.

So I say that shows how serious is the question of the intervention of the Senate as an institution; and that is the matter involved in this case, rather than the conduct of the individual Senator whose activities gave rise to this case.

Mr. DOMINICK. Mr. President, I yield myself 7 minutes.

I listened to the Senator from North Carolina with my usual great interest. He analyzes things very carefully and very well, and he gave his side of the case against this amendment in a rather clear-cut way.

What he is saying is that we ought to pay Senator GRAVEL'S filing fees and costs for briefs so that the Senate can intervene and object to what the Department of Justice is urging. In effect, that is what he is saying. With all due respect, this means that we are asking the taxpayers of this country to finance both sides of the issue. They already have paid for the Department of Justice. Now they are being asked to pay for the Senator from Alaska.

I have no objection to our going forward and paying our own expenses as a senatorial body, to make sure that the integrity of the Senate is maintained. I will agree with that. But I will not agree to expending taxpayers' money for the purpose of financing both sides of a dispute which the Senator from Alaska, in effect, brought on himself—not necessarily just by what he did in the committee, but by his intervention in a case in which Dr. Rodberg, I presume, could have brought up the same issue if he had wanted to do so.

We have a hypothetical situation as to whether any wrong has been committed. We have a voluntary intervention by one Senator, an intervention brought about by his own actions in the Senate, in an unauthorized committee meeting, revealing classified information, and doing it for the purpose of publication. Now we are asking the taxpayers of the United States to finance at least a portion of both sides of the case. For the life of me, I cannot understand that.

All I can say is that perhaps the Department of Justice is construing things too narrowly. On the other hand, I could also say that—in my opinion, at least—the Senator from Alaska's appeal is construing the speech and debate clause far too broadly. He is trying to anoint everybody with whom he has ever dealt with his own immunity, and I certainly cannot subscribe to that.

What we need to do is to take care of our own business, as a body, as a group of 100 Senators, to say that this is the position of the Senate, not that this is the position of the Justice Department or that this is the position of the Senator from Alaska.

By virtue of that, this resolution should be restricted to the actions of the Senate in paying for what the very fine committee, which I hope will consist of the Senator from North Carolina and the Senator from Ohio, will plead as our case in the Supreme Court.

I could review all the arguments we have had. The amendment of the Senator from Ohio, which would strike out the references to paying the printing costs and the costs of briefs in the Supreme Court for the Senator from Alaska, really brings this down to the fundamental issue. It is an issue of principle. It is not one just of money. It is an issue of basic principle that is before the Senate: That is, should we not, if we are going to intervene in a case of this magnitude—and it is of this magnitude—take care of our own expenses, our own legal fees, and our own printing costs? Those who have brought the situation on themselves should take care of any other expenses.

I thought about this for quite a while before I made that statement, because it is quite possible that in totally different circumstances it may seem advisable for a Senator either to defend himself or to intervene in a case which he thinks may affect his rights. Then the question is, under different circumstances, would we want the Senate to pay the fees? My answer is "No." Even in any kind of case we have before the Federal courts today, the prevailing party is occasionally awarded attorney's fees if the judge thinks it is overwhelmingly obvious that he should. But it is in the discretion of the judge. We are taking away the discretion of the judge here. We are saying that we are going to be the judge, when the Supreme Court actually is the judge. We are saying that we are going to take care of the expenses of this case, no matter what the circumstances may be. I cannot go along with that principle.

Mr. ERVIN. Mr. President, I should like to make one or two observations in reply to my good friend, the Senator from Colorado.

The taxpayer is going to bear the costs incurred by the Department of Justice in presenting to the Supreme Court the question of whether the speech or debate clause applies to Senators only and does not apply to their aides. The taxpayers are going to pay for that. I hope the taxpayers pay for any brief which may be presented by the Senate as an institution in reply to that contention, which, if accepted by the court, would make it virtually impossible for a Senator to function in this day and age and would render the speech or debate clause of the Senate totally worthless.

The Senator from Alaska has exactly the same interests in that part of the case that the Senate has. Since the taxpayers should pay for the expenses of the Department of Justice and for the Senate's expenses, and since the Senator from Alaska is going to present the same viewpoint of that restricted question that the Senate is interested in, I do not see why the taxpayers should not pay the cost of printing his brief. Let the taxpayers pay the costs all around, so far as the briefs are concerned.

We are not concerned with the question of counsel fees, though we are concerned with the fundamental question as to whether the Department of Justice can subpena the aides of a Senator to go before grand juries and testify to what they know about a Senator's conduct on the basis of knowledge they obtained by assisting the Senator in the execution of the duties of his office.

Mr. LONG. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. LONG. Do I correctly understand the Senator's position to be that it is his view, and the view of those who would vote like him on this matter, that the Government should not have to proceed against the employee of a Senator who had discharged his duties in pursuance of what the Senator was doing, which is protected by the Constitution under the speech and debate clause?

Mr. ERVIN. That is the position of the Senator from North Carolina and also the adjudication of the U.S. Court of Appeals for the First Circuit.

Mr. LONG. So that if the position taken by the Senate in passing this resolution is correct, would not the burden of that argument suggest that the Government had to file that suit to begin with?

Mr. ERVIN. It should never have summoned the aide of the Senator from Alaska to testify before the grand jury concerning things that he saw and heard the Senator speak by reason of his relationship to him as an employee.

Mr. LONG. Then, in the view of the Senator, if the executive branch is wrong and the Senate is right, that the expenses of the executive branch would be borne by the taxpayers. As I understand it, his argument follows that, with equal force, if the legislative branch thinks the executive branch is wrong, the logic should apply to the benefit of Congress, just as it should apply to the benefit of the executive branch if the executive branch should be either right or wrong.

Mr. BROCK. Mr. President, if I may interject there, the Senator is taking it one step further, and that is, to apply it to an individual Senator and not to the Senate itself. That is the complaint we have on this matter, not that we purport or propose not to pay for the briefings of the Senate. We have every intention to support that action. But the question is not about that at all. The question is not whether the Senator is right but rather, concerns the personal privilege of a staff member of the Senator from Alaska. That is a very different matter. It has nothing to do with the operation of this body to defend itself.

Mr. ERVIN. I do not care to prolong this debate, but I would say to my good friend from Tennessee that the question is whether this Senate is going to be the judge of the conduct of the Senator from Alaska, rather than to allow the executive branch or the judicial branch to judge that conduct, when the Senator from Alaska is certainly acting within

the traditional scope of what Senators do.

The only way that question will ever arise is when some individual Senator is alleged to have exceeded the bounds of prudence in the discharge of his duties. It is not conceivable that the entire Senate will ever do that. The entire Senate will never be all-wise or all-foolish. It is the actions of individual Senators that raise these questions.

Mr. MANSFIELD. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr MANSFIELD. Who brought the case against the Senator from Alaska in the first place?

Mr. ERVIN. The executive branch. That is, it brought the case in which the rights of the Senator from Alaska under the speech or debate clause were involved.

Mr. BROCK. No case was brought against the Senator from Alaska. Let us correct the record on that.

Mr. MANSFIELD. Where was the case brought?

Mr. ERVIN. I believe they obtained a more favorable decision in the court of appeals. That is my recollection.

Mr. MANSFIELD. Then from the appellate court to the Supreme Court.

Mr. ERVIN. Both the Senator from Alaska and the Department of Justice.

Mr. SAXBE. Mr. President, let me make it plain that there was no action brought against the Senator from Alaska.

Mr. ERVIN. No. It was a case that was brought, in which an inquiry was being made with respect to the official conduct of a Senator and whether his aide was also willing to testify.

Mr. SAXBE. Mr. President, I now yield 2 minutes to the Senator from Colorado (Mr. ALLOTT).

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Colorado is recognized for 2 minutes.

Mr. ALLOTT. Mr. President, I should like to make one or two remarks about this matter. One of the difficulties about it is that the issues, from the time I have been on the Senate floor—and, unfortunately, I have been involved in committee meetings most of the time—the issues of the case as they appear before the Supreme Court are not exactly clear. At least they do not apply to the basic issues as this particular Senator sees them. The basic issues are that an irregular meeting was called, one not authorized by the Senate. It was called at a very unusual hour. It was called without notice to its members. It was called on a subject outside the scope of that committee and then, when a so-called aide of the Senator was sought to be questioned, the real trouble began.

I want to say now, for the sake of the RECORD, and for the sake of the Senate, that Mr. Rodberg, the supposed aide, was never, in fact, an official aide of the Senator from Alaska.

I have just inquired of the disbursing office of the Senate, Mr. Ridgeley's office, and this man was never and has never been on the payroll of the U.S. Senate. He has not filed what every other employee of the Senate has to file, including our own personal aides, his oath of office.

With this situation, the Senator from Colorado finds himself in a very deep dilemma. Yes, I would hate to see the Supreme Court decide this without our interests being protected. On the other hand, I cannot agree and I will not agree to any resolution which does not delete all reference to printing costs or attorneys' fees for the Senator from Alaska.

I cannot agree to any resolution which does not provide an equal number of both parties upon such a committee as would be endowed by this Senate, because I have to be sure in my own mind that I am not going to be coupled in any way in the newspapers, in the press, in the media, with any kind of inferential support of what occurred in the Senate at that time.

It is a little ridiculous, it seems to me, to put into a resolution this clause—

> Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of legislative activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; . . .

When, the morning following this, and the day following it—1 or 2 days after, perhaps—the distinguished majority leader tells us that nothing wrong was done and, therefore, closes the door on the whole case. I must say, I think that we will be undertaking a terrible error. I would go along if there is no money and if there is an equal number of both sides of the aisle on that committee but, otherwise, I will have to oppose it entirely.

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

Who yields time?

Mr. SAXBE. I yield 3 minutes to the Senator from Tennessee (Mr. BROCK).

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

Mr. BROCK. Mr. President, to continue the comments of the Senator from Colorado (Mr. ALLOTT), there is one other ingredient missing. That is the fact that the act undertaken would constitute an illegal act for any person not covered by immunity under the law.

Mr. ALLOTT. I thank the Senator from Tennessee for that explanation. I was pressed for time in my comments and I did not get to complete my case, but that is so.

Mr. BROCK. Mr. President, let me comment further on what the Senator from North Carolina said, for whom I have such enormous respect, but differ with him on this occasion. He says that the taxpayers are going to pay for the costs of the case presented by the Justice Department and, therefore, we should pay the cost of the defense of the individual involved.

If that is true, then why not expand that principle to the realm of this entire Nation, because the Justice Department prosecutes hundreds of thousands of people in America every year. So if the principle should apply to a Member of the U.S. Senate, that the taxpayers are to pay the cost of his defense, why should we deny that opportunity to every other citizen in America who is prosecuted by this Government. We would, in effect, say that the Government should pay both the prosecution and the defense of every individual in the courts of this land where the Federal Government is the prosecutor?

The argument has no merit. The real point of this question is whether the Senate by its action on this measure expresses in any way, by any inference, or by any innuendo support or the condoning of the actions of the Senator from Alaska. The question really is how the action of the Senate will be judged by the American people.

I would find it very difficult myself to go to the people of Tennessee and say, "You have been levied a new tax by the Senate of the United States to pay the costs of the defense of one individual in the Senate."

I can go to Tennessee in good conscience and say, however, "We must act to protect the integrity of the Senate as a body and as an institution to have the rights, privileges, and immunities to engage in free debate for the collective defense of freedom of all the people of this country." However, I cannot and I will not go to the people of my State and say that I, as an individual Member of this body, have levied a tax upon them as taxpayers to pay for the filing of a brief or even for the printing of a brief for one individual Member of the Senate. That is the basic question the Senator from Ohio presented to us. It is a question of whether we act in defense of the Senate or in defense of an individual Senator.

We have every right to act in defense of the Senate as an institution.

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

Mr. SAXBE. Mr. President, I yield back the remainder of my time.

Mr. ERVIN. Mr. President, I do the same.

Mr. COOPER. Mr. President, would the Senator please withhold?

Mr. SAXBE. I withhold that, and yield 3 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, I simply want to ask the Senator from North Carolina what he will argue before the Supreme Court. Is it the view of the Senator from North Carolina that under article I, section 6, a Member of the Senate or a Member of the House cannot be called before any other body or grand jury, no matter what speech he makes or what action he takes, not in the Senate or House?

Mr. ERVIN. No. That is not my position. My position is that anything he does in the execution of his office as a Senator, he cannot be called upon to answer for.

Mr. COOPER. Mr. President, this is specifically what the case is about, or one aspect of it. Would the Senator argue that a Senator who makes a speech or takes some action not in the House, as the Constitution says, but outside of Congress, has immunity?

Mr. ERVIN. Only if he is acting within the House of which he is a Member, or only if he is acting in the execution of his office. I think if he goes out on a stump and makes a speech, he would be just as answerable as anyone else. However, if in that case he is discussing a

public question, he cannot be held for defamation unless they can show that he was actuated by malice.

Mr. COOPER. Mr. President, I raise the point because I think it is basic to the issue before us in the whole matter. The Senator from Alaska will agree, I am sure, that whatever took place, if it took place, as the Constitution says, in the House—and that means in the body of which he is a Member, in a proper meeting in the Senate or House of Representatives or in one of its committees or subcommittees—would be covered by article I, section 6.

The Senator from North Carolina would argue then, if he is one of those appointed—and I am sure he will be, because he ought to be—before the Supreme Court that a Member only has immunity if the actions complained of are taken in the House, meaning the body of which he is a Member, as the words "in the House" are the words contained in the Constitution.

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

Mr. SAXBE. Mr. President, I yield 2 additional minutes to the Senator from Kentucky.

Mr. ERVIN. I would accept what Justice Frankfurter said in the case of Tenney against Brandhove, that is a legislator is immune when he is acting in the field where legislators traditionally have power to act. That would include acting in a meeting of the legislative body of which he is a member or acting in a committee.

As Justice Parsons of the Supreme Judicial Court of Massachusetts said in the case of Coffin against Coffin, which is a decision reported by Justice Frankfurter, it secures every member immunity for every statement by him made in the exercise of the function of that office without inquiring whether the exercise was regular and according to the rules of the office or irregular and against their rules.

In other words, my position is simply this: As long as a Senator is acting within the legislative field of a Senator, whether he does wrong or abuses his privilege, is something to be judged by the Senate and not by the executive or judicial branch of the Government.

Mr. COOPER. The Constitution says that at least the actions complained of must take place in the House. It does not mean, I am sure in this building, but also wherever he is acting as a Member of the Senate or House. Would the Senator be prepared to say to what extent his position could go? For example, if some unlawful act were committed, unlawful under the rules of the Senate and committed outside of the Senate or outside of a committee or a room and where no business was being transacted, and if two or three assistants were engaged in that same activity, would all be covered. If we are not careful, we could have unlimited immunity applied in almost every case.

I think the position of the Senate ought to be heard before the Supreme Court. It ought to be inquired into before the Supreme Court, in justice to us, and in justice to the Senator from Alaska, whether the meeting was one which falls within the protection of article I, section 6.

I feel that is very important. Would the Senator from North Carolina ask that the case be remanded to determine the facts.

Mr. ERVIN. No. I think the facts are already determined. I do not think there is any dispute on the facts.

Mr. COOPER. As I understand it, the ruling of the district court did not go into the facts as to whether or not the case actually fell within the protection of the Constitution.

Mr. ERVIN. The petition of the Department of Justice for their writ of certiorari implies to my mind that the facts were found. I do not think the facts are in dispute at all. I think it is a question of law.

Mr. SAXBE. I agree. The facts are not in dispute. They have been laid to rest.

Mr. ERVIN. Mr. President, I yield back the remainder of my time.

Mr. SAXBE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Ohio to the third resolving clause of the substitute offered by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL (when his name was called). Present.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), and the Senator from Minnesota (Mr. HUMPHREY), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 34, nays 47, as follows:

[No. 123 Leg.]

YEAS—34

Allott	Goldwater	Saxbe
Baker	Griffin	Schweiker
Beall	Gurney	Scott
Bellmon	Hansen	Smith
Bennett	Hruska	Stafford
Brock	Jordan, Idaho	Taft
Buckley	Mathias	Thurmond
Cotton	Miller	Tower
Curtis	Packwood	Weicker
Dole	Pearson	Young
Dominick	Percy	
Fannin	Roth	

NAYS—47

Aiken	Eastland	Moss
Anderson	Ellender	Nelson
Bentsen	Ervin	Pastore
Bible	Fong	Pell
Brooke	Fulbright	Proxmire
Burdick	Gambrell	Randolph
Byrd, Va.	Hollings	Ribicoff
Byrd, W. Va.	Javits	Spong
Cannon	Jordan, N.C.	Stennis
Case	Kennedy	Stevens
Chiles	Long	Stevenson
Church	Magnuson	Symington
Cook	Mansfield	Talmadge
Cooper	Metcalf	Tunney
Cranston	Mondale	Williams
Eagleton	Montoya	

ANSWERED "PRESENT"—1

Gravel

NOT VOTING—18

Allen	Hatfield	McGee
Bayh	Hughes	McGovern
Boggs	Humphrey	McIntyre
Harris	Inouye	Mundt
Hart	Jackson	Muskie
Hartke	McClellan	Sparkman

So Mr. SAXBE's amendment to the third resolving clause of the substitute resolution proposed by Senator ERVIN was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from North Carolina in the nature of a substitute (putting the question).

The amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question now occurs on the adoption of Senate Resolution 280, as amended.

Mr. DOMINICK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMINICK. Mr. President, do we still have some time left on the resolution?

The PRESIDING OFFICER. Yes; there is time on the resolution.

Mr. DOMINICK. Mr. President, I seek recognition, then.

The PRESIDING OFFICER. The Senator from Colorado is recognized. There are 29 minutes remaining.

Mr. DOMINICK. Mr. President, I yield myself 5 minutes, and I probably will not take that long.

For the benefit of my colleagues, however, I thought it was worthwhile putting this issue into proper context.

There is not any doubt in my mind that, at least from the monetary point of view, and from some of the language changes that have been made, the resolution now before us is better than the one that we had submitted to us initially.

Mr. President, may I have some order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMINICK. But there is also no doubt that what we are doing in this matter is asking the taxpayers to pay for at least a portion of the cost of both sides of the argument. They will be paying it through the briefs that have been filed by the Justice Department, which, in the opinion of the Senator from North Carolina, are too narrow in their interpretation of immunity; and they will be paying it, under this resolution, on behalf of the Senator from Alaska, who, in my opinion and in the opinion of many of us, goes far too wide in his grant of immunity.

Mr. President, I still do not have any order. There is not a soul listening.

The PRESIDING OFFICER. The Senator will suspend. The Chair will endeavor to get order.

Senators will please take their seats and refrain from audible conversation.

It will expedite the business of the Senate if Senators will take their seats and refrain from conversation.

The Senator from Colorado.

Mr. DOMINICK. We are left, as I have said, in a very untenable position, whereby we are being asked as a body to vote taxpayers' funds for a brief which I hope will be between the two, but in the process also voting taxpayers' funds for both sides of the argument, in which we are not agreeing with either side.

I find it extremely difficult, as far as I am concerned, to justify this type of resolution of the problem. It is not even what has been said about the making of a camel; namely, that it is a horse created by a committee. We do not even have a committee on this one to create this kind of camel. What we have done is do it ourselves.

We have a very, very poor situation from the point of view of the facts, because what we are being asked to do is to pay for the printing costs and the filing fees of the Senator from Alaska, who, on his own, released classified information, in violation at least of the spirit of the Senate, and voluntarily intervened in a suit. There was not even a suit, for that matter; but merely a grand jury investigating a possible violation. The aide brought a suit to quash the subpena, and the Senator from Alaska intervened.

It was not a question of a Senator being sued; it is not a case where a Senator is being questioned. The two lower courts have already held in favor of the defendant, if in fact Dr. Rodberg is a defendant, and that apparently is not being questioned in the suit. He is asking for immunity to be extended to members of the Beacon Press and members of the Massachusetts Institute of Technology Press, and every other person involved, not just aides in his office, or employees, but everybody he has been in contact with.

If we extend immunity that far in this day and age, as I said last night, with the publicity we get and with the media coverage that there is, anybody who is in touch with a Member of the Senate would be granted immunity regardless of whether he had been guilty of a criminal act or not.

I do not see how we can possibly go that far, and yet, as I read the Senator's brief, that is exactly what he is alleging. And here we are in the Senate as a body, saying that this is what we ought to underwrite.

Mr. President, we ought to take a middle course. We should be taking a course in which we say we are going to defend the rights of the Senate in our own brief, and pay our own costs, but not to favor a side and say we are going to spend the taxpayers' money in favor of either side.

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

Who yields time?

Mr. DOMINICK. I yield myself 1 additional minute.

Without going into the facts once again, I presume that my colleague has brought up the point that Dr. Rodberg has never been on the Senate payroll; and as far as the records show, has never taken an oath of office as an employee of the Senate. He may be an aide; I do not know. But he is certainly not an aide within the definition as we usually assign it.

In view of the facts presented, I find myself unable to support even the modified resolution that is now before us, and wish to say that I intend to vote against it.

SENATE DEALINGS WITH CONFIDENTIAL INFORMATION

Mr. DOLE. Mr. President, I believe there is a need for the Senate to consider in some detail the statutes, rules and procedures pertaining to our use of classified information. The importance of this consideration arises because a measure of uncertainty currently exists in this area, and it is the belief of the junior Senator from Kansas that each Member of this body should be able to maintain some reasonable degree of confidence in the standards by which the propriety of his conduct will be judged in this and other areas. This uncertainty has been emphasized by several events:

The unauthorized partial publication of the top secret McNamara papers by several newspapers with resultant litigation and public concern;

The action taken by the President in furnishing the Senate and House of Representatives with complete sets of the highly classified studies; and

The subsequent action of one Member of this body in communicating and disseminating portions of this same top secret study to the general public.

These events have pointed up the need for a clear and authoritative understanding on the part of each Senator of his duties, rights, and responsibilities in dealing with sensitive, secret, or otherwise classified information. Apparently, such a generally shared, specific understanding does not exist, and I feel it would be valuable if we could attempt to come to some fundamental appreciation of the acceptable and proper standards in this area.

The Senator from Kansas feels it is appropriate that this opportunity be taken to call the Senate's attention to these matters and raise questions, express opinions and suggest interpretations of the pertinent law and rules.

TWO AREAS OF AUTHORITY

To my understanding, we, as Senators and citizens, are dealing with several criteria with respect to "official information which requires protection in the interests of national defense." First, there are the general statutory regulations and executive decrees which apply to all Americans. Second, there are the rules and precedents of the Senate which obtain to impose certain limitations on congressional conduct.

PROVISIONS OF THE PUBLIC LAW

Starting with the broadest and most generally applicable authority, we find two provisions of the law which define the system for safeguarding official information and which proscribe certain conduct relating to such information.

EXECUTIVE ORDER NO. 10501

Executive Order No. 10501 of November 9, 1953, as amended, sets forth the criteria and procedures for "classification" of national defense information within the Government. It establishes three categories of classification, "top secret," "secret," and "confidential," and it sets certain administrative guidelines for the operation of the classification procedure.

THE ESPIONAGE ACT

Because it is a purely administrative instrument, Executive Order No. 10501 prescribes no sanctions against violation of its provisions; however, it contains a citation to the other principal authority in this field, the Espionage Act, chapter 37 of title 18, United States Code, section 793 of which covers "gathering, transmitting, or losing defense information."

This statute deals in part with deliberate espionage activities and with individuals who are unauthorized to possess or have access to or control over classified information, but these provisions are not relevant to this discussion, for no one suggests questioning the motives of Senators in dealing with information brought to their attention, nor is there any question that Senators are fully authorized to have possession of, access to or control over classified information of all degrees.

One provision of section 793 does appear to be pertinent to a determination of our position in relation to classified material. Subsection (d) reads:

> Whoever, lawfully having possession of . . . any document . . . relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated . . . the same to any person not entitled to receive it. . . .
>
> Shall be fined no more than $10,000 or imprisoned not more than ten years, or both.

The Senator from Kansas is unsure to what extent the congressional immunities conferred by article I, section 6, of the Constitution, restrict application of the Espionage Act to Senators, but it is well to be aware of the statute's language.

SENATE RULES AND PRECEDENTS

In addition to these provisions of statutory enactments and Executive orders, we, as Members of the Senate are bound by our own rules, regulations, and precedents.

Article I, section 5 of the Constitution states:

Each House [of Congress] may determine the rules of its proceedings. . . .

And in pursuance of this authority the Houses of Congress have from time to time propounded rules and established precedents to govern their activities.

It appears to the Senator from Kansas that two authorities are in point as we consider obligations and duties of Senators in their capacity as Senators, when dealing with classified, confidential or secret matters.

RULE XXXVI

Standing rule XXXVI sets forth the procedures governing executive sessions, confidential communications of the President, and secret or confidential business or proceedings of the Senate. It reads in pertinent part:

3. All confidential communications made by the President of the United States to the Senate shall be by the Senators and the officers of the Senate kept secret; and all treaties which may be laid before the Senate, and all remarks, votes, and proceedings thereon shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy, or unless the same shall be considered in open Executive session.

4. Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

5. Whenever, by the request of the Senate or any committee thereof, any documents or papers shall be communicated to the Senate by the President or the head of any department relating to any matter pending in the Senate, the proceedings in regard to which are secret or confidential under the rules, said documents and papers shall be considered as confidential, and shall not be disclosed without leave of the Senate.

This rule is clear in its inclusive scope, but it is not so clear as to what exclusions it entails, and it would appear that this rule, raises a question involving the interpretation of "confidential communications made by the President of the United States to the Senate."

Of course any physical item adressed to the Senate by the President whether letter, message or notice is entitled to confidential status, when so designated. Also, any object, document, volume or compendium delivered to the Senate and specifically cloaked in the mantle of confidentiality by the President would also be accorded privileged status under rule XXXVI.

The question which arises from this analysis, however, is whether the literal contents, aside from the physical objects, of confidential presidential communications, should be considered by the Senate to have the status accorded by rule XXXVI.

In facing this question a valid distinction should be drawn along the lines of reason, commonsense, and customary principles of law. It would not be fair, nor would it be consistent with the intent of the Senate, to interpret this language of our rules in such a way as to impose burdens upon Senators which would be inconsistent with the burdens placed on other citizens in similar circumstances. Rather, we should strive to read these rules in such a spirit as would lead us to an interpretation similar to that expressed by Congress in public legislation dealing with the same subject matter.

It seems unfair that we should expect each Senator to be familiar with every confidential presidential communication to the Senate; much less could every Senator be expected to have knowledge of the entire contents of these communications. It would be far beyond the bounds of reason and common understanding to impose on any Member of this body the obligation of knowing whether a given item of information before him were per se contained in some confidential or secret communication from the President and, therefore, subject to the operation of rule XXXVI. We are, or at least should strive to be, reasonable men, and we should attempt to govern ourselves according to reasonable rules.

But if it would be unfair to hold Senators accountable under rule XXXVI for unreasonable requirements of knowledge, it might be appropriate to attach the operation of the rule to information which, borrowing from the language of the Espionage Act, a Senator were to have "reason to believe" was part of a "confidential communication made by the President of the United States to the Senate."

In each case the Senate has to take into account all relevant facts, circumstances, and conditions in judging whether its rules have been adhered to, and it would be unwise to attempt to establish a more definite structure for determining the application of this rule.

SENATE PRECEDENT

There is another source of authority and guidance for the Senate in its proceedings, and it lies in the precedents the Senate has established on previous occasions when it has dealt with similar or analagous situations. Of course no two situations are ever exactly alike, but to a large extent some fundamental similarities and distinctions have been identified by the Senate and found useful in gaging a present course in the light of past actions.

THE M'CARTHY PRECEDENT

As far as the Senator from Kansas is able to determine there has been only one occasion when the Senate was called upon to discuss the liabilities imposed on a member for making unauthorized use of classified information. The incident in question resulted in a determination that the Senator's conduct did not constitute grounds for action against him. But the incident is instructive, because the Senate did consider and discuss the lines which separate appropriate and inappropriate conduct involving classified information, thereby establishing a precedent. The precedent may not be more than the fact of discussion, but I believe it goes further and shows at least the outlines of acceptable conduct if not the exact boundaries to be observed.

The Senator whose actions came under scrutiny in the case to which I refer was the late Joseph R. McCarthy of Wisconsin. It is unnecessary to go into the full history of this Senator's controversial career, but suffice it to say that the Senate, upon introduction of a motion of censure, convened a select committee to study the charges made against him. The select committee held extensive hearings and issued a thorough report. One of the five categories of charges against the Senator involved the alleged unauthorized receipt and misuse of confidential or classified information.

The particular incident which gave rise to this charge was set forth in the findings of fact contained in the select committee's report:

1. During the hearings before the Permanent Subcommittee on Investigations of the Committee on Government Operations, Senator McCarthy, in the course of the development of his defense, offered to make public the contents of a document bearing the markings of the Federal Bureau of Investigation, "Personal and Confidential via Liaison," which contained classified information relating to the national defense. This offer was not accepted by the committee.

2. In offering to make the contents of the document public, Senator McCarthy acted in the bona fide belief that the document was a valid rather than a spurious instrument and offered it in evidence as such.

The report of the select committee contained an extensive treatment of the relevant authorities dealing with classified material including Executive Order No. 10501 and the Espionage Act. If determined these statutes and executive decrees showed:

. . . a legislative intent to protect documents relating to national security, to prevent concealment of felonies; to forbid publications or disclosures not authorized by law by any officer or employee of the United States of information coming to him in the course of his employment or official duty.

Furthermore, the statutes were cited as:

. . . affirmative evidence of congressional cooperation with the Executive, in a common effort to discourage unauthorized disclosures of confidential documents or information relating to the national defense, or obtained in the course of official duties; and to prevent interference with or impairment of the loyalty or discipline of the Armed Forces.

In considering Senator McCarthy's conduct the committee observed:

. . . the established facts show that Senator McCarthy attempted to make public over nationwide television the contents of a . . . bore a classfied or confidential marking. This conduct on his part shows a disregard of the evident purpose to be served by such a document and overlooks the serious import which attaches to a document affecting the national defense, and the dangers flowing from causing such information to become public knowledge. This transgression is nonetheless grave even though the Senator personally may have been, as he contends, of the opinion that the document did not contain security information. This disposition on the part of Senator McCarthy to determine for himself what is or is not security information regardless of the evident classified marking on a document, confirmed by the opinion of a duly constituted agency authorized to make such a ruling, evidences a lack of regard for responsibility to the laws and regulations providing for orderly determination of such matters. This conduct on

the part of Senator McCarthy is all the more serious when considered in the light of . . . [the Espionage Act] which provides that whoever having lawful or unauthorized possession of any document relating to national defense or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States, attempts to communicate the same to persons not entitled to receive it, is an offender against the criminal laws of the country.

The committee concluded that the letter in question was in fact a classified document, bearing what at that time was the highest classification of which the FBI was capable of conferring, and that it was entitled to statutory protection accorded such a document, but it went on to state a further view which I feel is essentially important to our attempt to define the limits of acceptable conduct.

The committee expressed the firm belief:

That representatives of the legislative branch have a complete legal right to obtain access to such documents by using the methods available to them to get such information by formal request to the classifying agency or to the Attorney General or to the President himself. It is only when such orderly methods are rebuffed that an issue between two coequal branches of the Government can or should develop.

It follows that any attempt to make public the contents or any portion of this 2¼-page document, affecting national security, would be a transgression upon authority. When Senator McCarthy offered to make public this document, which he knew involved information irregularly obtained and which on its face carried a classification of "confidential" by the FBI, it was an assumption of authority which itself is disruptive of orderly governmental processes, violative of accepted comity between the two great branches of our Government, the executive and legislative, and incompatible with the basic tenets of effective democracy.

The committee did not recommend that Senator McCarthy be censured on this category of charges. It did conclude that—

In offering to make public the contents of this classified document Senator McCarthy committed grave error. He manifested a high degree of irresponsibility toward the purposes of the statutes and Executive directives prohibiting the disclosure to unauthorized persons of classified information or information relating to the national defense.

When the select committee reported its findings and recommendations, the censure charges were debated at length on the floor.

One of the most prominent figures in the debate of the censure resolution was Senator Francis Case of South Dakota. A member of the select committee convened to study the censure charges, Senator Case took the floor to address in detail each category of charges contained in the committee's report and gave careful attention to the charge dealing with Senator McCarthy's use of classified information.

Senator Case shared the opinion of the committee that Senator McCarthy ought not to be censured for the conduct considered in category III. But the Senator's reasoning went beyond the committee's chief grounds for opposing censure which were the extenuating personal circumstances surrounding Senator McCarthy dealings with the classified information.

Senator Case felt that Senator McCarthy's conduct was not censurable for the simple reason that it did not constitute any abuse, misuse, or unlawful dealings with that information.

In setting forth his reasoning he cited the fact that the Senator from Wisconsin had possessed the information for more than a year and in the course of that time had in fact not abused or misused it. As he said:

Statutes may frown upon it now, under some interpretation, but the fact is that the junior Senator from Wisconsin in the more than a year during which he had the 2¼-page document in his possession did not make it public. He did not come to the floor of the Senate with it, where he might have claimed immunity.

Clearly, then, he cannot be charged with a wanton or reckless will to make the information public or to broadcast it to the world.

[T]he document, in my judgment, was properly classified and could only be declassified by the author of the original document, the FBI, when the purpose of classification had been served. But that is not the controlling point before the Senate, in my judgment.

The fact is that the document was not made public. The chairman of the Army-McCarthy hearings, the senior Senator from South Dakota [Mr. MUNDT], did not permit the document to be made public, and the chairman of the select committee, the Senator from Utah [Mr. WATKINS], has not permitted it to be made public. Senator MCCARTHY did not insist that the document be made public. If he had had any wanton desire to make it public, he could have made copies of the document and could have issued it, or could yet bring it before the Senate. He has not done so. He submitted the document to the verdict of the chairmen of the committees in both hearings.

In short, Senator MCCARTHY clearly did not make or seek to make wanton misuse of the two-and-a-quarter page classified document, but offered it only when it seemed to be essential to the determination of issues before a duly constituted committee of the Senate, and he let that committee be the judge as to whether or not any publication of it could be made.

Senator Case's distinction between proper and improper conduct was clear and simple. It was the distinction between publishing classified material to unauthorized persons and not publishing it. It was the distinction between talking about making the document public and actually doing so. It was the distinction between yielding to a "wanton desire" to make the document public and not making it public. Essentially, it was a distinction between obeying the law and violating.

CONCLUSIONS SUGGESTED

The final censure resolution upon which the Senate voted conformed with the select committee's recommendation and did not include the charge of misuse of confidential information. Nonetheless, the debate and discussion are instructive and would seem to lead to several conclusions:

First, the mere possession of classified information and discussion of the fact of its possession on the floor of the Senate and in Senate committees is not inappropriate conduct either in terms of the laws relating to that information or the Senate's views of its Members' responsibilities to those laws. After all, Senators are entitled to have sensitive information in their hands, and they should not be restricted in their efforts to inform themselves on the many important subjects with which they are charged to deal.

It would appear, too, that conduct falling short of actual publication is not considered by the Senate to violate its own standards. Surely Senator McCarthy went nearly as far as is it possible to go, short of public dissemination of the classifed material in his possession. And the fact that he did not allow that material outside the confines of the Senate and its committee system was apparently recognized and appreciated by both select committee and the full Senate. Evidently a number of Senators felt that even the offer to make such information public was highly reprehensible, but not, without more, grounds for action.

The Senator from Kansas assumes from the record that the Senate's deliberations would have produced a substantially different result as to the category III charges if Senator McCarthy had taken the next step and actually made the 2¼-page document available to the public. Several points in the record lead to this conclusion:

The select committee condemned as "irresponsible" Senator McCarthy's offer to make the document public and castigated his action as a disruptive assumption of authority and violative of accepted comity between the legislative and executive branches. But it recognized the "stress and strain" under which Senator McCarthy was placed, the fact that the document was offered as part of his own defense, and that its contents were relevant to that defense. Therefore, both mitigation and justification were found for the Senator's conduct.

Senator Case relied on the facts of Senator McCarthy's conduct; that he did not make the document public, that he did not insist on its being made public, and that he remained within the orderly bounds of established committee procedure. As he said:

If he had had any wanton desire to make it public, he could have made copies of the document and issued it. . . . He has not done so.

Senator McCarthy let the committee "be the judge as to whether or not any publication of it could be made."

The statute speaks of a person who "willfully communicates" such information to "any person not entitled to receive it," and Senator McCarthy did not communicate the information in his possession to anyone other than Senators who were, just as he, entitled to receive it.

Thus, the McCarthy case in respect to the category III charges might have yielded a diffrent result—if Senator McCarthy had actually made the document public.

If he had made his offers to make it public outside the context of his own defense; or

If he had been acting outside the for-

mal institutional structures of the Senate.

CONCLUSION

Of course, it is impossible to say what the outcome might have been if the facts had been otherwise, but the record is there, and in the view of the Senator from Kansas it does suggest several plausible conclusions. The statutes and rules are also open for discussion and interpretation, and, although other Senators may not share the views expressed here today, I believe it is important that a discussion of these matters be undertaken.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum on the scope and application of Federal statutes relating to classified information and a chronology of the development of Senate Rule XXXVI.

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

MEMORANDUM: FEDERAL STATUTES RELATING TO THE HANDLING OF CLASSIFIED INFORMATION

This memorandum describes the provisions of the United States Code which concern the handling of classified information.

Although several of the below-discussed statutes avoid the term "classified information", it should be note that the requirements for safeguarding such information have been established by Executive Order 10501 (50 U.S.C. § 401 note). Executive Order 10865 (50 U.S.C. § 401 note) concerns the safeguarding of classified information within industry. For the sake of brevity, the prohibitive act sections of the statutes described herein have been condensed to include only that necessary for discussion.

The foremost sanction against the mishandling of classified information is contained in section 793 of title 18. Under subsections (a), (b) and (c), the Government's burden of proof is not insignificant: "Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation . . .". Subsection (a) of section 793 prohibits entry into, flight over, or obtaining information concerning any government defense facility, access to which has been restricted by the President. The copying, taking, making, or obtaining any sketch, photograph, model, instrument, appliance, or document "of anything connected with the national defense" is proscribed by subsection (b). Subsection (c) applies to the receipt "from any person, or from any source whatever . . . any writing [or] photograph . . . of anything connected with the national defense" knowing that such information was obtained, or will be disposed of, contrary to law. Subsections (d) and (e) prohibit the communication or transmittal of national defense information by persons having authorized [(d)] or unauthorized [(e)] possession of such information. The loss of defense information through gross negligence or the failure to report the loss of such information is prohibited by subsection (f).

A violation of any of the subsections of section 793 could result in a fine of $10,000 and/or imprisonment for not more than ten years. See generally *Gorin* v. *United States*, 312 U.S. 19 (1941); *Coplon* v. *United States*, 89 U.S. App. D.C. 103, 191 F.2d 749, *cert. denied*, 342 U.S. 926 (1951).

The death penalty may be prescribed for a violation of 18 U.S.C. § 794(a) which prohibits the transmittal of "information relating to the national defense" to any agent of a foreign government with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation. The same penalty can be applied in time of war[1] to a person who collects or transmits "information relating to the public defense, which might be useful to the enemy" with the intent that such information shall be communicated to the enemy.* See generally *United States* v. *Sobell*, 314 F.2d 314 (2 Cir. 1963), *cert. denied*, 374 U.S. 857; *United States* v. *Rosenberg*, 195 F.2d 583 (2d Cir. 1952); *cert. denied*, 344 U.S. 838).

Sections 795, 796 and 797 prohibit the photographing of defense installations, the use of aircraft to photograph defense installations, and the publication and sale of photographs of defense installations.

Knowingly and willfully transmitting or using "in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States" of any classified information concerning the nation's cryptographic or cryptographic intelligence system, or the cryptographic intelligence system of any foreign government is prohibited by section 798.[2]

Special provisions concerning documents relating to the National Aeronautics and Space Administration and the Atomic Energy Commission are found in 18 U.S.C. § 799 and sections 141 through 146 of the Atomic Energy Act of 1954 (42 U.S.C. §§ 2161–2166) respectively.

Section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. § 783(b)) provides:

"It shall be unlawful for any officer or employee of the United States . . . or of any corporation the stock of which is owned in whole or in major part by the United States . . . to communicate . . . to any other person whom such officer or employee knows or has reason to believe to be an agent . . . of any foreign government or an officer or member of any Communist organization, . . . any [classified] information. . . ."

Subsection (c) prohibits the receipt of classified information by any foreign agent or member of a Communist organization. Violations may be punished by barring further government employment and a $10,000 fine and/or ten years imprisonment. See generally *Scarbeck* v. *United States*, 115 U.S. App. D.C. 135, 317 F.2d 546 (1962), *cert. denied*, 374 U.S. 856.

Of course the unlawful taking of classified documents may also come under the purview of 18 U.S.C. § 641 (theft of public money, property or records) and 18 U.S.C. § 2071 (concealment, removal, or mutilation of documents filed in a public office). It is questionable, however, whether §§ 641 or 2071 are applicable to persons who receive and use copies of classified documents.

RULE 36: A CHRONOLOGY

1971—Jefferson records that "The President had no confidence in the Secrecy of the Senate."—Jefferson *Writings* I, 294–5; 305–9.

1792—House adopts Rule XXIX, Secret Session. "Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House."—Rules of the House of Representatives, § 914.

1795—Jay's Treaty submitted to the Senate. Though President does not suggest secrecy, Senate orders that members be "under an injunction of secrecy on the communications this day received from the President . . . until the further order of the Senate." Thirty-three copies printed. Injunction of secrecy later rescinded, but Senators enjoined not to allow any copies of the President's communication. Senator Mason of Virginia sends his copy to the editor of the *Aurora*. No formal censure by the Senate.—George H. Haynes, *The Senate of the United States: Its History and Practice*, pp. 665–666 (New York, Russell & Russell, 1960).

1800—President Adams requests consideration of French Convention of 1800 in strict confidence. Senate adopts rule that "all confidential communications made by the President of the United States to the Senate, shall be, by the members thereof, kept inviolably secret, and that all treaties which may hereafter be laid before the Senate shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy."—Senate Executive Journal, Dec. 22, 1800, p. 361.

1810—Senator Timothy Pickering of Massachusetts read on the floor of the Senate a letter from the French Minister for Foreign Affairs dated 21 December 1804 to the U.S. Minister in Paris. This was a confidential communication from the President. The Senate agreed to a Resolution offered by Senator Henry Clay by a vote of 20 to 7. As amended it read "Resolved, that the public perusal in the Senate of certain papers with open galleries by the gentleman from Massachusetts (Mr. Pickering) in his seat without a special order of the Senate removing the injunction of secrecy, which papers had been confidentially communicated to the Senate by the President of the United States, was a violation of the rules of this body."—S. Jour., 11th Cong., 3d sess., pp. 535, 536; Annals of Congress, 11th Cong., 1810–1811, pp. 66–83.

1831—In Senate debate Mr. Forsyth said: "It was soon found, as the government moved on, that if a desire was felt that any subject should be bruited about in every corner of the United States, should become a topic of universal conversation, nothing more was necessary than to close the doors of the Senate Chamber, and make it the object of secret, confidential deliberation."—Cong. Debates, VII, 294.

1844—In April Senator Benjamin Tappan of Ohio gave a confidential message from the President dealing with the Treaty of Annexation of Texas to the New York Evening Post, which published it. The Senate appointed a select committee of five Senators to determine the facts and "what proceedings it may be proper (for the Senate) to adopt in vindication of its privilege and authority." The committee was given subpoena power. The Committee reported "no color of excuse for the outrage." By a vote of 38 to 7 the Senate adopted this resolution: "*Resolved* That Benjamin Tappan, a Senator from the State of Ohio, in furnishing for publication in a newspaper documents directed by an order of the Senate to be printed in confidence for its use, has been guilty of a flagrant violation of the rules of the Senate and disregard of its authority." The Senate then added to its standing rules, to apply prospectively, this rule: "Any officer or member of the Senate convicted of disclosing for publication any written or printed matter directed by the Senate to be held in confidence, shall be liable, if an officer, to dismissal from the service of the Senate, and in the case of a member to suffer expulsion from the body."—28th Cong., 1st sess: J., pp. 439–443.

1848—A New York Herald reporter questioned before the Senate about publication

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* Section 794(b).

[1] Section 798 authorizes the provisions of § 794 to remain in effect "until six months after the termination of the national emergency proclaimed by the President on December 16, 1950."

[2] As enacted, title 18 contains two sections 798. See fn. 1.

of the pending Mexican Treaty refused to answer. The Senate passed a resolution declaring him in contempt and held him in custody for one month.—Sen. Exec. Journal, VII, 404.

1854—On February 24 the President of the Senate was directed to send a note on behalf of the Senate to each member asking information as to disclosures in regard to the Treaty with Mexico. Replies discussed in executive session a week later failed to reveal the Herald reporter's source (see 1848).—Sen. Exec. Journal, IX, 249, 272–3.

1867—Senate lifted injunction of secrecy on Alaska Treaty debates, and various speeches on the claims against Great Britain by Sumner were published.—George H. Haynes, *The Senate of the United States; Its History and Practice* (New York, Russell & Russell, 1960), p. 667.

1885—The Committee on Rules interpreted the injunction of secrecy in Rule 36 as extending "to each step in the consideration of treaties, including the fact of ratification . . . which may be of the utmost importance and ought not to be removed except by order of the Senate, or until it has been made public by proclamation of the President."—Sen. Exec. Journal, March 21, 1885.

1888—Bayard—Chamberlain Treaty was published in Canada during U.S. Senate debate on removing the injunction of secrecy from it.—Haynes, p. 667.

1890—On February 19 the New York Tribune published the details of a pending treaty with Great Britain. The Senate was unable to learn the source of the disclosures.—Sen. Exec. Journal, XXVII, 475–477.

1899—Senate removed the injunction of secrecy from the treaty with Spain, but debates in following weeks were held in executive session.—Haynes, 667–8.

1900—One hundred years after the adoption of Rule 36, the Senate in executive session formalized the procedure for removing the injunction of secrecy by adopting this resolution: "*Resolved*, That whenever the injunction of secrecy shall be removed from any part of the proceedings of the Senate in executive session, or secret legislative session, the order of the Senate removing the same shall be entered by the Secretary in the legislative journal as well as in the executive journal, and shall be published in the Record."—Journal of the Senate, 1900, 131.

1904—On March 31 the Senate, after receiving a unanimous report from the Committee on Rules adopted the rule now designated as Rule 36.5. Senator Hoar explained the reasons for the rule as follows: "I may perhaps make a statement in a single word. It has been the practice of the Executive Departments, when they are asked by the various committees of the Senate for the papers relating to any nomination, to send all sorts of confidential communications bearing on the character of the appointee. Very often they are communications from active politicians in various parts of the country about the effect of certain appointments on political parties, and some of them are written in a very free and easy manner.

"In President Cleveland's time the Judiciary Committee used to have a good many communications setting forth the demerits of various divisions of the Democratic party and the merits of others; and such papers come here under all Administrations. I suppose probably those papers are confidential under the rules now; but there has been some little doubt in the minds of some Senators whether they are or not, and it has been thought best to make it clear.

"This is a unanimous report from the Committee on Rules. It merely provides that when any communications are sent to committees of the Senate in regard to matters which are themselves confidential by the President or any Department, those communications shall be treated as confidential unless the Senate shall order otherwise."—Cong. Rec., March 31, 1904, p. S–4027.

1906—Senator Spooner discussed the question of what may be revealed in open session of debates in executive session. He concluded that the attitude of the Foreign Relations Committee, all amendments and all arguments for and against a negotiated treaty sent in confidence to the Senate could not be revealed and were "as if never uttered."—Haynes, 668.

1918—On June 9 an unofficial text of the Treaty of Versailles was printed in the Congressional Record before the President had submitted it.

During the debate on ratification of the Treaty, Senator Brandegee argued too much plain speech might give offense to foreign countries. Senator Borah replied "What are these delicate questions which may offend foreign powers? These delicate questions are too often questions of dubious righteousness." Walter Lippmann later wrote, "Only a man who has risen by appealing to audiences rather than by making executive decisions would, I think, have said that."—Haynes, p. 668; *Men of Destiny*, p. 144.

1970—Legislative Reorganization Act makes Senate committees judge of question whether confidential matter in hearings may be disclosed, as follows: "Sec. 112(b). Each hearing conducted by each standing, select, or special committee of the Senate (except the Committee on Appropriations) shall be open to the public except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security, may tend to reflect adversely on the character or reputation of the witness or any other individual, or may divulge matters deemed confidential under other provisions of law or Government regulation."

The PRESIDING OFFICER. Who yields time?

Mr. SAXBE. Mr. President, I yield back the remainder of my time.

Mr. ERVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the resolution, as amended. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 55, nays 27, as follows:

[No. 124 Leg.]

YEAS—55

Aiken	Fulbright	Pell
Anderson	Gambrell	Percy
Bentsen	Gurney	Proxmire
Bible	Hollings	Randolph
Brooke	Javits	Ribicoff
Burdick	Jordan, N.C.	Roth
Byrd, Va.	Kennedy	Saxbe
Byrd, W. Va.	Long	Scott
Cannon	Magnuson	Spong
Case	Mansfield	Stafford
Chiles	Mathias	Stennis
Church	McGee	Stevens
Cooper	Metcalf	Stevenson
Cranston	Miller	Symington
Eagleton	Mondale	Talmadge
Eastland	Montoya	Tunney
Ellender	Moss	Williams
Ervin	Nelson	
Fong	Pastore	

NAYS—27

Allott	Curtis	Packwood
Baker	Dole	Pearson
Beall	Dominick	Schweiker
Bellmon	Fannin	Smith
Bennett	Goldwater	Taft
Brock	Griffin	Thurmond
Buckley	Hansen	Tower
Cook	Hruska	Weicker
Cotton	Jordan, Idaho	Young

ANSWERED "PRESENT"—1

Gravel

NOT VOTING—17

Allen	Hatfield	McGovern
Bayh	Hughes	McIntyre
Boggs	Humphrey	Mundt
Harris	Inouye	Muskie
Hart	Jackson	Sparkman
Hartke	McClellan	

So the resolution (S. Res. 280), as amended, was agreed to.

Mr. ERVIN. Mr. President, I send an amendment to the preamble to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ERVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Whereas the Supreme Court of the United States on Tuesday, February 22, 1972, issued writs of certiorari in the case of Gravel against United States; and

Whereas this case involves the activities of the junior Senator from Alaska, Mr. Gravel; and

Whereas in deciding this case the Supreme Court will consider the scope and meaning of the protection provided to Members of Congress by article 1, section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" clause, including the application of this provision to Senators, their aides, assistants, and associates, and the types of activity protected; and

Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of activity and the scope of a

Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas a decision in this case may impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Mr. ERVIN. Mr. President, this is a technical amendment to adjust the preamble. It was read to the Senate previously. All it does is to provide that the preamble read to the Senate shall be the preamble to the resolution as passed.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The resolution as amended, with its amended preamble, reads as follows:

RESOLUTION

Authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution

Whereas the Supreme Court of the United States on Tuesday, February 22, 1972, issued writs of certiorari in the case of Gravel against United States; and

Whereas this case involves the activities of the junior Senator from Alaska, Mr. Gravel; and

Whereas in deciding this case the Supreme Court will consider the scope and meaning of the protection provided to Members of Congress by article 1, section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" clause, including the application of this provision to Senators, their aides, assistants, and associates, and the types of activity protected; and

Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas a decision in this case may impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Resolved, That the President pro tempore of the Senate is hereby authorized to appoint a bipartisan committee of Senators to seek permission to appear as amicus curiae before the Supreme Court and to file a brief on behalf of the United States Senate; and be it further

Resolved, That the members of this bipartisan committee shall be charged with the responsibility to establish limited legal fees for services rendered by outside counsel to the committee, to be paid by the Senate pursuant to these resolutions; be it further

Resolved, That any expenses incurred by the Committee pursuant to these resolutions including the expense incurred by the Junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall be paid from the contingent fund of the Senate on vouchers authorized and signed by the President pro tempore of the Senate and approved by the Committee on Rules and Administration; be it further

Resolved, That these resolutions do not express any judgment of the action that precipitated these proceedings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of these resolutions to the Supreme Court.

Mr. MANSFIELD. Mr. President, there are some recommendations relative to the counsel to be appointed from the Democratic side and three associate counsel to assist the chief counsel. Would the Chair make those nominations at this time on behalf of the majority?

The PRESIDENT pro tempore. Under the resolution just agreed to, the Chair appoints the Senator from North Carolina (Mr. ERVIN) chief counsel, and the Senator from Mississippi (Mr. EASTLAND), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. TALMADGE) as associate counsel.

The PRESIDING OFFICER (Mr. STAFFORD) subsequently stated: The Chair, on behalf of the President pro tempore, under Senate Resolution 280, makes the following appointments to the committee established by that resolution: The Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), and the Senator from Ohio (Mr. SAXBE).

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on March 22, 1972, the President had approved and signed the following acts:

S. 1163. An act to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes; and

S. 2423. An act to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes.

PROGRAMS FOR OLDER AMERICANS—MESSAGE FROM THE PRESIDENT (H. DOC. NO 92-262)

The PRESIDING OFFICER (Mr. STAFFORD) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

When I addressed the White House Conference on Aging last December, I pledged that I would do all I could to make 1972 a year of action on behalf of older Americans. This message to the Congress represents an important step in fulfilling that promise.

Many of the actions which are outlined in this message have grown out of concerns expressed at the White House Conference and at related meetings across the country. The message also discusses a number of steps that have already been taken or that were announced at an earlier date. All of these actions are part of our comprehensive strategy for helping older Americans.

The momentum which has been generated by all these steps—old and new—will move us toward the great national objectives which the White House Conference set forth. I pledge that this momentum will be sustained as we follow through on these initiatives and as we keep other recommendations of the White House Conference at the top of our agenda, under continuing review.

This message, then, does not represent the last word I will have to say on this important subject. It does, however, identify those administrative steps which we are taking immediately to help older Americans, along with a number of legislative initiatives which should be of highest priority on this year's Congressional agenda.

We often hear these days about the "impatience of youth." But if we stop to think about the matter, it is the elderly who have the best reason to be impatient. As so many older Americans have candidly told me, "We simply do not have time to wait while the Government procrastinates. For us, the future is now." I believe this same sense of urgency should characterize the Government's response to the concerns of the elderly. I hope and trust that the Congress will join me in moving forward in that spirit.

A COMPREHENSIVE STRATEGY FOR MEETING COMPLEX PROBLEMS

The role of older people in American life has changed dramatically in recent decades. For one thing, the number of Americans 65 and over is more than six times as great today as it was in 1900—compared to less than a 3-fold increase in the population under 65. In 1900, one out of every 25 Americans was 65 or over; today one in ten has reached his 65th birthday.

While the number of older Americans has been growing so rapidly, their traditional pattern of living has been severely disrupted. In an earlier era, the typical American family was multigenerational—grandparents and even great-grandparents lived in the same household with their children and grandchildren, or at least lived nearby. In recent years, however, the ties of family and of place have been loosened—with the result that more and more of our older citizens must live apart or alone. The rapid increase in mandatory retirement provisions has compounded this trend toward isolation. Under such conditions, other problems of older persons such as ill health and low income have become even more burdensome. And all of these difficulties are intensified, of course, for members of minority groups and for those who are blind or deaf or otherwise handicapped.

The sense of separation which has characterized the lives of many older Americans represents a great tragedy for our country. In the first place, it denies many older citizens the sense of fulfillment and satisfaction they deserve for the contributions they have made throughout their lifetimes. Secondly, it denies the country the full value of the

skills and insights and moral force which the older generation is uniquely capable of offering.

The major challenge which confronts us, then, as we address the problems of older Americans is the new generation gap which has emerged in this country in recent decades between those who are over 65 and those who are younger. The way to bridge this gap, in my judgment, is to stop treating older Americans as a burden and to start treating them as a resource. We must fight the many forces which can cause older persons to feel dependent or isolated and provide instead continuing opportunities for them to be self-reliant and involved.

If we can accomplish this goal, our entire Nation will reap immense benefits. As I put it in my speech to the White House Conference on Aging, ". . . any action which enhances the dignity of older Americans enhances the dignity of all Americans, for unless the American dream comes true for our older generation, it cannot be complete for any generation."

From its very beginnings, this Administration has worked diligently to achieve this central objective. To assist me in this effort, I established a special task force on aging in 1969. In that same year, I elevated the Commissioner on Aging, John Martin, to the position of Special Assistant to the President on Aging, the first such position in history. Later, I created a new Cabinet-level Committee on Aging, under the leadership of the Secretary of Health, Education, and Welfare, to ensure that the concerns of the aging were regularly and thoroughly considered by this Administration and that our policies to help older persons were effectively carried out. To provide greater opportunity for older Americans to express their own concerns and to recommend new policies, I convened the White House Conference on Aging—which met last December and which was proceeded and followed by many other meetings at the grassroots level. I asked the Cabinet-level Committee on Aging to place the recommendations of the Conference at the top of its agenda. And I also asked the Chairman of the Conference, Arthur Flemming, to stay on as the first Special Consultant to the President on Aging, so that the voice of older Americans would continue to be heard at the very highest levels of the Government.

One dimension of our efforts over the last three years is evident when we look at the Federal budget. If our budget proposals are accepted, overall Federal spending for the elderly in fiscal year 1973 will be $50 billion, nearly 150 percent of what it was when this Administration took office. One particularly important example of increased concern for the elderly is the fact that overall Federal spending under the Older Americans Act alone has grown from $32 million in fiscal year 1969 to a proposed $257 million in fiscal year 1973—an eight-fold increase. This figure includes the $157 million I originally requested in my 1973 budget, plus an additional $100 million which I am requesting in this message for nutrition and related services.

How much money we spend on aging programs is only one part of the story, however. *How* we spend it is an equally important question. It is my conviction that the complex, interwoven problems of older Americans demand, above all else, a *comprehensive* response, one which attacks on a variety of fronts and meets a variety of problems.

This message outlines the comprehensive strategy which this Administration had developed for bridging the new generation gap and enhancing the dignity and independence of older Americans. That strategy has five major elements:

1. Protecting the income position of the elderly;

2. Upgrading the quality of nursing home care;

3. Helping older persons live dignified, independent lives in their own homes or residences—by expanding and reforming service programs;

4. Expanding opportunities for older people to continue their involvement in the life of the country; and

5. Reorganizing the Federal Government to better meet the changing needs of older Americans.

A SUMMARY OF MAJOR INITIATIVES

In addition to discussing important actions which have been taken in the past or are now underway, this message focuses attention on the following major items of new and pending business.

1. *To protect the income position of older Americans, the Congress should:*

—enact H.R. 1 as soon as possible, thus providing older Americans with $5½ billion of additional annual income. H.R. 1 would increase social security benefits by 5 percent, make social security inflation-proof, increase widow, widower and delayed retirement benefits, liberalize earnings tests, and establish a floor under the income of older Americans for the first time;

—repeal the requirement that participants in part B of Medicare must pay a monthly premium which is scheduled to reach $5.80 this July. This step would make available to older persons an additional $1.5 billion—the equivalent of roughly another 4 percent increase in social security benefits for persons 65 and over;

—strengthen the role played by private pension plans by providing tax deductions to encourage their expansion, requiring the vesting of pensions, and protecting the investments which have been made in these funds;

—enact revenue sharing proposals designed to provide the opportunity for significant property tax relief; and

—enact my proposed consumer protection legislation which deals with problems which are especially acute for older citizens.

The Administration will:

—continue its investigation of alternative methods for financing public education in such a manner as to relieve the present heavy reliance on property taxes;

—propose major improvements in the military retirement system, including a one-time recomputation of retired pay;

—continue the battle against price inflation, with special emphasis in the health care field;

—develop a program to foster greater awareness among older citizens of their legal rights under the Interstate Land Sales Full Disclosure Act; and

—develop a program designed to help each State create consumer education programs for older citizens.

2. *To upgrade the quality of nursing home care,*

The Congress should:

—make it possible for the Federal Government to assume the entire cost of State inspection of homes receiving payments under the Medicaid program; and

—approve my request for additional funds for training nursing home personnel.

The Administration will:

—continue to strengthen and expedite other portions of my 8-point program for upgrading nursing homes, including my commitment to withdraw Federal funds from those homes that refuse to meet standards and to make adequate alternative arrangements for those who are displaced from substandard homes; and

—develop proposals for protecting older persons in the purchase of nursing home services.

3. *To help older persons live dignified, independent lives in their own homes or residences,*

The Congress should:

—appropriate the $100 million I requested for the Administration on Aging in my 1973 budget;

—appropriate an additional $100 million for nutritional and related purposes;

—appropriate $57 million for other programs under the Older Americans Act, bringing total spending under this act to $257 million—an eight-fold increase over fiscal year 1969;

—renew and strengthen the Older Americans Act, which so many older persons rightly regard as landmark legislation in the field of aging—extending it for an indefinite period rather than for a specified period of years;

—create a new, coordinated system for service delivery under this act, so that the Administration on Aging can help develop goals for such services, while State and area agencies create specific plans for achieving these goals; and

—allow States and localities to use some of the funds now in the Highway Trust Fund to finance their mass transit programs; including special programs to help the elderly.

The Administration will:

—ensure that Departments and agencies involved in the field of aging identify the portion of their total resources that are available for older persons and ensure that use of these resources is effectively coordinated all across the Government;

—strengthen the role already played by local officials of the Social Secu-

rity Administration and other agencies in providing information about Federal services to older persons and in receiving their complaints;

—launch this summer a new Project FIND—a program which will enlist the services of Government workers at the grassroots level in an outreach effort to locate older persons who are not involved in Federal nutrition programs and who should be;

—step up efforts to meet the special transportation needs of older Americans, giving priority to community requests for capital grants that aid the elderly from the Urban Mass Transportation Fund;

—provide more and better housing for older Americans by issuing new guidelines for two HUD programs to make them more readily applicable to the elderly, by extending the mortgage maturity for the FHA-insured nursing home program, by drawing upon research of the Law Enforcement Assistance Administration to reduce crime, by encouraging the provisions of more space for senior centers within housing projects for the elderly, and by developing training programs in the management of housing for older persons.

4. *To expand opportunities for older persons to continue their involvement in the life of our country,*

The Congress should:

—appropriate the funds I have requested for such action programs as Retired Senior Volunteers and Foster Grandparents;

—authorize the ACTION agency to expand person-to-person volunteer service programs, helping more older Americans to work both with children and with older persons who need their help; and

—broaden the Age Discrimination in Employment Act of 1967 to include State and local governments.

The Administration will:

—work with 130 national voluntary groups across the country in a special program to stimulate volunteer action; and

—develop a national program to expand employment opportunities for persons over 65, through programs such as Senior Aides and Green Thumb, by urging State and local governments to make job opportunities available under the Emergency Employment Act of 1971, by working through the public employment offices to open part-time job opportunities in both the public and private sector, and by reaffirming Federal policy against age discrimination in appointment to Federal jobs.

5. *To improve Federal organization for future efforts,*

The Administration will:

—strengthen the Secretary of Health, Education and Welfare Advisory Committee on Older Americans—providing it with permanent staff capability to support its increased responsibilities;

—arrange for the Commissioner of Aging, in his capacity as Chairman of the Advisory Committee on Aging, to report directly to the Secretary of Health, Education, and Welfare;

—create a Technical Advisory Committee on Aging Research in the Office of the Secretary of Health, Education, and Welfare to develop a comprehensive plan for economic, social, psychological, health and education research on aging.

PROTECTING THE INCOME POSITION OF OLDER AMERICANS

Perhaps the most striking change in the lives of most Americans when they turn 65 is the sudden loss of earned income which comes with retirement. The most important thing we can do to enhance the independence and self-reliance of older Americans is to help them protect their income position. I have long been convinced that the *best* way to help people in need is not by having Government provide them with a vast array of bureaucratic services but by giving them money so that they can secure needed services for themselves. This understanding is fundamental to my approach to the problems of the aging.

The success of this income-oriented strategy depends in turn on giving effective attention to two factors: first, where older Americans' money comes from and second, what it is used for.

WHERE THE MONEY COMES FROM: REFORMING AND EXPANDING GOVERNMENT INCOME PROGRAMS

The most important income source for most older Americans is social security. Accordingly, improvements in social security have been the centerpiece of this administration's efforts to assist the elderly. Today, approximately 85 percent of all Americans over 65 receive regular cash benefits from social security, while 93 percent of those now reaching age 65 are eligible to receive such benefits when they or their spouses retire.

Since 1969, social security cash benefits have been increased twice—a 15-percent increase in January of 1970 and another 10 percent increase 1 year later. These increases represent a $10 billion annual increase in cash income for social security beneficiaries. As I suggested, however, in my 1969 message to the Congress concerning social security reform, *bringing* benefit payments up to date alone is not enough. We must also make sure that benefit payments *stay* up to date and that all recipients are treated fairly.

My specific proposals for achieving these ends are presently contained in the bill known as H.R. 1—legislation which is of overwhelming importance for older Americans. This bill passed the House of Representatives in the first session of the 92nd Congress and is presently pending before the Senate Finance Committee. I continue to believe firmly that H.R. 1 is the single most significant piece of social legislation to come before the Congress in many decades.

Let us consider the several ways in which this legislation would help the elderly:

1. *An Additional Increase in Social Security.* Under H.R. 1, social security benefits would be increased by an additional 5 percent effective in June of 1972. This increase would provide $2.1 billion in additional income for older Americans during the first full year that it is effective. It would mean that social security benefits would be one-third higher after this June than they were just 2½ years ago. *This represents the most rapid rate of increase in the history of the social security program.*

2. *Making Social Security "Inflation Proof."* Under H.R. 1, social security payments would, for the first time, be automatically protected against inflation. Whenever the Consumer Price Index increased by 3 percent or more, benefits would be increased by an equal amount. Payments that keep pace with the cost of living would thus become a guaranteed right for older Americans—and not something for which they have to battle again and again, year after year.

3. *Increased Widows' Benefits.* About 58 percent of the population age 65 and over are women, most of whom depend primarily on social security benefits earned by their husbands. Under the present law, however, widows are eligible for only 82½ percent of the retirement benefits which would be paid to their late husbands if they were still alive. H.R. 1 would correct this situation by increasing widows' benefits to 100 percent of the benefits payable to their late husbands. It would similarly expand the eligibility of a widower for benefits payable to his late wife. Altogether, this provision would mean that about 3.4 million widows and widowers would receive increased benefits totaling almost three quarters of a billion dollars in the first full year.

4. *Increased Benefits for Delayed Retirement.* Under present law, those who choose *not* to retire at age 65 forfeit their social security benefits for the period between the time they are 65 and the time they finally retire. H.R. 1 would allow retirees to make up a portion of these lost benefits through higher payments after retirement. Benefits would increase by one percent for each year that a person had worked between the ages of 65 and 72.

5. *Liberalized Earnings Tests.* Like the increased benefit for delayed retirement, the liberalized earnings tests contained in H.R. 1 would encourage more of our older citizens to remain active in the economic life of our country. This is a step which I promised to take in the 1968 campaign and for which I have been working ever since.

It is high time this step was taken. Those who *can* work and *want* to work should *not* be discouraged from working—as they often are under the present law. By reducing the barriers to work, we can increase the sense of participation among older citizens and at the same time tap their energies and experience more effectively.

Under H.R. 1, the amount that a beneficiary could earn without losing any social security would be increased from $1,680 a year to $2,000 a year. That ceiling, in turn, would be automatically increased each time there was a cost of living benefit increase in social security. In addition, for those who earn in excess of $2,000, the potential reduction in so-

cial security payments would also be lessened. Under the present law, benefits are reduced by $1 for each $2 of extra earnings, but this rate applies only to the first $1,200 earned above the exempt amount. Additional earnings beyond that level now cause benefits to be reduced on a $1 for $1 basis. Under H.R. 1, benefits would be reduced on a $1 for $2 basis for all earnings above $2,000—no matter how much more a person earned.

6. *Adult Assistance Reform.* One of the most important elements of H.R. 1—and one of the most under-publicized—is its provision to place a national floor under the income of every older American. H.R. 1 would replace the present Old Age Assistance program with a single, federally-financed program which would provide a monthly income of $150 for an individual and $200 for a couple when fully effective.

This program would assist 4.5 million elderly persons instead of the 2.1 million currently reached. It would also eliminate the practice of placing liens on homes as a condition of eligibility. Eligibility for assistance would be determined on the basis of need without regard to the income or assets of relatives. Relative-responsibility rules would not be a part of this new program.

I believe this reform is particularly important since it channels massive resources—some $2.8 billion in additional annual benefits—to those whose needs are greatest.

7. *Special Minimum Benefits.* H.R. 1 would also provide special minimum benefits for people who have worked for 15 years or more under social security. The guaranteed minimum benefit would range from $75 a month for a person who had worked 15 years under social security to $150 a month for a person with 30 years of such work experience. At maturity, this provision would increase overall benefit payments to $600 million.

H.R. 1: THE NEED FOR PROMPT ACTION

In addition to all of these benefits for older people, H.R. 1 would have enormous benefits for many younger Americans as well. Clearly the passage of this bill is a matter of the very highest priority. I have made that statement repeatedly since I first proposed this far-reaching program in 1969. As I make that statement again today, I do so with the conviction that further delay is absolutely inexcusable. To delay these reforms by even one more year would mean a loss for older Americans alone of more than $5 billion.

It is my profound hope that the Senate will now carry forward the momentum which has been generated by the passage of H.R. 1 in the House of Representatives, thus seizing an historic opportunity—and meeting an historic obligation.

WHERE THE MONEY COMES FROM: MILITARY, VETERANS AND FEDERAL EMPLOYEE BENEFITS

We are laso making significant progress toward improving the retirement income of career military personnel, veterans and Federal employees.

1. *To improve military benefits,* I will soon submit legislation to the Congress for recomputing retirement pay on the basis of January 1, 1971 pay scales, thus liberalizing annuities for current retirees. I will also submit legislation to provide—for the first time—full annuities for retired reservists at an earlier age, and to revise benefit payments so that retirees receive their full annuities when they are most needed, at the conventional age of full retirement. I hope these proposals will receive favorable consideration.

In addition, I support legislation to provide military retirees with a less expensive survivor annuity plan—one which is similar to that now provided to retired civil servants.

2. *Benefits for veterans* are also improving. Our efforts to improve both the quality of care and the number of patients treated in Veterans Administration hospitals will have a major impact on older veterans, since more than one-fourth of all VA patients are over 65. The staff to patient ratio at VA hospitals will be increased to 1.5 to 1, an all-time high, if our budget proposals are accepted.

The fiscal year 1973 budget also provides for further increases in nursing home care with the result that the authorized number of VA-operated nursing beds will have doubled since 1969 and the number of community contract beds and State home beds built and operated with VA subsidies will have increased by one-third over the same period.

In addition, I have signed into law significant improvements in pensions for elderly veterans which relate benefits more closely to need and protect recipients from income loss because of increases in the cost of living. In January of 1971, pensions were increased by an average of 9.6 percent. One year later, they went up an additional 6.5 percent and a new formula was adopted relating benefits more closely to need for the first time.

3. *Federal Employee Benefits* are also up. Retirement benefits for Federal employees have been liberalized in several instances, and—under a more generous formula for determining cost of living increases—annuities have gone up nearly 16 percent in the last 2½ years. In addition, the Government's contribution to Federal health benefit premiums of current and retired employees has been substantially increased.

WHERE THE MONEY COMES FROM: REFORMING THE PRIVATE PENSION SYSTEM

Only 21 percent of couples now on our social security rolls and only 8 percent of non-married beneficiaries are also receiving private pensions. While this picture will improve somewhat as workers who are now younger reach retirement, nevertheless—despite the best efforts of labor and management—only half the work force is presently covered by private pension plans. As the White House Conference on Aging pointed out, the long-range answer to adequate income for the elderly does not lie in Government programs alone; it also requires expansion and reform of our private pension system.

Late last year, I submitted to the Congress a five-point program to achieve this goal. It includes the following items:

1. *Tax deductions to encourage independent savings toward retirement.* Individual contributions to group or individual pension plans should be made tax deductible up to the level of $1500 per year or 20 percent of earned income, whichever is less. Individuals should also be able to defer taxation of investment earnings on these contributions.

2. *More generous tax deductions for pension contributions by self-employed persons.* The annual limit for deductible contributions to pension plans by the self-employed—on their own behalf and for those who work for them—should be raised from $2,500 or 10 percent of earned income, whichever is less, to the lesser of $7,500 or 15 percent of earned income.

3. *Requiring the vesting of pensions.* Persons who have worked for an employer for a significant period should be able to retain their pension rights even if they leave or lose their jobs before retirement. Unfortunately, many workers do not now have this assurance—their pensions are not vested. To change this situation, I have proposed a new law under which all pensions would become vested as an employee's age and seniority increased. Under this law, the share of participants in private pension plans with vested pensions would rise from 31 percent to 47 percent and the overall number of employees with vested rights would increase by 3.6 million. Most importantly, among participants age 45 and older, the percentage with vested pensions would rise from 60 percent to 92 percent.

4. *The Employee Benefits Protection Act.* This legislation was first proposed to the Congress in March of 1970; it was strengthened and resubmitted in 1971. It would require that pension funds be administered under strict fiduciary standards and would provide certain Federal remedies when they are not. It would also require that plans provide full information to employees and beneficiaries concerning their rights and benefits.

5. *A study of pension plan terminations.* In my December message, I also directed the Departments of Labor and the Treasury to undertake a one-year study concerning the extent of benefit losses which result from the termination of private pension plans. This study will provide the information we need in order to make solid recommendations in this field, providing needed protection without reducing benefits because of increased costs.

WHERE THE MONEY GOES: THE BURDEN OF HEALTH COSTS

Growing old often means both declining income and declining health. And declining health, in turn, means rising expenditures for health care. Per capita health expenditures in fiscal year 1971 were $861 for persons 65 and older, but only $250 for persons under 65. In short, older Americans often find that they must pay their *highest* medical bills at the very time in their lives when they are *least* able to afford them.

Medicare, of course, is now providing significant assistance in meeting this problem for most older Americans. In fiscal year 1971, this program accounted for 62 percent of their expenditures for hospital and physicians services and 42 percent of their total health payments.

In addition, an estimated 40 percent of Medicaid expenditures go to support the health costs of the elderly, while other programs provide significant additional assistance.

But serious problems still remain. Accordingly, this Administration has been working in a number of ways to provide even more help for the elderly in the health-care field. One of our most important proposals is now pending before the Congress. I refer to the recommendation I made more than a year ago that the Congress combine part B of Medicare—the supplementary medical insurance program, with part A—the hospital insurance program, thus eliminating the special monthly premium which older persons must pay to participate in part B—a premium which will reach $5.80 per month by July. I have reaffirmed my commitment to this important initiative on other occasions and today I affirm it once again. Elimination of the premium payment alone would augment the annual income of the elderly by approximately $1.5 billion, the equivalent, on the average, of almost a 4 percent increase in social security for persons 65 and over. I hope the Congress will delay no longer in approving this important proposal.

Our concern with health costs for older Americans provides additional reasons for the prompt approval of H.R. 1. Under that bill:

—Provision is made for extending Medicare to many of the disabled (about 60 percent of whom are age 55 and over) who are drawing social security benefits and who have had to give up work before reaching regular retirement age;

—Medicare beneficiaries would have the opportunity to enroll in Health Maintenance Organizations—organizations which I strongly endorsed in my special message on health policy because of my conviction that they help to prevent serious illness and also help to make the delivery of health care more efficient;

—Provision is made for removing the uncertainties relative to coverage under Medicare when a person needs to use extended care facilities after hospitalization.

In my recent message to Congress on health policy, I indicated a number of other measures which will help reduce the cost of health care. I spoke, for example, of the special attention we have been giving under Phase II of our New Economic Policy to the problem of skyrocketing health costs, through the special Health Services Industry Committee of the Cost of Living Council. I indicated that a number of cost control features would be introduced into the Medicare and Medicaid reimbursement processes—with the overall effect of reducing health costs. I have also called for new research efforts in fields such as heart disease, cancer, and accident prevention—initiatives which also promise to reduce health problems—and health bills—for older persons.

WHERE THE MONEY GOES: INFLATION

Inadequate retirement incomes are strained even further when inflation forces older persons to stretch them to meet rising costs. Because older persons are uniquely dependent on relatively fixed incomes, they are uniquely victimized by the ravages of inflation. While my proposals for making social security benefits inflation-proof will provide significant help in defending the elderly against this menace, it is also important that we take on this enemy directly—that we curb inflationary pressures.

This goal has been a central one of this Administration. When I came to office this country was suffering from a massive wave of price inflation—one which had resulted in large measure from the methods chosen to finance the Vietnam War. The problem of reversing this wave by conventional methods was a more stubborn problem, frankly, than I expected it to be when I took office. By the summer of 1971, it became clear that additional tools were needed if inflation was to be quickly and responsibly controlled. Accordingly, I announced last August a New Economic Policy—one which has received the strong support of the Congress and the American people.

I have been especially gratified that older Americans—whose stake in the battle against inflation is so high—have rallied to support this new economic program. With their continued support—and that of all the American people—we can carry this battle forward and win a decisive victory.

One key element in that battle, of course, is to be sure that Government spending programs, including those which help the elderly, are responsibly financed. If they are not, then inflation will merely be reignited and Government policy will merely be robbing older Americans with one hand of the aid it gives them with the other.

WHERE THE MONEY GOES: PROPERTY TAXES

Two-thirds of all older citizens—and 78 percent of older married couples—own their own homes. For these Americans—and for many younger Americans as well—the heavy and growing burden of property taxes constitutes one of the most serious of all income-related problems. Even those who rent their homes often bear an unfair burden since property tax increases are frequently passed along in the form of higher rents. The reason these burdens are so onerous, of course, is that the income from which property taxes must be paid by the elderly is usually going *down* at the very time the taxes are going *up*.

Property taxes in the United States have more than doubled in the last ten years. The problems which this fact implies are felt by Americans of all ages. But elderly Americans have a special stake in their solution.

I am committed to doing all I can to relieve the crushing burden of property taxes. I have been proceeding toward this end in two ways. First, I am continuing to push for passage of our General and Special Revenue-Sharing proposals, legislation which would channel some $17 billion into State and local budgets and thus provide a significant opportunity for property tax relief. At the same time, as I indicated in my recent State of the Union Address, I am also moving to change the system through which we finance public education. In developing a new approach, I will draw on the recommendations of the President's Commission on School Finance, the Advisory Commission on Inter-governmental Relations, and other analyses such as those which are being performed under the direction of the Secretaries of the Treasury, and of Health, Education, and Welfare. The purpose of this intensive investigation is to develop ways of putting this Nation's educational system on a sounder financial footing while helping to relieve the enormous burden of school property taxes.

REDUCING INCOME TAX BURDENS

Recently approved and pending changes in the income tax laws also provide special help to older persons. Under these provisions, a single person age 65 or over would be able to receive up to $5,100 of income without paying any Federal income taxes, while a married couple with both husband and wife 65 or over would be able to receive up to $8,000 of such tax-free income.

WHERE THE MONEY GOES: PROTECTING ELDERLY CONSUMERS

The quality of life for older Americans depends to a large extent upon the responsiveness of the marketplace to their special needs. It is estimated that elderly persons now spend over $60 billion for goods and services every year—and they will be able to spend billions more if my proposals for increasing their income are enacted. Our economy should be responsive to the needs of older Americans; they have a high stake in advancing consumer protection.

Through organizational changes, administrative actions and legislative recommendations, this Administration has been working to provide needed protection for the American consumer in general—and for the older consumer in particular. The several pieces of consumer legislation which I have submitted to the Congress are designed to reduce dangers which are especially acute for older consumers—and I again urge their enactment.

In addition, I am asking my Special Assistant for Consumer Affairs, in cooperation with the Secretary of Housing and Urban Development, to develop a program for helping to enforce the Interstate Land Sales Full Disclosure Act by fostering greater awareness among older citizens of their legal rights under this legislation.

Recognizing that the complexity of today's marketplace demands great sophistication by the individual consumer, our primary and secondary schools have stepped up their programs for consumer education. Unfortunately, many older Americans have never had the opportunity to benefit from such programs. The Office of Consumer Affairs is therefore developing guidelines for adult consumer education programs with particular emphasis on the needs of the elderly. To carry out these guidelines, I am asking my Special Assistant for Consumer Affairs, working in cooperation with the Secretary of Health, Education, and

Welfare, to develop a program of technical assistance to help the States create consumer education programs specifically designed for older citizens.

A COMPREHENSIVE EFFORT FOR IMPROVING INCOME

The key characteristic of my strategy for protecting the income position of older Americans is its *comprehensiveness*. For it would help to augment and protect the income older persons derive from social security, adult assistance, Federal military, veterans and civilian benefits, and private pensions, while at the same time curbing the cruel drain on those incomes from rising health costs, inflation, taxes and unwise consumer spending. I hope now that the Congress will respond promptly and favorably to these proposals. If it does, then the purchasing power of the elderly can be enhanced by billions of dollars a year—an achievement which could do more than anything else to transform the quality of life for Americans over 65.

UPGRADING THE QUALITY OF NURSING HOME CARE

Income related measures can help more older Americans to help themselves; they build on the strong desire for independence and self-reliance which characterizes the older generation. We must recognize, however, that some older Americans—approximately five percent by recent estimates—cannot be primarily self-reliant. These older men and women require the assistance provided by skilled nursing homes and other long-term care facilities. For them, a dignified existence depends upon the care and concern which are afforded them in such settings.

In June of 1971, at a regional convention of the National Retired Teachers Association and the American Association of Retired Persons, I pledged to meet the challenge of upgrading nursing home care in America. I expressed my determination that nursing homes, for those who need them, should be shining symbols of comfort and concern. I noted that many such facilities provide high quality care, but that many others fall woefully short of this standard. I observed that those who must live in such facilities are virtual prisoners in an atmosphere of neglect and degradation.

Following that speech, I directed the development of an action plan to improve nursing home care and I announced that 8-point plan in August of 1971. I am pleased to be able to report that we have made significant progress in carrying out that plan. We have delivered on all of the eight promises implied in that program. Let us look at each of them:

1. *Training State Nursing Home Inspectors*—Through February of 1972, almost 450 surveyors had been trained in federally-sponsored programs at three universities. Contract negotiations are underway to continue ongoing programs and to establish new ones at two university training centers.

2. *Complete Federal Support of State Inspections Under Medicaid*—Legislation to raise the level of financial participation by the Federal Government in this activity to 100 percent was submitted to the Congress on October 7, 1971, as an amendment to H.R. 1. This proposal is awaiting Congressional action.

3. *Consolidation of Enforcement Activities*—A new Office of Nursing Home Affairs has been established in the Office of the Secretary of Health, Education, and Welfare. This unit is directly responsible for coordinating all efforts to meet our July 1, 1972, deadline for inspections of skilled nursing homes and for certification of these facilities in accordance with proper procedures.

4. *Strengthening Federal Enforcement*—142 new positions have been allocated to the Medical Services Administration to enforce Medicaid standards and regulations. Added emphasis is being placed on the audit process as a tool for enforcement; 34 additional positions are being added in HEW's Audit Agency to perform audits of nursing home operations.

5. *Short-term Training for Professional and Paraprofessional Nursing Home Personnel*—This program is currently funded at the $2.4 million level and is scheduled to train 20,000 persons. The fiscal year 1973 budget which I submitted to the Congress contains $3 million to train an additional 21,000 persons.

6. *Assistance for State Investigative Units*—A program to develop and test investigative-ombudsman units to respond to individual complaints and to other problems in the nursing home area has also been initiated. As an interim mechanism, nearly 900 social security district and branch offices have been designated as listening posts to receive and investigate complaints and suggestions about nursing home conditions.

7. *Comprehensive Review of Long-term Care*—The Office of Nursing Home Affairs is now carrying out a comprehensive analysis of issues related to long-term care.

8. *Cracking Down on Substandard Nursing Homes*—Progress is also being made on this important front. Last December I signed legislation which, among other things, authorizes Federal quality standards for intermediate care facilities, thus giving us additional authority to guarantee a decent environment for those who live in long-term care facilities.

Every State providing nursing home care under the Medicare and Medicaid programs has now installed systems for surveying and certifying nursing homes. In the area of fire-safety and other safety guidelines, a coordinated set of standards for homes providing care under these programs is being put into effect.

Medicaid compliance activities have also been stepped up. Onsite Federal reviews of State Medicaid certification procedures have been carried out. Deficiencies in those procedures were found in 39 States. These deficiencies were publicly announced by the Secretary of Health, Education, and Welfare on November 30, 1971, along with a timetable for correcting them. Since that time, 38 of the 39 States have made the necessary corrections. We have determined that every facility receiving Medicaid funds must have been inspected and correctly certified by July 1, 1972.

While we prefer to upgrade substandard homes rather than shut them down, we will not hesitate to cut off money when that is necessary. As of February 11, 1972, in fact, 13 extended care facilities had been decertified for participation in Medicare. In such cases, as I have often pledged before, we are firmly committed to seeing that adequate alternative arrangements are made for those who are displaced.

In fiscal year 1971, the Federal Government contributed $1.2 billion to the cost of nursing home care. We should also remember, however, that more than 40 percent of the annual expenditure for nursing homes is borne by private sources. In addition to seeing that Federal tax dollars are properly spent in this area, it is also important that private individuals are protected when they purchase nursing home services. I have asked the Secretary of Health, Education, and Welfare to develop proposals to deal with this dimension of the nursing home challenge.

SPECIAL SERVICES TO FOSTER INDEPENDENCE

Improving the income position of older Americans and upgrading nursing homes—these are two concerns which have been of highest priority for this Administration in the past and which will continue to be central in the future. As we work to develop a truly comprehensive strategy, however, other agenda items have also been emerging as areas of special emphasis, particularly those involving public and private services which can help older persons live dignified, independent lives in their own homes for as long as possible.

INCREASED RESOURCES FOR THE ADMINISTRATION ON AGING

Since the passage of the Older Americans Act in 1965, the Administration on Aging has had the lead Federal role in developing and coordinating such services. While that office has accomplished many significant things, the importance and urgency of its mission have outstripped its financial resources.

It was to help remedy this situation that I announced at the White House Conference on Aging last December that I would call for a fivefold increase in the budget of the Administration on Aging—from $21 million to $100 million. As I will discuss below in greater detail, I am now requesting an additional $100 million for nutritional and related purposes, money which would also be spent through the Administration on Aging.

With this substantial increase in funds, we would be able to step up significantly our efforts to develop and coordinate a wide range of social and nutritional services for older Americans. Our central aim in all of these activities will be to prevent unnecessary institutionalization—and to lessen the isolation of the elderly wherever possible.

EXTENDING THE OLDER AMERICANS ACT

Since its passage in 1965, the Older Americans Act has served as an important charter for Federal service programs for the elderly. Unless the act is promptly extended, however, the grant programs it

authorizes will expire on June 30th. This must not happen. I therefore urge that this landmark legislation be extended—and that the extension be indefinite, rather than limited to a specific period of time.

STRENGTHENING THE PLANNING AND DELIVERY OF SERVICES

In addition, I am asking that the Older Americans Act be amended to strengthen our planning and delivery systems for services to the elderly. Too often in the past, these "systems" have really been "non-systems," badly fragmented, poorly planned and insufficiently coordinated. My proposed amendments are designed to remedy these deficiencies.

We should begin by helping to develop and strengthen the planning capacities of the State agencies on aging and of new area agencies on aging which would be established within each State. Up to 75 percent of the administrative costs of these new area planning agencies would be funded by the Administration on Aging, which would also establish general goals to which activities at the State and local levels would be directed. One of the major priorities would be to enhance and maintain the independence of older citizens.

The State and area planning agencies would plan for the mobilization and coordination of a wide range of resources—public and private—to meet such goals. The Administration on Aging would be authorized to fund up to 90 percent of the cost of social and nutritional services provided under plans developed by the area planning agencies. In fiscal year 1973, $160 million would be allocated in formula grants for nutritional and social services. An additional $40 million would be allocated in special project assistance to develop new and innovative approaches and to strengthen particularly promising area plans.

By establishing overall objectives and by providing both money and mechanisms for a stronger planning and coordination effort, we can ensure that resources and energies which are now widely scattered and fragmented can be pulled together in ways which will notably increase their impact.

COORDINATING FEDERAL EFFORTS

Even as we strengthen coordination at grassroots levels, so we must do a better job of coordinating Federal programs. As this message makes clear, efforts are being made all across our Government to help older citizens. But if there was one clear message at the White House Conference on Aging, it was that this wide range of Federal resources must be better coordinated. To help achieve this important objective, I have directed my Special Consultant on Aging to work with all these agencies in an intense new effort to develop coordinated services.

As the first step in this effort, I have directed those agencies whose programs have a major impact on the lives of older persons to provide the Cabinet-level Committee on Aging, within sixty days, with the amounts they identify as serving the needs of the elderly. In addition, I am directing that each agency identify, within the total amount it expects to spend for its aging programs, a sum that will be available to the States and localities for purposes related to the Older Americans Act. The Administration on Aging will then provide this information to the States so that it can be utilized in the State and local planning process. State aging agencies will also be able to transmit their views on proposed Federal programs, thereby furthering the interchange of information and strengthening overall coordination.

Under these procedures, we can ensure that all resources for helping the elderly are fully marshalled and coordinated, in a way which is responsive to the special needs of every State and locality in our land.

ESTABLISHING INFORMATION AND COMPLAINT CENTERS

We must also work to improve communications between the Federal Government and older Americans and to alert the Government to areas of special need. Because older persons often have some difficulty moving about conveniently, and because services are often fragmented and channeled through complex bureaucratic mechanisms, it is especially important that the elderly have one place to turn where they can obtain needed information and let their views be heard.

As I have already noted, we have been moving in this direction under my program to upgrade the quality of nursing home care. Following the directive which I announced at the White House Conference on Aging, Social Security offices have also been expanding their information and referral services for the elderly. District and branch offices are now handling more than 200,000 such inquiries each month—and that number is expected to increase. A task force is now at work within the Social Security Administration to examine ways of improving this service.

As another step in this direction, I have directed the Cabinet-level Committee on Aging to examine ways in which we can use other Government offices—such as the General Services Administration's Federal Information Centers and the Agricultural Extension Service's local offices—in further expanding and improving our information and complaint services.

FIGHTING HUNGER AND MALNUTRITION

In addition to our overall funding and coordination proposals concerning Federal services, we are also moving ahead in a variety of specific service areas. One of the most important is the fight against hunger and malnutrition among the elderly.

The thought that any older citizens—after a lifetime of service to their communities and country—may suffer from hunger or malnutrition is intolerable. Happily, since I submitted my message on hunger and nutrition to the Congress in May of 1969, we have made significant strides toward eliminating this problem among all age groups in America. Our efforts to increase incomes have been central to this endeavor, of course. But our special food assistance programs have also been substantially augmented.

If my budget proposals for fiscal year 1973 are accepted, overall spending for food stamps will have increased nine-fold since 1969. In the coming fiscal year, an estimated 2 million elderly participants in the Food Stamp Program will receive benefits of $343.5 million, compared with only $45.8 million in fiscal year 1969. Virtually every county in the Nation now offers either the Food Stamp or the Food Distribution Program; in early 1969. nearly 500 counties offered neither. In all, 2.5 million older Americans benefit from at least one of these programs.

Food assistance is important to the elderly. They benefit not only from nutritious food but also from the activity of preparing meals and sharing mealtimes with others. To maximize these benefits, the Department of Agriculture in January revised its regulations to improve the nutrition program and expand participation.

But more needs to be done. Many older persons who are entitled to food stamps or to surplus commodities are still not receiving them. Why is this the case? In many instances, older Americans do not realize they are eligible for participation. The agencies which provide assistance are often unaware of older persons who need their services. Some older persons choose not to participate—out of pride or out of fear that accepting food assistance may subject them to the arbitrary treatment they associate with the present welfare system. In some cases, older persons want to participate but find that necessary transportation is unavailable.

To overcome the barriers which keep older Americans from full participation in food assistance programs, we are launching this year a major outreach campaign called Project FIND. This campaign will be conducted through a senior citizen awareness network made up of federally operated or funded field offices and outreach workers. It is my hope that Federally-supported personnel will be augmented in this effort by volunteers from State local government offices and from the private sector. For ninety days, all these workers will go out across our country to find those who should be participating in nutrition programs but who are not yet involved.

Last night, I signed into law S. 1163, a new national nutrition program for the elderly. This program will provide prepared meals in a group setting and delivered meals for those who are confined to their homes. I welcome this effort. Because of my strong feeling that this area should be one of priority action, I will submit to the Congress—as I suggested above—an amendment to my 1973 budget to provide an additional $100 million for nutritional and related services. My proposed amendments to the Older Americans Act would further strengthen this effort by ensuring that the Food Stamp Program is planned as part of a more comprehensive service effort.

Other steps will also be taken in this area. In some areas, for example, space at federally-assisted housing projects will be utilized for feeding older persons. The support of State and local governments, of civic and religious organizations and of the food services industry

will also be solicited. Maximum use will be made of existing technical resources, including skilled personnel who have worked with the school lunch program and other special programs of the Department of Agriculture. The time has come for marshalling all of our resources in a comprehensive campaign to meet the nutrition needs of older Americans.

PROVIDING BETTER TRANSPORTATION FOR THE ELDERLY

For many older Americans, lack of mobility means poor access to friends and relatives, to government services and to meaningful participation in the community. Unless we meet the challenge of providing better transportation for older persons, our efforts in other fields will not be as effective as they should be. This is why I told the delegates to the White House Conference on Aging that I would, by administrative action, require that Federal grants which provide services for older persons also ensure that the transportation needed to take advantage of these services is available.

In addition, the Department of Transportation is significantly increasing its program for developing new ways to meet the public transportation needs of older persons. The approaches which are being tested include special new transportation services to take elderly citizens from housing projects and other residential areas to hospitals, senior citizen centers, social service agencies, employment opportunities and the like; and demand-responsive services whereby the elderly are picked up at their doorsteps and taken to specific desired destinations.

Once new ways have been developed for meeting the transportation needs of the elderly, we must also make them generally available. One proposal which could help significantly in this effort is the recommendation recently submitted to the Congress by the Secretary of Transportation under which some of the funds now in the Highway Trust Fund could be used by States and localities to augment resources in the mass transportation area.

I hope the Congress will give prompt approval to this important plan. The flexibility it provides would allow State and local officials—who know best the transportation needs of the elderly within their own jurisdictions—to give special consideration to meeting those needs. I am asking the Secretary of Transportation to develop specific suggestions for assisting the States and localities in these undertakings.

In addition, the Department of Transportation is ready to give priority attention to community requests for helping older Americans through capital grants from the Urban Mass Transportation Fund and is willing to commit significant resources to this end. I urge the States and localities to move immediately to take advantage of these resources.

MEETING THE HOUSING NEEDS OF OLDER CITIZENS

This Administration has also worked hard to respond to the very special housing needs of older Americans. It is expected, for example, that an all-time record in producing subsidized and insured housing and nursing homes for the elderly will be achieved this year by the Department of Housing and Urban Development. In the current fiscal year, nearly 66,000 units of subsidized housing for the elderly will be funded under HUD's housing assistance programs—a figure which should rise to over 82,000 in fiscal year 1973. In addition, accommodations for over 14,000 people, mostly elderly, will be provided this fiscal year under HUD's nursing and intermediate care facility programs—and nearly 18,000 such accommodations will be provided next year. Finally, a large number of elderly citizens will benefit from other housing funded by this year's record number of nearly 600,000 subsidized housing unit reservations. Clearly, we are making substantial progress in this important area.

A number of other administrative steps have also been taken to ensure that this new housing is responsive to the special needs of the elderly. For example, Secretary Romney recently announced new guidelines for the Section 236 subsidized rental program for lower income elderly tenants. These guidelines will help ensure greater variety in building types, including highrise structures, and more flexibility in their locations. As a result of these guidelines, older persons will find such housing arrangements even better suited to their particular needs.

The Department of Housing and Urban Development has also issued initial guidelines for the new Section 106(a) program which will provide technical assistance to nonprofit sponsors of low and moderate income housing—including housing which is specially designed for the elderly.

In addition, the Department will extend the mortgage maturity for its Federal Housing Administration insured nursing home program up to a maximum of 40 years. This decision will not only reduce monthly occupancy charges to patients, but it will also enable sponsors of residential housing to "package" residential and nursing home complexes more easily. The proximity of these facilities will permit elderly persons temporarily to vacate their residential units for short term nursing care—and at the same time remain close to family, friends, and the environment to which they are accustomed.

I have also directed the Secretary of Housing and Urban Development to work with the Administration on Aging in developing training programs dealing with the management of housing for the elderly.

The Law Enforcement Assistance Administration has undertaken an intensive research effort to determine factors which encourage or inhibit crime in residential settings and to develop total security systems to reduce crime in housing projects. The Department of Housing and Urban Development plans to use the results of this effort in its housing programs. I have also made grant funds available through the Law Enforcement Assistance Administration for reducing crime in areas housing older persons. Already, in two cities, funds have been granted specifically for this purpose.

Crime is an especially serious problem for our older citizens. Through these and other measures, we will continue our strong effort to meet this challenge.

Two years ago my task force on aging observed that "older persons would make greater use of many of the services society intends them to receive if these services were made more accessible to them. One reason that the number of senior centers has increased so fast is because centers facilitate the packaging, marketing, and delivery of services." The task force also noted that, "although the number of senior centers has rapidly grown in recent years, centers are still too limited in number to reach more than a fraction of the older population." In my judgment, a natural location for a senior center is a housing facility occupied primarily by older persons.

The Department of Housing and Urban Development administers two housing programs under which such facilities can be made available to older persons living in the project and in the surrounding neighborhood: the Section 236 Program and the Public Housing Program. Both of these programs provide specially designed housing for lower income older persons. The law under which these programs are administered contains language which allows the financing of facilities designed primarily for use by older persons including "cafeteria or dining halls, community rooms, workshops, infirmaries, . . . and other essential service facilities."

To increase the supply of well located senior centers, I have instructed the Department of Housing and Urban Development to encourage greater provision of community space for senior centers within subsidized housing projects for the elderly. The Department will consider the community's overall need for these centers in determining the appropriate scale of centers within such housing projects.

On other fronts, the Farmers Home Administration in the Department of Agriculture is taking steps to meet the housing needs of elderly persons who live in rural areas. Under the Section 502 program, for example, thousands of elderly families have received millions of dollars in loans for home ownership and repair. The Section 515 program, which provides favorable interest loans with repayment periods of up to 50 years to stimulate the development of rental housing in rural areas has also moved forward. Rental units financed under this program have tripled from 1969 to 1973.

EXPANDING OPPORTUNITIES FOR INVOLVEMENT

It is important that we give sufficient attention to the things our Nation should be doing for older Americans. But it is just as important that we remember how much older Americans can do for their Nation. For above all else, what our older citizens want from their country is a chance to be a part of it, a chance to be involved, a chance to contribute.

I am determined that they will have that chance. For as I told the White House Conference, "we cannot be at our best if we keep our most experienced players on the bench." This Administration is deeply committed to involving old-

er citizens as actively as possible in the life of our Nation—by enhancing their opportunities both for voluntary service and for regular employment.

IMPROVING VOLUNTARY SERVICE PROGRAMS

Voluntary social action has long been recognized as one of the great distinguishing characteristics of America, a force which has helped to unite and focus our diverse people in the pursuit of common goals. And even as the voluntary spirit has helped our country move forward more effectively, it has also provided those who have volunteered for service with a greater sense of fulfillment.

The voluntary spirit is particularly relevant to the lives of older Americans. The White House Conference on Aging, for example, called attention to "ways in which older Americans could fulfill themselves by giving service to one another and to their communities." Delegates to the Conference called for "a national policy . . . to encourage older adults to volunteer," and urged "that existing national older adult voluntary programs should be expanded and funded at adequate levels in order to serve extensive numbers of volunteers." They urged a mobilization of public and private organizations to strengthen the volunteer movement.

I agree completely with these judgments. That is why, at the time of the White House Conference, I pledged to move successful voluntary programs from demonstration status to full operation on the national level, an expansion effort that is rapidly moving forward.

I requested, for example, that the Foster Grandparent program be doubled to $25 million, providing for 11,500 foster grandparents to serve 23,000 children each day—50,000 children in all each year—in some 450 child care institutions throughout the country. I also asked that ACTION's Retired Senior Volunteer Program (RSVP) be tripled to $15 million so that as many as 75,000 senior volunteers could be involved in community services.

When the RSVP program has developed to the full extent permitted by the new appropriations, as many as 11,000 volunteers will be serving older persons in nursing homes and other extended care facilities, bringing companionship and personal assistance to some 45,000 residents who might otherwise be lonely and isolated. At the same time, as many as 13,000 part-time RSVP volunteers will be serving as homemaker and health aides, enabling thousands of older persons to continue to live in their own homes. By using senior volunteers in a variety of programs, we can foster that human contact which brightens the lives both of those who are served and those who volunteer.

But other new steps are also needed in this area.

As one such step, the Congress should enact legislation which would enable the ACTION agency to expand person-to-person volunteer service programs for older Americans. These efforts would build on the successful experience of the Foster Grandparent program. One important characteristic of such programs is that so much good can be accomplished, so many people helped, for a relatively small dollar investment. It would indeed be tragic if we did not capitalize on this opportunity.

Measures are also needed to improve coordination among the many Federal and non-Federal volunteer activities which affect the aging. As one important step in this direction, the Administration on Aging and the National Center for Voluntary Action have enlisted the cooperation of 130 national voluntary organizations in a program to help older men and women in 300 communities live dignified lives in the familiar settings of their own homes. Too often, older Americans are displaced from such settings simply because small problems such as simple home repairs, shopping and trips to obtain health care have become too difficult. And yet, with only minimal assistance from volunteers, these problems could easily be met.

I have directed the ACTION agency to work in every possible way to help provide such assistance. Already the RSVP program is moving forward in this area. I am confident that other ACTION program volunteers can also make a major impact in this field. It is my hope, too, that communities will consider the elderly residents of federally assisted housing projects as a source of volunteer manpower for serving other older persons.

As we move ahead with this entire program, we should take encouragement from successes of the past. One which is particularly noteworthy is the program in Mount Vernon and Edmunds, Washington, where local citizens have designed a unique bridge across the generation gap called STEP—Service to Elderly Persons. Under this program, volunteers from the local high schools have undertaken, on a regular basis, to assist elderly persons in performing small tasks, while at the same time providing them with companionship and renewed hope. Everyone gains from a program of this sort. If leaders at every level are alert to such possibilities, our progress can be enormous.

Often in quiet ways, the people of the United States have been responding to the challenges of our society with compassion and resourcefulness. Now it is for those of us who have the responsibility for national leadership to provide the Federal assistance which can help such voluntary efforts go even further and accomplish even more

EMPLOYMENT OPPORTUNITIES FOR OLDER CITIZENS

Discrimination based on age—what some people call "age-ism"—can be as great an evil in our society as discrimination based on race or religion or any other characteristic which ignores a person's unique status as an individual and treats him or her as a member of some arbitrarily-defined group. Especially in the employment field, discrimination based on age is cruel and self-defeating; it destroys the spirit of those who want to work and it denies the Nation the contribution they could make if they were working.

We are responding to this problem in a number of ways. The Department of Labor, for example, has filed over 80 suits under the Age Discrimination in Employment Act of 1967—30 of which have been successfully concluded. I will soon propose to the Congress that this act be broadened to include what is perhaps the fastest growing area of employment in our economy—the State and local governments. I will also send a directive to the heads of all Federal departments and agencies reaffirming and emphasizing our policy that age shall be no bar to a Federal job which an individual is otherwise qualified to perform.

The Age Discrimination in Employment Act relates to persons between the ages of 45 and 65. I recognize that persons falling within this age group are confronted with special problems in the employment area and that we should do everything we can to resolve these problems. It is also important, however that we help open employment opportunities for persons over 65. To this end, I have requested the Secretary of Labor to urge the States and local communities to include older persons in the opportunities provided by the Emergency Employment Act of 1971, and to work with our public employment offices so that they will be in a position to help open job opportunities for the over 65 group, including opportunities for part-time employment in both the public and private sectors.

I also asked last fall that funds be doubled for special Operation Mainstream projects for low-income older workers—such as Green Thumb and Senior Aides. This measure can mean that as many as 10,000 older persons will be employed in activities that provide useful community service.

ORGANIZING FOR FUTURE ACTION

One of the important concerns of the White House Conference on Aging was the way in which the Government is organized to deal with the problems of older Americans. It was because I share this concern that I established my original task force on aging, appointed the first Special Assistant to the President on Aging and the first Special Consultant to the President on Aging, set up a new Cabinet-level Committee on Aging and called the White House Conference.

In a similar manner, the Secretary of Health, Education, and Welfare has taken steps to ensure that the voice of older Americans speaks loud and clear within that Department. He has informed me that he will strengthen the Department's Advisory Committee on Older Americans and provide it with staff capability to support its increased responsibilities. The Commissioner of Aging, in his capacity as Chairman of the Advisory Committee, will report directly to the Secretary.

Another important organizational concern involves Government research activities which concern the process and problems of aging. It is important that the same scientific resources which have helped more people live longer lives now be applied to the challenge of making those lives full and rewarding for more Americans. Only through a wise invest-

ment in research now, can we be sure that our medical triumphs of the past will not lead to social tragedies in the future.

What we need is a comprehensive, coordinated research program, one which includes disciplines ranging from biomedical research to transportation systems analysis, from psychology and sociology to management science and economics. To coordinate the development of such a program, a new Technical Advisory Committee for Aging Research will be created in the office of the Secretary of Health, Education, and Welfare.

A GENERATION NO LONGER FORGOTTEN

We all grow old; the younger generation today will be the older generation tomorrow. As we address the needs of older Americans, therefore, we are truly acting in the best interest of all Americans. The actions and proposals which have been outlined in this message are designed to address those needs and meet those interests.

When I spoke about the problems of the elderly back in 1968, I described our older citizens as "an entire generation of forgotten Americans." But since that time, as this message clearly demonstrates, that situation has sharply changed. Today, it can truly be said that at all levels of Government and in all parts of the country, "the aging have come of age." Much work still remains, to be sure, but we can conclude with assurance that the aging are forgotten no longer.

Just before the First World War, one of the brilliant young writers of that day penned a line which has since become a hallmark of the period: "It is the glory of the present age," he wrote, "that in it one can be young."

Since that time, the generation of which he wrote has come through a troubled and challenging time—through two World Wars and a Great Depression, through the difficult experiences of Korea and Vietnam. The members of that same generation have led this country through a time of social and economic change unparalleled in world history. And they have come through all of these challenges "with colors flying." Because of their success, we now have the opportunity to complete their quest for peace and justice at home and around the world.

At such a moment, one obligation should be very high on our list of priorities: our obligation to this older generation. Let us work to make ours a time of which it can be said, "the glory of the present age is that in it men and women can grow *old*"—and can do so with grace and pride and dignity, honored and useful citizens of the land they did so much to build.

RICHARD NIXON.

THE WHITE HOUSE, *March 23, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. STAFFORD) laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the Committee on Commerce.

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

COMMUNICATIONS ACT OF 1934

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 653, S. 3178.

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

The assistant legislative clerk read as follows:

A bill (S. 3178) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, after discussing the matter with the joint leadership, the distinguished Senator from Tennessee (Mr. BAKER), the manager of the bill, the distinguished Senator from Rhode Island, I ask unanimous consent that on the pending business there be a time limitation of 1 hour on each amendment—I understand there will be only one amendment—and 1 hour on the bill.

The PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I shall not object—so far as I know, there will be only one amendment. I do not want to preclude the possibility that there might be others. But the time limitation is entirely agreeable.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. PASTORE obtained the floor.

SENATE INTERVENTION IN SUPREME COURT PROCEEDINGS ON THE SPEECH AND DEBATE CLAUSE OF THE CONSTITUTION

Mr. GRAVEL. Mr. President, will the Senator from Rhode Island yield to me?

Mr. PASTORE. Mr. President, I yield to the Senator from Alaska.

Mr. GRAVEL. I thank the Senator from Rhode Island.

Mr. President, I want to make a few observations and comments on the action which has just been taken.

First, I should like to state that it was with some difficulty that I sat here constrained not to make any comments at all during the debate. I think it can be appreciated how difficult that was for me, but I want to underscore more importantly than that, that for the comments and the actions taken by the leadership, particularly the distinguished majority leader in his personal defense and the statements he made, I will be eternally grateful. The Senate itself should be grateful.

I want to note as well the esteem I have for Senator ERVIN. Of course, this gentleman needs no praise in this regard, because he has a reputation that goes far beyond this Chamber as a constitutional specialist. But the fact that the distinguished Senator from North Carolina (Mr. ERVIN) from the very beginning recognized the fundamental constitutional issues involved and came forward, long before today, on this issue, gives me cause not only to be proud to be a Senator but also to be proud to be associated with a man who can sense the problem and rise to the defense of the problem.

The issue here today was not my issue.

The issues here today concerned the prerogatives of the Senate. Those prerogatives could not have been more ably defended than they were by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished majority leader.

I also appreciate the comments of the distinguished Senator from Rhode Island (Mr. PASTORE), and the Members on the minority side who voted on my behalf—since I sense the pressures they may have been subjected to.

However, Mr. President, I think that we have only settled one thing today and that was the constitutional question.

If I could get the attention of the distinguished Senator from Ohio (Mr. SAXBE), I should like again to make the simple point that only one issue was settled here today and that was the constitutional issue, as to whether the Senate itself would go to the Supreme Court and fight for its own rights.

Mr. President, I should like to see other issues discussed. One issue that was talked about at great length was the issue of a Senator's giving out secrets, and the question of whether the rules were violated.

I should like to have the propriety, the spirit, the entire spectrum of my actions come before this body in debate. In that spirit and if, as a result of that debate, action should be brought against me by this body, then I am sure there would be some gentlemen who would choose to do that.

Thus, I should like, formally, to challenge the Senator from Ohio (Mr. SAXBE), the Senator from Colorado (Mr. DOMINICK)—they are not present in the Chamber at this moment but I will communicate this information in letters to them—the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. DOLE), the Senator from Tennessee (Mr. BROCK) and any other Senator that would want to debate the wisdom and efficacy of my actions on last June 29, and to state that I will take the floor under personal privilege—as I understand, under the rules, I can do—so that if these gentlemen will accommodate me, to be on time, be it tomorrow morning, be it next Tuesday, or any other time that they would choose, I will be happy to come forward and debate the issues involved and have a complete airing of the subject, because I think it will be salubrious not only to the Senate, but also to the people of this country, since the issue of secrecy and its misuses is so vital in a democracy.

Mr. SAXBE. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. Well, now, Mr. President, of course the Senator will be talking on my time.

Mr. SAXBE. Well, I think——

Mr. PASTORE. I am not trying to prevent the Senator from speaking.

Mr. SAXBE. I would just like 1 minute.

Mr. PASTORE. I will be glad to yield 5 minutes to the Senator.

Mr. BAKER. Mr. President, I will yield 5 minutes to the Senator.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Ohio is recognized.

Mr. SAXBE. Mr. President, I did not hear all of the statement that the Senator from Alaska made, but I did hear enough of his statement to understand that he feels he is being greatly wronged by this body which has seen fit to come to his defense of an action which no one should be talking about——

Mr. GRAVEL. If I could correct the Senator there——

Mr. SAXBE. The Senator from Alaska has been championed by the distinguished Senator from North Carolina (Mr. ERVIN) who completely disassociated himself from the Senator from Alaska's actions, and felt called upon to refer to people acting as "damn fools," or people who were not quite all together when they were doing things. Well, he should. Because the actions of the Senator from Alaska indicated at the time a complete disdain for this body. He seemingly felt he was asked by a "higher cause" to disclose the secrets of this country and that he was the judge of that.

Now he wants to debate us all on the floor of the Senate. He has lost the focus of the people of the United States, which he tried to seize by a late night meeting, and he wants us to help get him back onto the front pages by now talking over a period of weeks in this body.

Mr. President, I want no part of that. I have said what I have to say. I am doing nothing to advance the cause of the Senator from Alaska or to try to elevate him to the herodom that he presumes to.

I think what he did was of questionable judgment. I think that what he did in disclosing the secrets, and the way he did it—the unusual way he went around at night and tried to get them printed and to hurry up and do it before the court ruled, is something that is only eligible for the disdain of this body.

Mr. President, I yield the floor.

Mr. GRAVEL. Mr. President, I thank the Senator from Rhode Island for yielding me this time. I only want to say now that, under personal privilege, I shall take to the floor, either tomorrow or next week, and suggest that anyone that wishes to join me in debating the matter be here at that time.

I thank the Chair for its indulgence.

COMMUNICATIONS ACT OF 1934

The Senate continued with the consideration of the bill (S. 3178) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President.

Mr. PASTORE. Mr. President, I yield myself such time as I may need and should like at this time to propound a parliamentary inquiry.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Rhode Island will state it.

Mr. PASTORE. What is the pending business?

The PRESIDING OFFICER. The Chair will advise the Senator from Rhode Island that the pending business is S. 3178.

Mr. PASTORE. Mr. President, this measure was ordered favorably reported by the Committee on Commerce with only one dissenting vote. Similar legislation has passed this body on a number of occasions—but with the exception of the 1960 suspension—none has ever been enacted into law.

Mr. President, enactment of S. 3178 will further reduce the high cost of campaigning for the highest office in the land, and, as we know from the salutary experience of 1960, greatly contribute to a more widely and better informed electorate. Every Member of this body, I am certain, is fully in accord with both of these objectives.

During the committee's hearings on Federal election campaign legislation in this Congress, Mr. Julian Goodman, president of NBC, testified that if the equal time provision were repealed for presidential candidates his network will set aside four prime-time half hours for appearances by the presidential and vice presidential candidates of the two parties to use as they choose and without charge. And that is not confined to the two parties, may it please the Presiding Officer.

Dr. Frank Stanton indicated that CBS is prepared to offer this year between Labor Day and election day 8 hours of free time on the CBS television and radio networks for the major party candidates for President and Vice President to present their views. That offer is contingent upon repeal of section 315 as it applies to these particular offices.

The committee has also been assured by the networks that in addition to the time made available to major party candidates, free time will also be made available on a fair basis to the candidate of any significant third party, such as the American Independent Party as it was in 1968.

The price of network television time being what it is, I believe we would all agree that these offers of free time will further reduce campaign costs substantially.

When the network made their offers, it was made abundantly clear they were not conditioned upon a predetermined format. In plain words, the President or any of his opponents will not be required to debate in order to receive the free time the networks are offering.

There should be no misunderstanding on this point. Freedom for a candidate to choose his own format was the condition precedent to the committee's favorable report of S. 3178, and must be a condition precedent to its enactment.

Mr. President, no medium can contribute more to informing the electorate and thereby serving the democratic process than the broadcasting industry.

Insofar as presidential and vice presidential candidates are concerned, the proposed legislation will afford the licensee and candidates complete freedom to exercise their common judgment in developing times and programs for the candidates' appearances in the general election campaign.

Sufficient flexibility is being afforded the broadcaster to put to test his ingenuity. He cannot, in the event of difficulties encountered later, state that he has been restricted or limited by legislation. He has asked for this opportunity to develop a voluntary plan and it is being granted.

Mr. President, I want to say, so that there be no misunderstanding about this matter, that the very genesis of this idea, as I recall it, came from the mind of Adlai Stevenson, who was a candidate for the office of President against President Eisenhower. A bill was introduced. I believe, if my recollection serves me correctly, it was introduced by the former Senator from Oklahoma (Mr. Monroney) and by the Senator from Washington (Mr. MAGNUSON) to compel the various networks to give free time to the presidential and vice presidential candidates.

We had a prolonged hearing. At the time I wrote a letter to all former Presidents, and I wrote a letter to all the then candidates, including John Kennedy. I invited them to come before the committee and express their views. Naturally, of course, because they were parties in interest, most of them did not come. However, many witnesses did. And we received a great deal of correspondence. Among that correspondence was correspondence from former President Hoover. I also distinctly remember correspondence from Tom Dewey.

They took the position that inasmuch as this is a system of free enterprise, Congress should not mandate any industry to give anything away against its will. So, the networks came before our committee and objected to any compulsory provision in the law, and I think for good reason.

So, I called them in and we had some conversations. Finally, they agreed that if we would grant them an exemption under the law insofar as it applied to the office of President and Vice President, they would make free time available. And they on their own gave free time to the candidates of the major parties as well as significant candidates of third parties. That resolution was reported from the committee by me. And it was enacted into law and led to the so-called Kennedy-Nixon debates.

Since then the question has arisen whether a President of the United States should be embarrassed in any way or be compelled to debate against his own will or whether this would be used as an instrumentality by an opponent against the incumbent to embarrass the incumbent.

Frankly, I have always been conscious of the difficulties that were involved. And

I thought there was substance to that suspicion and to that apprehension. So, at that time the networks came before our committee, I was more than careful to make sure that if we did grant this exemption under the law, the only reason it was being done was not to serve one party against another party, but for the benefit of the American people so that there would be proper exposure of the issues and so that the candidates themselves would have a reasonable opportunity to go before the American people because the cost for a national hookup is absolutely astronomical.

As a result of our discussion, it was agreed with the presidents of these networks that if we understood to do this, they would leave the choosing of the format to the candidates themselves. I am one of those who feel that I do not care who the President is, whether he is Republican or Democrat, I do not think he ought to be compelled to debate. I do not think that anyone ought to tell the President of the United States how he is going to present the issues to the people of the country. I do not care how dramatic or exciting a program might be. It is a matter of what he tells the American people and how he wants to tell them. And I think that the President of the United States is in a better position to make that decision than the president of a network.

So we made it absolutely clear that the format was to be of the choosing of the candidate. Naturally, of course, when the question came up, it was pointed out that there has always been an inherent advantage on the part of the incumbent. I can understand that.

I do not think that President Johnson ever wanted when he was President to debate a matter. After all, when one is President, he has a tremendous advantage. All he has to do is to buy a poppy from a 5-year-old girl and he is on the front page. The President can make his own decisions. He can call a news conference every week if he wants to. Who is to question the President of the United States? No one should.

If a candidate is not flush with money—and we have had times when candidates were poor, and I think that most candidates running now are not wealthy people—the question arises whether the campaign is going to be lopsided and whether the networks should not make a contribution to the public interest.

That is all this amounts to. In order to mollify those in opposition, the suggestion was made, "If you are going to exempt the President, why not exempt the Members of Congress." I do not have any serious objection to that really. The only trouble with that is that we did that the last time on the campaign expenditures bill and the House killed it. And if we put that in here, if we include the Members of Congress in here, they will kill this measure, too.

So, the best way to shut the door is to make it all-encompassing. We have already gone that way. We went to conference, and we tried hard. The result was that they killed it. So, we are trying to confine it now to the office of President and Vice President.

There is a further thing that can be said when we talk about the Members of Congress as against the office of President and Vice President. It is like talking about apples as against oranges because a Member of Congress only runs in a congressional district and a Member of the Senate only runs in a State.

Usually this does not involve the networks. It involves the local broadcasting stations, and there I do not think that we have experienced too much trouble.

Time and time again when I have run for public office, time has been afforded to me and to my opponent. Sometimes we have taken advantage of it, and sometimes we have not. But the point I make now is that there is a distinction between the office of President and the office of Senator insofar as the legislation we are considering today for the simple reason that we are talking about a nationwide program that is very expensive.

In many, many instances unless some free time is given many of these candidates would not have the money in order to buy the television time to fairly and completely present their side of the issues to the electorate. That is what this is all about.

The measure was reported from the committee with only one dissenting vote. This is not a partisan measure; if it were I would not be standing here. I am not trying to be self-righteous, but I think someday maybe some poor Republican who is not in office will be running for the Presidency, and I hope that man is HOWARD BAKER of Tennessee, and I want him to have all the emoluments and benefits of this splendid legislation.

Mr. BAKER. I yield 5 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, the bill, S. 3178, would repeal the "equal time" provision of section 315(a) of the Communications Act of 1934, as amended, for the candidates for the office of President and Vice President of the United States during the general election.

It does not present a new issue for this body. We faced it in 1960 when the provision was repealed for the presidential elections of that year. We faced it in 1964 when the then pending conference report on the joint resolution was tabled by a majority on the other side of the aisle. We considered it in legislation of the 91st Congress and again in the first session of this, the 92d Congress, in what has since become the Federal Election Campaign Act of 1971. On the last occasion, as the bill passed the Senate, the provision was repealed for all candidates for all Federal elective offices, not just the office of President and Vice President. The other body, however, passed no such provision and the proposed repeal which passed the Senate did not survive the committee of conference between the Senate and the House.

Once again, we face the issue of a limited repeal of the so-called equal time provision of section 315 applicable only to the two highest offices of the land, that of President and Vice President. Always, the issue remains the same. The difference is only one of whose ox is being gored since the incumbent political party is never prone to favor such a repeal. Thus, in 1964, a majority of those on the other side of the aisle successfully defeated such a proposal which would have allowed televised debate between President Johnson and our distinguished colleague on this side of the aisle, the Senator from Arizona (Mr. GOLDWATER). Today, the shoe is on the other foot and many of those who so vigorously opposed those of us favoring repeal of the provision in 1964, will today be equally vigorous to champion its repeal for the benefit of their candidate who will oppose President Nixon.

Mr. President, I supported and voted for repeal of the equal-time provision in 1960 and again in 1964. Thus, today with my President in the White House, I stand in much the same position as my distinguished colleague, the senior Senator from Rhode Island (Mr. PASTORE), did in 1964. Like him, I cannot now oppose this legislation—much as I would like to—and still be consistent and reconcile my votes in favor of such a measure in 1960 and in 1964. Accordingly, I shall support S. 3178, for what is "sauce for the goose is sauce for the gander." To do otherwise, in my opinion, would be pure hypocrisy on my part and represents an action which regrettably I cannot take in good conscience.

Mr. President, in view of the similarity between my position now and that of the distinguished chairman of our Communications Subcommittee (Mr. PASTORE) in 1964 when the conference report on a similar repeal of section 315 was tabled on a motion by the distinguished majority leader (Mr. MANSFIELD), I believe it appropriate to conclude my remarks by paraphrasing those of the distinguished senior Senator from Rhode Island (Mr. PASTORE) in that 1964 debate.

"I have nothing further to say than that the Senator from [New Hampshire] will remain consistent and constant on this legislation. I repeat—I have some qualms as to whether a President should have a confrontation with a candidate. There are two schools of thought on that particular subject. Be that as it may, I think the proposed legislation is in the public interest. The format is left up to the candidates themselves. They can arrange the format as they please and if they please.

It is unfortunate that this [issue] has been tied up for so long, whatever the reason. The problem is, who is going to debate whom, and who is going to embarrass whom by not wanting to debate? In spite of that, I move the adoption of the [bill].

Mr. President, on that occasion in 1964, I thanked the Senator from Rhode Island (Mr. PASTORE) for what I characterized as a rather lukewarm endorsement. Today I am compelled to reciprocate and give him my lukewarm endorsement.

Mr. PASTORE. Mr. President, may I say to my friend, the Senator from New Hampshire, that he could not be frigid if he wanted to. [Laughter.]

Mr. BAKER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I must say that in his typical open, diplomatic, and suave way the distinguished Senator

from Rhode Island has come close to entirely disarming any argument I may have in opposition to this bill. Never in my fondest, wildest, most extreme dreams of fantasies did I think an argument would occur to the Senator from Rhode Island to the effect that the Senator from Tennessee would ever consider availing himself of these opportunities. My only remark would be that the Republic could not stand it.

I must say this is a unique situation as far as I am concerned. I have a boundless respect for the chairman of the committee, the Senator from Rhode Island (Mr. PASTORE), and a similar and equal respect for the distinguished ranking minority member of the committee, the Senator from New Hampshire (Mr. COTTON). I also find myself in the position of being the only member of the Committee on Commerce who voted against reporting the bill, but I also find it something of a paradox that the amendment I am about to offer to the Senate was agreed to by a vote of 71 to 21 when this matter was last before us just a few short months ago.

So you see, Mr. President, it is not as one-sided as it would seem—this 15-to-1 vote that occurred in the Commerce Committee—when I stood alone in opposition to my chairman and the distinguished ranking Republican member of the committee.

I shall have more to say on the general subject matter involved, but in order to expedite the proceedings of the Senate, I now send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"That section 315 (a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting immediately after 'public office' in the first sentence thereof ', other than Federal elective office,'.

"Sec. 2. Section 315 (a) of the Communications Act of 1934 (47 U.S.C. 315 (a)) is further amended by inserting after the first sentence the following: 'When a licensee permits a legally qualified candidate for Federal elective office to use his broadcasting station in connection with such candidate's campaign for election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format.' "

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the pending question now the amendment just submitted to the desk and reported by the clerk?

The PRESIDING OFFICER. That is the pending question, and, by unanimous consent, there is a time limitation of 1 hour on the amendment, to be equally divided between the Senator from Tennessee and the Senator from Rhode Island.

Who yields time?

Mr. BAKER. I thank the Chair. I yield myself such time as I may utilize.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, the purpose of this amendment is to build upon and improve S. 3178 in two specific areas.

The amendment repeals the equal time requirements of section 315 of the Federal Communications Act of 1934 for all candidates for Federal office and further provides that the candidate rather than the broadcaster determines the program format. The provisions are identical to an amendment to S. 382 adopted by this body last August, by a vote of 71 to 21. As one of the conferees on S. 382 last December, I shared with my Senate colleagues the conviction that in the rush for adjournment, we should not jeopardize the prompt enactment of the Federal Election Campaign Act of 1971 by having a protracted confrontation with the conferees of the other body over the repeal of the equal time requirements. Therefore, in order to insure prompt action in the area of campaign reform, we receded on that part of the Senate bill repealing the equal time requirements. However, when this body accepted our conference report it was made clear that prompt consideration of the equal time requirements during this session was essential in order to permit broadcasters to provide free time for the 1972 campaign.

As you know, Mr. President, all of the television networks, the National Association of Broadcasters, and individual broadcasters themselves, have urged that we repeal the equal time requirements. Quite frankly, broadcasters find themselves on the horns of a dilemma. If they provide free time to serious political candidates, they are by law required to give the same amount of time to fringe candidates who sometimes seek publicity for publicity sake alone.

But, Mr. President, while it is my view that section 315 has inhibited broadcasters from offering free time and coverage to candidates, the bill presently before the Senate, S. 3178, violates the principle of any sound logician. By endeavoring to limit the repeal of section 315 to the particular offices of the President and Vice President, we are in effect saying that the same inhibitions do not exist with respect to candidates for other Federal elective offices. I am, therefore, of the opinion, and the Senate concurred last year that, as the distinguished Senator from New Hampshire indicated and as the distinguished Senator from Rhode Island did as well, "what is good for the goose is good for the gander." In other words, if section 315 has produced the wrong result, then its inhibiting effect is not limited solely to presidential campaigns. In the interest of increasing the electorate's accessibility to candidates and issues, section 315 should not apply to any candidate for Federal office.

Mr. President, my amendment contains a second section that is of major importance not only to the President whoever he is, but to all Senators and Members of the House of Representatives as well. After the temporary repeal of section 315 for President and Vice President in 1960, it has become a tradition in contested elections for challenges, and in fact, demands, that debates take place before televised audiences. Traditionally, incumbent Presidents have declined to support repeal of section 315 for that reason. In 1960 debates were possible, because neither candidate was an incumbent but in 1964 that was not the case and President Johnson refused to debate Senator BARRY GOLDWATER. The reasons for an incumbent President's position on this question were clearly stated during hearings on campaign reform legislation last year in a colloquy between the Communications Subcommittee chairman, Senator PASTORE, and Senator HARTKE during the testimony of Dr. Frank Stanton, president of Columbia Broadcasting System:

Senator HARTKE. I think that Senator Pastore is making the point no matter how hard you try in the middle of a political campaign you could never really separate the candidate for President as the incumbent President and the President in his position as President of the United States. That is the point you are making, isn't it?

Senator PASTORE. Especially when the red telephone is right next to him anyway.

Senator HARTKE. I understand exactly what Senator Pastore is concerned about. It is the fact that you put a President in the position where it appears he ducks an issue which the American people think he ought to have answered but which for reasons he feels are in the national interest he doesn't. Then he is in a position where no matter what he does, he is wrong. If he violates his trust, should he violate his trust to the American people as President, in order to put himself in a position which he feels would give him the best chance of making a positive approach on a campaign? I think this is the problem with which we are constantly faced here. (Commerce Hearing, Serial 92–6, pages 384–385)

One does not have to go beyond the President's trip to China and scheduled visit to the Soviet Union for an example of areas in which the President would be susceptible to potentially embarrassing questions affecting our national security.

In fact, our experience with debates raises a serious question as to the effectiveness of this means of providing information to the electorate. Despite the continued fascination with the role that debates played in the 1960 presidential election, there is a difference of opinion as to whether they in fact substantially contributed to President Nixon's defeat. Most recently, a New York Times columnist described the debate between the five Democratic candidates for President in New Hampshire as being about as exciting as "watching grass grow." He continued that "no new issues were developed, no new ground covered," and an aide to one of the participants was said to have called it "a travesty—democracy dying a slow death." On March 7, 1972, a New York Times editorial shared the hope of a Muskie staff man that this might be "the end of the debates."

Today, I ask the Members of the Senate to consider very seriously whether they would be willing to subject themselves to the embarrassment, if not needless waste, of time involved in televised debates during a reelection campaign. If not, why would you put the President of the United States, whoever he is and whatever his party affiliation, in that position. I repeat, Mr. President, "what is sauce for the goose, is sauce for the gander" and to fail to recognize this fact would be to do a tremendous injustice to

the President of the United States, whatever point in the history of the Republic.

Mr. President, I listened with great interest to the frank and candid and very direct and lucid presentation of the distinguished Senator from Rhode Island when he pointed out that he, too, has expressed concern from time to time on the question of compelling the chief magistrate to subject himself to televised debate.

I respect the Senator from Rhode Island for making that allusion a part of his remarks at this juncture, because it does not clearly support the measure that he is pressing for the adoption of now; but it is characteristic of the Senator that he makes his present statement consistent with the statements he has made previously, such as those he alluded to and those alluded to by the Senator from New Hampshire.

I hope all of us might agree—I really believe that the overwhelming majority of the Members of the U.S. Senate would agree—that there is something so unique in the institution of the Presidency, wholly aside from the occupant of that office, his party affiliation, or his popularity or lack of it; a uniqueness that exists, because it is the unitary embodiment of one of the tripartite branches of Government, that it poses a considerable dilemma to require the President by statute, actually or practically, to appear in a televised debate.

I reiterate, I believe most of us would agree that is indeed a problem, as I have pointed out now and as was previously pointed out by the Senator from Rhode Island (Mr. PASTORE).

I wonder if we might go beyond that, Mr. President, and seek a consideration and agreement by a majority of Members of the Senate on another point that I believe was intimated in the remarks by the Senator from Rhode Island. As I understood him to say, he was not pressing for debates as such, but for an opportunity for the President or presidential candidates to minimize the cost of televised campaigning. I wonder if we might not go further, Mr. President, and try to tailor our formula in some sort of statutory language that would make it entirely clear that that was the purpose of our efforts here: For instance, that there would be no condition precedent to a joint appearance or to a debate, or any other condition to the waiver of equal time through some enactment of this Congress.

Mr. PASTORE. Mr. President, if the Senator will yield, of course, it is quite customary today, without this exemption, for the opponent usually to challenge the incumbent to a debate, and whether or not we pass this measure, no matter who is the Democratic candidate, he could always challenge Mr. Nixon, if he is a candidate for reelection, to a debate. And, of course, Nixon in all probability would say what Eisenhower said in 1956 to Adlai Stevenson. He said, "I don't care to debate," and that was the end of it. I mean no one paid much attention to it.

Whether we pass this measure or not, we are always up against the proposition that the underdog or the man on the outside is usually going to challenge someone else to a debate. That happens to the Senator and it happens to me, and we do not have free time.

What we are trying to avoid here is the fact that if free time is given, it be conditioned upon anything. We have made that abundantly clear; it is right in the report. And if the networks violate the understanding that I have, I will be first to come back here next time and ask that it be repealed.

But I would expect the candidates to say, "I do not want your free time if you are not going to let me decide how I am going to use it." That is what I would expect the retort to be, and I would not blame the candidate for taking that position.

I think, myself, that regardless of whether we have free time or not, the element of challenging to a debate is always there, because that depends upon the individual himself, whether or not he is going to get free time.

But every time we talk about this exemption, we talk about debates, and I bet the Senator dollars to doughnuts that if we pass this measure this afternoon, the headline tomorrow morning will be "Senate Permits Debates by the Candidates."

That is not true at all, because we have an understanding, and we wrote right into the report, as a matter of fact, the language that the Senator has adopted, more or less. We have a clear understanding that the format has got to be at the choosing of the candidate. I would not have it any other way.

The PRESIDING OFFICER. Will the Senator suspend to receive a message from the House, and for the Chair to make some appointments?

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 13955) making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 13955) making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STAFFORD). The Chair, on behalf of the Vice President, appoints the following Senators to the General Assembly of the Organization of American States, Washington, D.C., April 11–21, 1972: The Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS).

The Chair, on behalf of the Vice President, under the provisions of Public Law 301 of the 78th Congress, appoints the Senator from Florida (Mr. CHILES) to the Board of Visitors to the U.S. Merchant Marine Academy.

The Chair, on behalf of the Vice President, under the provisions of Public Law 207 of the 81st Congress, appoints the Senator from Georgia (Mr. GAMBRELL) to the Board of Visitors to the Coast Guard Academy.

COMMUNICATIONS ACT OF 1934

The Senate continued with the consideration of the bill (S. 3178) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President.

Mr. BAKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes remaining on his amendment.

Mr. BAKER. Mr. President, I once again find myself in the position of agreeing with virtually everything my distinguished subcommittee chairman has said.

I do not doubt for 1 second, and I hope whatever part of this colloquy is looked upon as legislative history will reflect as much, that the Senator from Rhode Island does not think, the Senator from Tennessee does not think, and I hope no Member of this body thinks that the passage of this measure would mean there is going to have to be televised debate. But report language and legislative history are not the great comfort to me that statutory language would be, and at this point, I serve notice that at some point in this proceeding I intend to offer for the consideration of Senators a further amendment that would attempt to clarify our position.

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

Mr. BAKER. I yield.

Mr. PASTORE. I hope the Senator will not do that, because beyond the time they have agreed to give, there may be a possibility of further time that could be accepted or rejected. I am a little bit concerned in that regard.

I think the networks should make a bigger contribution in the future than they have in the past, and they have been shackled from doing it, there is no question about it. This is the only way to remove those shackles.

I think the history is clear enough. I know what the Senator would like to do, and I join him in what he would like to do, but I am afraid that if we encumber this, we might defeat the whole thing. I am rather weary of that, and I hope the Senator will not go quite that far. I told the Senator before that I would move to lay his amendment on the table for only one reason, not because I want to shut off anything, but because I, myself, would have qualms of conscience in voting against the merits of what he is trying to do. I do not want to be placed in that position, and I hope he will avoid placing other Members of the Senate in that position. So I would like to take the position that I am doing it only as a parliamentary maneuver, in order to avoid having a conflict with the House of Rep-

resentatives again and defeating the whole thing. That is why I am doing it.

Mr. BAKER. I fully understand the point made by the Senator from Rhode Island.

Mr. PASTORE. I do not want to vote against the merits of it.

Mr. BAKER. I am grateful that the Senator reiterates the point that I have made, so that it will be clear in the legislative history that repeal of section 315 does not mean debate or any other format of appearance is required.

Mr. PASTORE. Let me put it more categorically: If any network insists upon a debate format against the will of any candidate, it will be violating the spirit of this amendment.

Mr. BAKER. I thank the distinguished subcommittee chairman.

Mr. President, I would like at this point, on this issue, to read to the Senate for the RECORD a brief portion of the committee report on S. 3178, that portion of it which reflects my individual views. I am reading from page 9, and I shall not take very long. Mr. President, this is the language in my individual views:

So while the argument is made by proponents of the bill that there will be no pressure on the President to debate, it is my belief that the opportunity for challenges and in fact demands for the President to debate his opponent will inevitably arise. In fact, if time is made available to the two major party candidates, the position of the networks on the question of format is not clear to me. During testimony before our subcommittee, Dr. Stanton expressed support for the concept of debates or "joint appearances." In Dr. Stanton's words (Commerce hearings, serial 92-6, p. 383):

"Frankly, we believe, with some justification in terms of the research that has been done over the years, that we can best serve the American people and the candidates by not doing it in terms of a prepared delivered statement but by having an exchange, a question-and-answer approach, not necessarily in the format of a 'Face the Nation' or 'Meet the Press,' if you will, but where two serious minded candidates sit down perhaps with one or more journalists and talk about the primary—the high-priority issues before the people."

Later Dr. Stanton sought to clarify his position in a letter to Senator Pastore but he again referred to the desirability of "joint appearances." Most recently, it was reported in the National Journal that Julian Goodman, President of the National Broadcasting Co., has taken the position that "repeal of the requirement would allow the networks to improve their campaign coverage by presenting debates between major candidates without having to include minor party aspirants."

I can appreciate the networks desire to broadcast debates. By its very nature, broadcasting seeks to create suspense and drama. Debates between candidates do that. Unfortunately, they also create an atmosphere that has little relationship to the understanding of issues which should be of paramount importance in a presidential campaign.

That is the excerpt from my individual views in the committee report accompanying this bill.

Mr. President, I think this is a fairly unique parliamentary situation, because the Senator from Rhode Island and I agree on the basic and fundamental issue involved. That is, we are not paving the way for televised debates; but I am afraid the statutory language is subject to more than one interpretation, and these statements by the network officials give me great cause for concern.

So I hope that this colloquy, regardless of the outcome of the Senate's consideration of my amendment or amendments, will put to rest in the minds of network officials, in the minds of the public, in the minds of the FCC, in the minds of licensees, and in the minds of the courts any remaining belief that we are authorizing debates—we are not—and that in fact we are giving the maximum flexibility, as the report language says, to the candidates to choose their own format.

Mr. PASTORE. Insofar as the free time is concerned that they want to give, it was spelled out in my opening statement.

Mr. BAKER. I thank the Senator.

Mr. PASTORE. They might want to go beyond that. I refer the Senator to page 5 of the report. If they want to go beyond this offer of free time as they have specified, then the report reads:

Rather, complete freedom is given to the broadcaster and the candidates to develop specific program formula for the appearance of candidates.

But it would have to be with the consent of the candidates themselves. That is above and beyond the time they have spelled out. I agree.

I repeat that insofar as the offer of time is concerned, it is my understanding that the candidate to whom the free time is offered will have the exclusive authority to choose his format. If that is not the case, then they will be violating the spirit of this law, and I will be the first to ask for its repeal.

Mr. BAKER. Mr. President, I might say further on this point that my subcommittee chairman will recall—and my colleagues in the Senate may recall—that I was one of a handful of Senators who opposed the provision of the campaign reform bill which in effect gave candidates for public office a discounted rate on television advertising.

Mr. PASTORE. That is correct.

Mr. BAKER. In that situation, we created a statutory obligation on the part of broadcast licensees to charge us no more than the lowest unit rate they charged to anyone else.

Mr. PASTORE. That is correct.

Mr. BAKER. I have just come from a meeting of my unofficial campaign staff in Tennessee and found, to my great surprise, the product of our handiwork in that respect. I am leading up to something else, not a primary observation about that section. I found out that I can buy spot announcements in Tennessee 12 percent cheaper than can Alka Seltzer, which is one of the heaviest advertisers in Tennessee. I never dreamed that I had done that for myself, but I did—at least, Congress did. Now we have a very substantial break in the cost of TV advertising.

I believe that the fair and equitable thrust of the bill by the Senator from Rhode Island is to extend the reform of the campaign reform bill, and I believe the Senator from Rhode Island said that in his remarks—that the purpose of this provision is to further extend the campaign reform embodied in our previous enactment, by allowing the networks to make free time available on an equitable basis.

Mr. PASTORE. Let me ask the Senator a question. Is he buying the time cheaper than anyone else who gets the cheapest rate?

Mr. BAKER. No.

Mr. PASTORE. That is the point. Perhaps Alka-Seltzer is in a different category.

Mr. BAKER. It is only because Tennessee has so few headaches.

[Laughter.]

Mr. PASTORE. I thought the Senator would come in with that drill.

Mr. BAKER. No. This one is, "I can't believe I ate the whole thing."

[Laughter.]

Mr. President, the point of my amendment and the pending business before the Senate, as I have said in my remarks—and I intend to close at this point—is that I recognize the laudable efforts of the Senator from Rhode Island to further extend the reform characterization of the previous campaign reform bill we passed. I disagree with certain portions of it. In any event, I believe that it is consistent with the purposes of the Senator from Rhode Island to apply this repeal of section 315, if we apply it at all, not just to the President and Vice President but also to election for every Federal office.

I reserve the remainder of my time.

Mr. PASTORE. May I say to the Senator from Tennessee, he knows the respect and admiration and affection I have for him—that he attended the conference with me, and he remembers quite well what our problem was. We were told very emphatically and categorically that because the Senate had included all Federal offices, the House would not accept it.

I tell the Senator very frankly that if this amendment is adopted, I think the Senator will agree with me that it will be flagged down in conference, and the House will just do nothing about it, and they will not act upon it, nor will they pass it.

In view of the colloquy we have had—I know how the Senator feels about this generally, and I am not trying to be facetious in this—I would appreciate it if the Senator would withdraw his amendment and let us have a vote on it up or down. Let us take our chances on what happens in the House. If they take it, they take it.

Frankly, this is the last time I am going to try it. I certainly will not pursue this any further. This means nothing to me personally. I think something needs to be done. We are merely completing everything we started to do when we passed the campaign expenditures bill. The Senator's form of the amendment was in that bill. It was rejected by the House in no uncertain terms. I tried hard. I even tried hard at that moment to get them to agree just to the office of President and Vice President; and they told me, as they told the Senator from Tennessee at the time,

that because we had done this, the House was in a bad mood.

Let us pass it the way we did previously, with just the President and the Vice President. Let it go over there. I tell the Senator frankly that if they do nothing about it, this is the last he will hear from me on this.

Mr. BAKER. Mr. President, I respect the position of the Senator from Rhode Island. I must respectfully decline to accept his gracious offer. I base that and what hopes I have in this respect on one fact: This amendment was adopted by the Senate, by a vote of 71 to 21, just a few months ago. This amendment was deleted in conference. I have no doubt that the House is in a different mood now than it was at the end of the session and that there is a realistic chance that they will consider this proposal.

I have no desire to detain the Senate with further lengthy debate. I am perfectly willing to have a vote on the amendment.

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

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that the Senator does not have enough time on his amendment to suggest the absence of a quorum.

Mr. PASTORE. I will give the Senator time.

The PRESIDING OFFICER. If time is yielded back by both sides, there will be time for a quorum call.

Mr. BAKER. Whatever is appropriate. I just want to get a sufficient number of Senators in the Chamber to ask for the yeas and nays.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The Senator has enough time.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PASTORE. Now, Mr. President, before I yield back my time, will the Senator from Tennessee feel offended in any way if I move to lay on the table his amendment, or does he want to vote on the merits?

Mr. BAKER. No indeed, I would not be offended.

Mr. PASTORE. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment is now yielded back.

Mr. PASTORE. Mr. President, I move to lay the amendment of the Senator from Tennessee (Mr. BAKER) on the table.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Tennessee (Mr. BAKER).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) would each vote "nay."

The result was announced—yeas 41, nays 39, as follows:

[No. 125 Leg.]

YEAS—41

Anderson	Fulbright	Nelson
Bentsen	Gambrell	Pastore
Bible	Gravel	Pell
Burdick	Hart	Proxmire
Byrd, Va.	Hughes	Randolph
Byrd, W. Va.	Jordan, N.C.	Ribicoff
Cannon	Kennedy	Spong
Chiles	Long	Stennis
Church	Magnuson	Stevenson
Cranston	Mansfield	Symington
Eagleton	McGee	Talmadge
Eastland	Mondale	Tunney
Ellender	Montoya	Williams
Ervin	Moss	

NAYS—39

Aiken	Dole	Pearson
Allott	Dominick	Percy
Baker	Fannin	Roth
Beall	Fong	Saxbe
Bellmon	Griffin	Schweiker
Bennett	Gurney	Scott
Brock	Hansen	Smith
Brooke	Hruska	Stafford
Case	Javits	Stevens
Cook	Jordan, Idaho	Thurmond
Cooper	Mathias	Tower
Cotton	Miller	Weicker
Curtis	Packwood	Young

NOT VOTING—20

Allen	Hatfield	McIntyre
Bayh	Hollings	Metcalf
Boggs	Humphrey	Mundt
Buckley	Inouye	Muskie
Goldwater	Jackson	Sparkman
Harris	McClellan	Taft
Hartke	McGovern	

So the motion to table the amendment of the Senator from Tennessee (Mr. BAKER) was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I send to the desk an amendment and ask that it be reported.

Mr. PASTORE. Mr. President, will the Senator yield? For the benefit of the Members of the Senate, will the Senator ask for the yeas and nays on his amendment?

Mr. BAKER. Yes. I will ask for the yeas and nays. I expect that the explanation, which I have already given in large measure, will not take more than a few minutes.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair is advised that it will take unanimous consent to secure the yeas and nays until after the amendment has been read by the clerk.

Mr. BAKER. Mr. President, I ask the clerk to report the amendment.

The second assistant legislative clerk proceeded to state the amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. PASTORE. Mr. President, I must object because I am going to make an offer to the Senator from Tennessee and show him why the language he is using now is quite different than that which he used before. If he takes the language he used before, I am willing to accept it. That is a fair offer. So I would like to have the amendment read.

The PRESIDING OFFICER. Objection is heard. The clerk will report the amendment.

The amendment was read as follows:

On page 1, immediately after line 9, insert the following:

"SEC. 2. Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is further amended by inserting after the first sentence the following: 'When a licensee permits a legally qualified candidate for the office of President or Vice President to use his broadcasting station in connection with such candidate's campaign for election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format, and no such candidate shall be required to engage or to participate in a debate or joint appearance as a condition to use of any broadcasting station in connection with such campaign for election.'"

Mr. BAKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Tennessee on which there is 1 hour, equally divided between the Senator from Tennessee and the Senator from Rhode Island.

Who yields time?

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

Mr. BAKER. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I want the Senator from Tennessee to understand that he and I have had quite a dialog on the floor with reference to the fact that whatever free time is given by the networks, the choosing of the format shall be the election of the candidate.

Mr. COTTON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. We made that abundantly clear in the hearings and it was discussed here on the floor of the Senate. I think that time and time again the Senator from Tennessee said that he and I were in accord on that.

The only trouble with the language is that the Senator adds four other lines that he did not have in his previous amendment. If he is willing to confine it to "maximum flexibility in choosing his program format," and leave the rest out I am perfectly willing to accept it.

I think that carries out the idea and the spirit of the report and the spirit of those who testified before our committee. I said time and time again I did not want the President of the United States to be placed in the embarrassing position of having to refuse an offer to debate, although I think that offer can be made now, even if you have to buy the time. I am not out to embarrass anyone.

Originally the Senator did stop with "format." Now, the Senator has added four more lines. If he wants a codification of what is in the report I will accept his previous language and we can reach an understanding.

Mr. COTTON. Mr. President, will the Senator tell us the four lines again?

Mr. PASTORE. Well, he goes on to say in the second revision:

And no such candidate shall be required to engage or to participate in a debate or joint appearance as a condition to use any broadcasting station in connection with such campaign or election.

It is redundant, confusing, sloppy writing, and the intention is carried out by the first part in which we have the language which states:

When a licensee permits a legally qualified candidate for the Office of President or Vice President to use his broadcasting station in connection with such candidate's campaign for election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format.

It leaves it up to the candidate. Perhaps the candidates do want to debate. How do I know? But if a candidate said that he wants to do it, they would not have to give the time and they would not have to take it.

Mr. BAKER. I am going to suggest the absence of a quorum for a few minutes to consult further with the distinguished chairman of the subcommittee. First, I would like to make a few points which may be significant with respect to what the Senator from Rhode Island has suggested.

I believe that he and I agree on what this amendment means, and I think we agree nothing in the bill, nothing in my previous amendment, and nothing in this amendment would require a debate or joint appearance. We have said that repeatedly. The question is whether or not the language is subject to any other interpretation. That, of course, is the purpose for the language I have in this amendment.

The Senator from Rhode Island has posed a question which deserves mature consideration.

At this time I would like to have a brief quorum call so that we can consult further on the matter.

Mr. President, on my time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. 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. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Have the yeas and nays been ordered on the pending amendment?

The PRESIDING OFFICER. The Chair is informed that they have been.

Mr. BAKER. Is the Senator from Tennessee correct that to change or modify the pending amendment would require unanimous consent?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that the pending amendment be amended in the following respect, and I ask the clerk to read the modification.

The PRESIDING OFFICER. The Clerk will read the modification.

The second assistant legislative clerk read the modification, as follows:

"SEC. 2. Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is further amended by inserting after the first sentence the following: 'When a licensee permits a legally qualified candidate for the office of President or Vice President to use his broadcasting station in connection with such candidate's campaign for election to such office, the licensee shall afford such candidate, without dictation, maximum flexibility in choosing his program format.

Mr. PASTORE. Mr. President, if the Senator will yield, I am perfectly willing to accept this proposal, and we can expedite it by going to final passage.

Mr. BAKER. Mr. President, I ask unanimous consent that my amendment may be modified as read.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I am delighted with the statement by the Senator from Rhode Island. I am perfectly willing to vote on the amendment as modified.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the yeas and nays be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

Mr. PASTORE. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on the amendment of the Senator from Tennessee, as modified (putting the question).

The amendment, as modified, was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The bill is open to further amendment.

If there be no further amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

PERSONAL EXPLANATION

Mr. TAFT. Mr. President, I shall abstain from voting on S. 3178, the repeal of section 315 of the Communications Act of 1934 for presidential and vice presidential candidates in the general election campaign, because of a possible conflict of interest. Past connections with the broadcasting industry as a director, officer, and attorney, as well as personal and family holdings of interests in that industry, convince me that I should follow such a course on this and other legislation affecting broadcasting.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, I yield back my time.

Mr. GRIFFIN. Mr. President, I yield back time on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on passage of the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARK-

MAN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 67, nays 13, as follows:

[No. 126 Leg.]

YEAS—67

Aiken	Ellender	Packwood
Allott	Ervin	Pastore
Anderson	Fong	Pearson
Baker	Fulbright	Percy
Beall	Gambrell	Proxmire
Bennett	Gravel	Randolph
Bentsen	Gurney	Ribicoff
Bible	Hart	Roth
Brock	Hughes	Schweiker
Brooke	Javits	Smith
Burdick	Jordan, N.C.	Spong
Byrd, Va.	Jordan, Idaho	Stafford
Byrd, W. Va.	Kennedy	Stennis
Cannon	Long	Stevens
Case	Magnuson	Stevenson
Chiles	Mansfield	Symington
Church	Mathias	Talmadge
Cook	McGee	Thurmond
Cotton	Metcalf	Tunney
Cranston	Mondale	Weicker
Dominick	Montoya	Williams
Eagleton	Moss	
Eastland	Nelson	

NAYS—13

Bellmon	Griffin	Scott
Cooper	Hansen	Tower
Curtis	Hruska	Young
Dole	Miller	
Fannin	Saxbe	

NOT VOTING—20

Allen	Hatfield	McIntyre
Bayh	Hollings	Mundt
Boggs	Humphrey	Muskie
Buckley	Inouye	Pell
Goldwater	Jackson	Sparkman
Harris	McClellan	Taft
Hartke	McGovern	

So the bill (S. 3178) was passed, as follows:

S. 3178

An act to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for President and Vice President

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after "public office" in the first sentence thereof a comma and the following: "other than the office of President or Vice President,".

(b) The amendment made by this Act shall take effect as of January 1, 1972.

SEC. 2. Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is further amended by inserting after the first sentence the following: "When a licensee permits a legally qualified candidate for the office of President or Vice President to use his broadcasting station in connection with such candidate's campaign for election of such office, the licensee shall afford such candidate, without dictation, maximum flexibility in choosing his program format."

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, once again, the distinguished senior Senator from Rhode Island has shown his great skill and understanding of the Senate in having disposed of, within a very short period of time, a most difficult but a most important bill.

When JOHN PASTORE takes over the managership of a bill, the leadership and the Senate have little in the way of worry, because he knows his subject, he talks to the point, and he is able to convince doubters on occasion, as he did today. I want the RECORD to show that I think his skill, his management ability, his integrity, and his persuasion have once again—not for the first time this session—brought to a successful conclusion a bill very much needed and very much appreciated. I extend my personal thanks to the senior Senator from Rhode Island.

EGG INDUSTRY ADJUSTMENT ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 657, S. 2895.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2895) to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments on page 4, line 7, after the word "of", where it appears the first time, insert "(i) ten"; in line 9, after the word "provided", insert a comma and "and (ii) five representatives of consumers selected and appointed by the Secretary"; in line 11, after the word "members", where it appears the second time, strike out "selected and appointed" and insert "who are required to be producers or representatives of producers"; on page 5, line 4, after the word "years,", strike out "and," and insert "and"; on page 7, line 8, after the word "thereto," strike out "and all the terms and provision thereto"; in line 10, after the word "Act", insert "and is approved or favored:"; after line 10, insert:

(i) by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the care or ownership of flocks of one thousand or more fowl, or

(ii) by producers who during such representative period have cared for or owned at least two-thirds of the number of fowl in flocks of one thousand or more fowl, computed on the basis of the highest number of fowl in each such flock during such representative period.

For the purpose of ascertaining whether the program or amendment is approved or favored by such producers as required by this subsection, the Secretary may conduct a referendum among such producers and except in the case of an amendment shall do so. The requirements of approval or favor shall be held to be complied with if, of the total number of producers, or the total number of fowl, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under this subsection. The terms and conditions of the proposed program or amendment shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the program or amendment or any action relating thereto. In instances of contract production, the owner of the laying flock shall be entitled to vote one-half the number of fowl covered by the contract and the producer who cares for the flock shall be entitled to vote the other half of such number of fowl.

On page 9, line 7, after the word "judicial", strike out "reviews" and insert "review."; in the same line, after the amendment just above stated, insert "In determining the average cost of production, the Secretary shall include a reasonable allowance for the cost of management by persons who work on the farm, and exclude any cost of management by other persons. The Secretary shall publish the average prices and costs determined by him under this subsection, together with an itemization of the major elements of cost considered and a description of the method used."; in line 17, after the word "following", insert "and no others"; after line 17, strike out:

(A) Require, or provide a method for requiring, the slaughter of such portion of each producer's total flock of egg-producing fowl as may be required to reduce such flock to a specified percentage thereof.

And, in lieu thereof, insert:

(A) Require, or provide a method for requiring, the slaughter from time to time of a uniform percentage of that portion of the total number of egg-producing fowl owned by each producer in excess of the exempt number; and fix, or provide a method for fixing from time to time, the percentage to be slaughtered. The exempt number shall be fifteen thousand fowl, except that in the case of any producer to whom any of the following apply, the exempt number shall be reduced by:

(1) the number of fowl owned by another in trust or otherwise for the benefit of such producer,

(2) that part of the number of fowl owned by any corporation in which such producer owns as much as 10 per centum of the stock which bears the same relationship to the total number of fowl owned by such corporation as the stock in such corporation held by such producer bears to the total stock of such corporation,

(3) that part of the number of fowl owned by any partnership in which such producer is a partner which is proportionate to such producer's interest in the partnership.

(4) the number of any fowl owned by any member of such producer's household other than for the benefit of such producer which were acquired from such producer or with

such producer's funds and without the payment of adequate consideration to such producer therefor,

(5) such additional number of fowl as the Secretary may deem fair and equitable and by regulation prescribe in order to prevent any person, firm, partnership, corporation, or other entity from—

(i) participating in the benefit of any exemption in excess of fifteen thousand fowl, or

(ii) increasing the exemption accruing to his benefit through formation or dissolution of partnerships, corporations, or other entities, or by other means, including, but not limited to, any arrangement whereby a producer makes available the ownership of fowl to (i) a producer who normally engages in caring for fowl for the account of others, or (ii) any other person, while retaining control of the marketing eggs produced by such fowl.

The Secretary may prescribe such exemptions from the foregoing sentence as may be necessary to prevent hardship or inequity. For six months following any slaughter required by this subsection, no producer shall, except to the extent provided by regulation issued by the Secretary, increase his flock of fowl above (i) the number therein at the time such slaughter was required, less the number required to be slaughtered or (ii) the exempt number, whichever is higher. The number of fowl owned by any producer and required to be slaughtered pursuant to this subsection shall be apportioned among the flocks cared for by such owning producer and by other producers pursuant to contract with such owning producer so that each such flock is reduced by the same percentage. Any slaughter required pursuant to this subsection shall be required to be made at such times and manner as will not unduly interfere with the orderly marketing of slaughtered fowl.

On page 12, line 11, after the word "fowl", strike out "has" and insert "have"; on page 13, after line 4, strike out:

(F) Exempt from specific provisions or from all provisions of the program an aggregate of ten thousand fowl owned or controlled by any one person.

At the beginning of line 8, strike out "(G)"; on page 14, line 9, after the word "district", strike out "courts" and insert "court"; on page 18, line 18, after the word "issue", strike out "to any" and insert "to, any"; on page 19, line 14, after the word "partnership,", strike out "coporation" and insert "corporation"; in line 19, after the word "term", strike out "egg"; in line 21, after the word "eggs", insert a comma and "or supplying housing or other facilities for the care of such fowl and caring for such fowl pursuant to a contract with the owner"; and, on page 20, after line 3, strike out:

(G) The term "owned or controlled" as used in section 7(F) shall mean any flock in which a person has a direct or indirect financial interest (except as a lienholder) or over which a person has either, directly or indirectly, actual or legal control.

So as to make the bill read:

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

SECTION 1. That this Act be known as the "Egg Industry Adjustment Act".

LEGISLATIVE FINDINGS

SEC. 2. It is declared that movement of excessive egg-producing fowl and eggs in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure, and burdens and obstructs the normal channels of interstate commerce. Eggs constitute one of the basic, natural foods of the diet. They are produced by numerous individual egg producers in every area of the United States. They move in large part in the channels of interstate commerce and such eggs which do not move in such channels directly burden or affect interstate commerce in eggs. All egg-producing fowl and eggs produced in the United States are in the current of interstate or foreign commerce or directly burden, obstruct, or affect interstate or foreign commerce in such commodities and products thereof. The supply of eggs for commerce necessarily is dependent upon the supply of egg-producing fowl. The only feasible way to regulate the supply of eggs in interstate commerce is by regulating the size of flocks of egg-producing fowl. Prices of commercial eggs, both at the consumer and producer levels, fluctuate according to supply and demand. Owing to causes beyond their control, producers of commercial eggs have, from time to time, been unable to anticipate the quantity of eggs reasonably required to meet the ultimate needs of consumers with the result that cycles of excess supply have often reduced market prices below actual cost of production and cycles of deficient supply have often caused relatively high consumer prices. Such fluctuations in supply and demand have from time to time repeatedly created unstable and chaotic conditions adversely affecting interstate commerce for both producers and consumers.

DECLARATION OF POLICY

SEC. 3. It is declared to be the policy of Congress—

(A) Through the exercise of the powers conferred upon the Secretary of Agriculture under this Act to establish and maintain such orderly market conditions for egg-producing fowl and eggs as will tend to provide to the producers of eggs prices which are reasonable in view of the prices of feeds, the available supplies of feeds, economic conditions affecting egg production, and other economic conditions which affect market supply and demand for eggs.

(B) To protect the interest of the consumer by (1) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (A) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (2) authorizing no action under this Act which has for its purpose the maintenance of prices to producers above the level which it is declared to be the policy of Congress to establish in subsection (A) of this section.

(C) The production of broilers and broiler breeder fowl is an industry separate and apart from the production of commercial eggs and is not in any way covered by this Act.

EGG INDUSTRY ADJUSTMENT BOARD

SEC. 4. (A) The Secrtary is authorized and directed to establish a fifteen-man Egg Industry Adjustment Board (hereinafter referred to as the "Board"), which shall be composed of (i) ten producers of commercial eggs, or representatives of such producers, selected and appointed by the Secretary as hereinafter provided, and (ii) five representatives of consumers selected and appointed by the Secretary.

(B) The Board members and alternate members who are required to be producers or representatives of producers shall be geographically and proportionately representative of commercial egg production areas of the Nation, as determined by the Secretary. Appointment shall be made by the Secretary from nominations submitted by commercial egg industry producer organizations. If the Secretary of Agriculture determines that a substantial number of commercial egg producers are not members of, or their interests are not represented by, any such commercial egg industry producer organization, the Secretary may select Board members from nominations submitted by such producers in a manner prescribed by the Secretary, so that representation on the Board will reflect, to the extent practicable, the proportion which those producers' commercial eggs bear to the total marketing of commercial eggs in the United States.

(C) Appointments to the Board shall be for a period not to exceed two years, and Board members and alternates shall serve at the pleasure of the Secretary. The Secretary may also appoint ex officio (nonvoting) members of the Board whose functions shall be advisory. Such members shall not exceed four in number and shall serve at the pleasure of the Secretary.

(D) The Board shall meet semiannually, or more often at the call of the Secretary, or upon petition of one-third of its members.

(E) The Board shall be terminated whenever the Board by a two-thirds vote of the members thereof requests such termination or if the Secretary determines that the continuation of the Board no longer tends to effectuate the declared policy of the Act. Such termination of the Board shall not preclude the Secretary from later reestablishing a new Board if he determines that such reestablishment will tend to effectuate the declared policy of the Act in the light of changed conditions.

(F) Members of the Board and their alternates shall serve without compensation, but shall be reimbursed by the Secretary for necessary expenses to the extent and in the manner prescribed by the Secretary.

DUTIES AND POWERS OF THE BOARD

SEC. 5. (A) The Board shall recommend to the Secretary a regulatory program for adjusting the supply of commercial eggs, including amendments thereto, containing provisions authorized by section 7 of this Act. The Secretary shall furnish the Board with such statistics, data, and other information as may be available to him from reports and records obtained under this Act, or otherwise, as may be required by the Board to reach an informed recommendation; but no such information shall reveal the individual operations of any person, except with the written consent of that person.

(B) The Board may advise the Secretary, if requested, in connection with the drafting of rules and regulations needed to effectuate the terms and provisions of this Act.

(C) The Board shall have such additional duties and responsibilities in connection with the administration of this Act as the Secretary may confer on it.

(D) The Board may, with the approval of the Secretary, accept any services, use of any facilities, or use of any personnel of any college, university, research organization, poultry trade association, farm cooperative association, or other qualified persons deemed necessary for the Board to meet its duties and responsibilities under this Act.

EGG INDUSTRY ADJUSTMENT PROGRAM

SEC. 6. (A) The Secretary of Agriculture may, upon recommendation of the Board and subject to the provisions of this Act, make effective and from time to time amend a regulatory program to adjust the supply of commercial eggs applicable to (1) egg producers and (2) persons engaged in the purchasing or acquisition of fowl for slaughter, if he finds that the program, or amendment thereto, will tend to effectuate the declared policy of this Act and is approved or favored:

(i) by at least two-thirds of the producers

who, during a representative period determined by the Secretary, have been engaged in the care or ownership of flocks of one thousand or more fowl, or

(ii) by producers who during such representative period have cared for or owned at least two-thirds of the number of fowl in flocks of one thousand or more fowl, computed on the basis of the highest number of fowl in each such flock during such representative period.

For the purpose of ascertaining whether the program or amendment is approved or favored by such producers as required by this subsection, the Secretary may conduct a referendum among such producers and except in the case of an amendment shall do so. The requirements of approval or favor shall be held to be complied with if, of the total number of producers, or the total number of fowl, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under this subsection. The terms and conditions of the proposed program or amendment shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the program or amendment or any action relating thereto. In instances of contract production, the owner of the laying flock shall be entitled to vote one-half the number of fowl covered by the contract and the producer who cares for the flock shall be entitled to vote the other half of such number of fowl.

(B) The Secretary may reject any program the Board may recommend, or any provisions thereof, and shall point out his objections thereto to the Board together with his recommendations, if any, so that the Board may modify its recommendations so that they will be acceptable to the Secretary.

(C) Any program or amendment thereto may be made effective by the Secretary as soon as practicable following a determination by him that the seasonally adjusted average farm price received for eggs by a representative sample (as determined by him) of egg producers is less than the average cost of production of such producers for a period of at least three consecutive thirty-day periods, and no such program may be continued by the Secretary following his determination that such seasonally adjusted average farm price has exceeded such standard for at least there consecutive thirty-day periods: *Provided*, That any determination made by the Secretary under this subsection shall be final and not subject to review including judicial review. In determining the average cost of production, the Secretary shall include a reasonable allowance for the cost of management by persons who work on the farm, and exclude any cost of management by other persons. The Secretary shall publish the average prices and costs determined by him under this subsection, together with an itemization of the major elements of cost considered and a description of the method used.

TERMS AND CONDITIONS OF PROGRAM

SEC. 7. Any program made effective under this Act may contain one or more of the following and no others:

(A) Require, or provide a method for requiring, the slaughter from time to time of a uniform percentage of that portion of the total number of egg-producing fowl owned by each producer in excess of the exempt number; and fix, or provide a method for fixing from time to time, the percentage to be slaughtered. The exempt number shall be fifteen thousand fowl, except that in the case of any producer to whom any of the following apply, the exempt number shall be reduced by:

(1) the number of fowl owned by another in trust or otherwise for the benefit of such producer,

(2) that part of the number of fowl owned by any corporation in which such producer owns as much as 10 per centum of the stock which bears the same relationship to the total number of fowl owned by such corporation as the stock in such corporation held by such producer bears to the total stock of such corporation,

(3) that part of the number of fowl owned by any partnership in which such producer is a partner which is proportionate to such producer's interest in the partnership,

(4) the number of any fowl owned by any member of such producer's household other than for the benefit of such producer which were acquired from such producer or with such producer's funds and without the payment of adequate consideration to such producer therefor,

(5) such additional number of fowl as the Secretary may deem fair and equitable and by regulation prescribe in order to prevent any person, firm, partnership, corporation, or other entity from—

(i) participating in the benefit of any exemption in excess of fifteen thousand fowl, or

(ii) increasing the exemption accruing to his benefit through formation or dissolution of partnerships, corporations, or other entities, or by other means, including, but not limited to, any arrangement whereby a producer makes available the ownership of fowl to (i) a producer who normally engages in caring for fowl for the account of others, or (ii) any other person, while retaining control of the marketing of eggs produced by such fowl.

The Secretary may prescribe such exemptions from the foregoing sentence as may be necessary to prevent hardship or inequity. For six months following any slaughter required by this subsection, no producer shall, except to the extent provided by regulation issued by the Secretary, increase his flock of fowl above (i) the number therein at the time such slaughter was required, less the number required to be slaughtered or (ii) the exempt number, whichever is higher. The number of fowl owned by any producer and required to be slaughtered pursuant to this subsection shall be apportioned among the flocks cared for by such owning producer and by other producers pursuant to contract with such owning producer so that each such flock is reduced by the same percentage. Any slaughter required pursuant to this subsection shall be required to be made at such times and manner as will not unduly interfere with the orderly marketing of slaughtered fowl.

(B) Provide for adjustments and exceptions as may be necessary to provide equity and relieve hardship of persons whose production is substantially unrepresentative of their normal operations.

(C) Require all persons who purchase or otherwise acquire egg-producing fowl for slaughter, to provide a certification to the producer that such fowl have been slaughtered, and to require such persons to make such reports to the Secretary and maintain and make available such books and records as may reasonably be required by the program.

(D) Provide for administration of the program by the Secretary through such facilities and personnel of the Department of Agriculture (including local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended), as the Secretary may designate, and for the collection, compilation, and analysis of reports and other information obtained under the program.

(E) Recognizing differences in production factors in the production of commercial brown and white eggs, the Secretary may upon recommendation of the Board adopt and make effective different programs and apply different percentages and other provisions with respect to brown and white egg production if the Secretary determines such differences are warranted.

(F) Terms and conditions incidental to and not inconsistent with the foregoing provisions as may be necessary to effectuate the program.

SUSPENSION OR TERMINATION

SEC. 8. The Secretary shall, whenever he finds that any program issued under this Act, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this Act, or is not in the public interest, terminate or suspend the operation of such program or any provision thereof.

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 9. The provisions of this Act applicable to any program under this Act shall be applicable to amendments to such program.

PETITION AND REVIEW

SEC. 10. (A) Any person subject to a program, or to any regulation issued pursuant to this Act, may file a written petition with the Secretary, stating that any such program or regulation or any provision thereof or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The district court of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (A) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 11(A) of this Act.

ENFORCEMENT AND PENALTIES

SEC. 11. (A) The several district courts of the United States are vested with jurisdiction specifically to enforce and to prevent and restrain any person from violating this Act or any program or regulation effective pursuant to this Act. Any civil action deemed necessary to be brought under this Act shall be referred to the Attorney General for appropriate action.

(B) Any person who willfully violates any provision of any program or regulation issued by the Secretary under this Act, or who willfully fails or refuses to comply with said program or regulations, shall be liable to a penalty of not more than $5,000 for each offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States and each day in which such offense continues shall be deemed a separate offense.

(C) Provisions of this section shall be in addition to and not exclusive of the remedies provided now or hereafter existing at law or in equity.

REGISTRATION, REPORTING, AND RECORDKEEPING

SEC. 12. The Secretary may, by regulation, require the following, whether or not a program is currently in operation:

(A) Require egg producers to register with the Secretary.

(B) Require egg producers to report to the Secretary, as specified by the Secretary, with respect to their production of eggs, the size and age of their flocks of egg-producing fowl, the prices received by them for eggs, the costs of producing eggs, and such other information as may be required by the Secretary in the administration of the Act or the program.

(C) Provide that egg producers shall keep such books and records as may be required by the Secretary. Such books and records shall be open for inspection at all times during normal business hours by authorized representatives of the Secretary. The Secretary is authorized to examine such books, papers, records, copies of income tax reports, accounts, correspondence, contracts, documents, or memorandums as he deems relevant and which are within the control of such person, or any party having, either directly or indirectly, actual or legal control of or over such person or of any subsidiary of any such person.

(D) The Secretary may conduct such other investigation and require such other reports and records as he may determine to be reasonably necessary in the administration of the Act, or any program under the Act.

CONFIDENTIAL DATA

SEC. 13. All information furnished to or acquired by the Secretary of Agriculture in the administration of this Act shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board and only such information so furnished or acquired as the Secretary deems necessary to the enforcement or defense of the program or any obligation imposed thereunder, shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the program with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon reports of a number of persons subject to a program, which statements do not identify the information furnished by any person, or (ii) the publication, by direction of the Secretary, of the name of any person violating the program together with a statement of the particular provisions of the program violated by such person. Any such officer or employee violating the provisions of this section shall, upon conviction, be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or to both, and shall be removed from office.

REGULATIONS

SEC. 14. The Secretary is authorized to make such rules and regulations with the force and effect of law, as may be necessary to carry out the provisions of this Act and powers vested in him by this Act.

INVESTIGATIONS

SEC. 15. The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether any person has engaged or is about to engage in any acts, or practices which constitute or will constitute a violation of any provisions of this Act, or of any person or regulations issued pursuant to this Act. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records. If so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

DEFINITIONS

SEC. 16. As used in this Act:

(A) "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(B) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

(C) The term "commercial eggs" or "eggs" means eggs from domesticated chickens which are sold for human consumption either in shell egg form or for further processing.

(D) The term "producer" means the person owning laying fowl engaged in the production of commercial eggs, or supplying housing or other facilities for the care of such fowl and caring for such fowl pursuant to a contract with the owner.

(E) The term "fowl" means commercial egg-laying chickens over twenty weeks of age.

(F) The term "United States" means the forty-eight contiguous States of the United States of America, and the District of Columbia.

SEPARABILITY

SEC. 17. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION

SEC. 18. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 19. This Act shall take effect upon enactment and expire two years after enactment.

Mr. MANSFIELD. Mr. President, I have talked to the interested parties and to the distinguished minority leader, and I ask unanimous consent that on the pending measure, if amendments are offered, they be limited to 20 minutes, the time to be equally divided between the sponsor of the amendment and the manager of the bill—incidentally, I know of no amendments—and that there be a limitation of 40 minutes on the bill, the time to be equally divided between the distinguished manager of the bill, the senior Senator from Georgia (Mr. TALMADGE), and the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), or whomever he may designate.

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

Mr. SCOTT. Mr. President, I ask unanimous consent that I may proceed for 3 minutes, and that the time not be charged against either side on the bill.

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

Mr. SCOTT. Mr. President, I designate the distinguished Senator from Iowa as the manager in charge of the bill on this side.

THE PAY BOARD

Mr. SCOTT. Mr. President, I agree entirely with the position taken by the distinguished majority leader this morning in regard to the walkout of the labor members of the Pay Board. I agree that it will take participation of big labor to help stop inflation, and I am certain that labor is as much interested in price controls and employment and the general economic situation as any one else.

I am very much afraid that if this walkout continues, it may increase the demands for legislation leading to compulsory arbitration in more than one field.

Real spendable weekly wages after taxes have risen 5.4 percent in the last 6 months, compared to a 1.3 percent increase in the previous 6 months. In the last 6 months, seasonally adjusted employment rose 1,123,000, while unemployment climbed by 234,000.

With respect to the Pay Board decisions, in a great majority of these cases labor has prevailed and has agreed, and in only a relatively small percentage of the cases has the decision been unsatisfactory to some or all of the labor members. So their views have not been ignored.

In his message today, the President states:

> We cannot and will not allow any single group—business or labor—to be the exclusive judge of fairness in its own case. The public interest must come before any special interest.
>
> * * * * *
>
> Although a few labor leaders have chosen to reject their public responsibility and have sought to justify their action with standard political rhetoric, this Administration will not accept an "anti-labor" label. On the contrary—there can be no more "pro-labor," "pro-workingman" stand than a firm decision to protect the buying power of the wage earner's dollar.

The President has directed the Pay Board to continue with its business representation reduced proportionately to equal the two remaining members on the labor side. The board will now proceed as a public board and will proceed on course, and the fight against inflation will go on until the American consumer and the American worker win the fight.

I hope that those leaders who have staged this walkout will reconsider, in their interest, in the interest of the American people, and particularly in the interest of the consumer.

Mr. President, I ask unanimous consent to have the full message of the President printed at this point in the RECORD.

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

THE WHITE HOUSE,
March 23, 1972.

STATEMENT BY THE PRESIDENT

The spirit of voluntary cooperation is the key to victory in the battle against inflation. I emphasized this point when I first announced my new economic policy last August and repeated it last October outlining the price stabilization program. I described at that time some of the sacrifices which millions of Americans were making in the fight against rising prices. And I indicated that our success in this struggle would ultimately depend on the willingness of all our people to "put the public interest ahead of the special interest"—and thus to continue that good fight.

That is why the decision of three of the five representatives of organized labor to resign from the Pay Board is a disservice to the American people.

Since it was established last October—at the specific urging of organized labor—this tripartite Board has been a central part of the Phase Two program.

There has been much strong evidence that this program is succeeding. In the six months from August, 1971 to February, 1972, the rise in the Consumer Price Index was cut to an annual rate of 3.3 percent, down from a 4.1 percent increase in the previous six months. Real, spendable weekly wages after taxes rose 5.4 percent in the last six months, compared to a 1.3 percent increase in the previous six months. In the last six months, seasonally adjusted employment rose 1,123,000, while unemployment declined by 234,000.

Any program of controls in a free economy will have its ups and downs. But what is important is that we are moving in the right direction. The Wage and Price control system is working. But continued cooperation of all Americans is needed if we are to win the battle against inflation.

In these circumstances, the decision of three of the labor representatives to walk off the job of fighting inflation is totally selfish and irresponsible.

The West Coast longshoremen's settlement was the only specific case referred to in yesterday's statement by the Executive Council of the AFL–CIO, a statement which severely criticized the general pattern of Pay Board decisions. The Pay Board disallowed a 20.6 percent compensation increase which Mr. Meany and his colleagues supported but approved a 14.9 percent increase, even though it was more than double the general limit which the Board had set.

The Pay Board was right and Mr. Meany was wrong on this issue.

The general pattern of decisions of the Pay Board is one with which the labor representatives have largely agreed. Of the 54 Pay Board decisions to date, labor has agreed in 36 of the votes—two thirds of the total. It has disagreed with only 13 decisions—or 25 percent. In one instance labor's representatives were split and in four instances they abstained. Over half of the Pay Board's decisions have been unanimous and, of the eight major wage cases voted on by the full Board which have been the most controversial, labor has agreed with the outcome in five. When the labor representatives say that this general pattern is one of "flagrant favoritism," they must recognize that the pattern is one to which they have generally agreed.

It is true, of course, that labor's representatives have not prevailed in every instance—and that they did not succeed in their effort to uphold the full 20.6 percent longshoremen's increase. In a free society no one is right all the time and no one can have his way all the time. All participants must be ready to accept a reasonable amount of give and take.

Organized labor's views have not been ignored by the Pay Board. In fact, they have usually been accepted. But we cannot and will not allow any single group—business or labor—to be the exclusive judge of fairness in its own case. The public interest must come before any special interest.

Our economic policies will continue to require certain sacrifices of the American people. But I am convinced that these policies are also in the best interests of all the American people. I am especially confident that they serve the best interests of our working men and women. For wage earners know that wage increases which are inflated are illusionary wage increases—they are inevitably cancelled out by rising prices.

Although a few labor leaders have chosen to reject their public responsibility and have sought to justify their action with standard political rhetoric, this Administration will not accept an "anti-labor" label. On the contrary—there can be no more "pro-labor," pro-workingman stand than a firm decision to protect the buying power of the wage earner's dollar.

Inflation is a dangerous and difficult enemy. We have set the course in the battle against that enemy—and our decisions have won the overwhelming approval of the Congress and the American public. I am determined to stay that course; I shall not be deterred by the disaffection of a few union leaders who represent only 17% of America's 80,000,000 wage earners.

My obligation is to serve the public interest—and the public interest will be served.

I have directed the Pay Board to continue, but as a single public unit, with those labor leaders who wisely wish to remain balanced by a reduced number of business leaders. All will be public members with the special perspectives of labor and business represented in their deliberations.

I have directed the Price Commission to proceed on course, working alongside the Pay Board to cut inflation in half by the end of this year.

All rules and regulations remain in full force.

The fight against inflation will go on until the American consumer and the American worker win the fight.

EGG INDUSTRY ADJUSTMENT ACT

The Senate continued with the consideration of the bill (S. 2895) to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Who yields time?

Mr. TALMADGE. I yield myself whatever time I may take.

Mr. President, this is a very simple bill. Eggs are selling at the lowest price in some 40 years. They have been selling below the cost of production for some 2 years.

I am informed by the egg producers associations that the net worth of egg producers now is a minus. In other words, if they sold all their assets, they could not pay all their debts. They are in a desperate condition and are going broke day by day throughout the United States simply because the supply of eggs is greater than the demand, and prices are below the cost of production.

One of the reasons for that, Mr. President, is that a vaccine has been developed which eliminates Marek's disease. Heretofore, that disease would kill off about 20 percent of laying flocks, but now virtually all laying flocks survive. In addition, the birds are healthier and they lay more eggs while the number of birds is not much higher than it has been in previous years.

Mr. President, the production of eggs is considerably higher. In order to do something about it, the egg associations throughout the United States, working together and working with the Department of Agriculture, tried to come up with a plan that would cost the Government virtually nothing. It would maintain, so far as practicable, the elements of free enterprise and, at the same time, try to bring the production of eggs in line with demand. They came up with a plan to create an egg board within the Department of Agriculture. This board would be composed of 15 members of which 5 members would be representative of consumers. This egg board would act in an advisory capacity to the Secretary of Agriculture.

Now if the Secretary of Agriculture, acting on the advice of the advisory board, approved the plan, it would be mandatory to have a referendum of the egg producers—and an egg producer is defined as anyone with a flock of 1,000 birds or more—and before the plan would become effective it would have to be approved by an affirmative vote of two-thirds of the producers or an affirmative vote of the producers owning or tending two-thirds of the number of birds. So the plan would not go into effect without the affirmative declaration of the producers of eggs themselves.

The plan could go into effect also only if the price of eggs sold for three consecutive 30-day periods is below the cost of production. Then, after a referendum of the producers, the Secretary of Agriculture could inaugurate an early elimination of the laying hens in the flocks.

I would point out that all laying hens ultimately are eliminated from the flocks. They are sold largely to canners. They go into canned soups. They are usually sold only at the expiration of the time of their laying efficiency. But in order to bring supply in line with demand, if this program goes into effect, the Secretary of Agriculture can authorize the elimination of a certain number of birds within each laying flock.

I would point out further, Mr. President, that all laying flocks of 15,000 birds are automatically exempt, so that the reduction in the number of birds would be in that part of the laying flocks in excess of 15,000 birds.

That, Mr. President, would protect the small producers and would affect only the large producers.

The pending bill is temporary in scope. It lasts only for 2 years. But the operation of the bill itself would be much more limited than the 2-year period.

First, it cannot go into effect unless eggs are selling at below the cost of production for 90 days and on an affirmative vote of the egg producers by a two-thirds majority in number or volume.

Second, if it stays in effect, it would automatically go out of operation as soon as the price of eggs equals or exceeds the cost of production for a 90-day period.

That, Mr. President, is the simple

arithmetic of the bill. Some 44 egg associations in the United States vigorously support the bill. There are about 10 egg associations combined, as a rule, between poultry associations and egg producers, that oppose it. The overwhelming majority support it.

It cannot go into effect without the overwhelming support of producers. It will not cost the Government anything except the cost of administration.

On the last page of the committee report, Senators will find a letter from Under Secretary of Agriculture Campbell. The last paragraph on page 11 reads:

S. 2895 would cost approximately $2.5 million for the first six months of operation and about $4 million each year thereafter.

That is a summary analysis of the bill.

Mr. President, the committee voted 10 to 2 to report the bill to the Senate and I hope that it will sustain the action of the committee.

Mr. President, I ask unanimous consent that my full statement and a complete analysis of the bill appear in the RECORD at this point.

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

FLOOR STATEMENT ON S. 2895, THE EGG INDUSTRY ADJUSTMENT ACT

(By Senator HERMAN E. TALMADGE)

Mr. President, the Egg Industry Adjustment Act is a very simple bill. As reported by the Committee, it would provide for a 15 man Egg Industry Adjustment Board composed of 10 producer representatives, appointed by the Secretary of Agriculture from industry nominations, and five consumer representatives also appointed by the Secretary. Upon the recommendation of the Board, the Secretary would be authorized, if the seasonally adjusted average farm price was below the average cost of production for the preceding three consecutive thirty-day periods, to issue a regulation to adjust the supply of commercial eggs. The program could, among other things, require the slaughter of a uniform percentage of that portion of each producer's flock in excess of 15,000 birds. Flocks below this number would be totally exempted. This reduction would then have to be maintained for a six-month period except to the extent otherwise prescribed by the Secretary.

Brown eggs and white eggs could be handled under separate programs.

Producer approval of the program would be required by a two-thirds majority in volume of birds or number of producers. All producers owning or tending flocks of 1,000 or more birds would be eligible to vote.

The bill would become effective upon enactment and would expire two years thereafter.

Mr. President, the egg producers in this country are in a desperate situation. Egg prices have been the lowest since the early 1940's and egg production costs, like all other farm costs, are high.

The current depression in the egg producing industry followed a two-year period of reasonable prices that began in mid-1968 and culminated in late 1969 and the early 1970's. During that period the wholesale price of 10 per cent, AA, large eggs, in New York City peaked at 65 cents per dozen and averaged 62 cents per dozen in January, 1970. Two years later the value of eggs of the same quality in the same market averaged only about 30 cents per dozen, a decline of more than 50 per cent.

Since mid-1970 the egg industry has been in a severe cost-price squeeze. During 1971 prices received by egg producers averaged 18 per cent below the 1970 level, despite increased production costs. The situation in 1972 is even worse. During January and February of this year the New York wholesale price averaged about 30 cents per dozen compared with 36 cents during the comparable period a year ago and over 57 cents per dozen in 1970.

At these wholesale price levels, farmers are receiving an average of less than 20 cents per dozen for eggs they produce since the margin between the farm price and wholesale price generally runs about 10 to 12 cents per dozen.

These disastrously low prices have weakened the financial position of many producers to the point where unless relief is provided they will be forced out of the business.

The industry has made every possible effort to voluntarily cut back production to the point where reasonable returns could be expected. Thus far they have failed. One of the reasons for failure this time, whereas on other similar occasions they have succeeded, is a breakthrough in the control of Marek's disease.

Due to the tremendous efficiencies brought about by the use of a new vaccine to control this costly disease, a cut back in the size of the laying flock that normally takes place when extremely low prices prevail for a long period of time has not been sufficient to reduce the number of eggs available for marketing. Marek's vaccine has reduced the mortality of the replacement flock, reduced the mortality of the laying flock, and has increased the rate of lay.

The present over supply of eggs is not the result of increases in the laying flock. Department of Agriculture statistics show that the average number of layers for 1971 remained at about 322 million birds, the same level as in 1970, while production increased by 1.5 billion eggs from 70.2 billion in 1970 to 71.7 billion in 1971, an increase of five eggs per layer. During the first two months of 1972, the number of birds were slightly under this same period last year but one per cent more eggs were produced. This one per cent increase in egg production has resulted in a price decline from 36 cents per dozen for January and February of 1971 to only 30 cents per dozen for January and February of 1972, a 17 per cent decrease in price.

In order to prevent further disaster to egg producers, an additional slight reduction in the size of the laying flock is required. But farmers cannot make this necessary adjustment without help. They are only asking that after the price of eggs is below the cost of production for three consecutive months their government be allowed to determine, upon the advice of a Board representing both producers and consumers, the number of birds that need to be removed from the nation's laying flock in order to restore prices to a proper level and that the government as a disinterested third party referee this action so that everyone not exempted removes his fair share.

This industry, which has long been a strong advocate of the free enterprise system with a mimimum of government regulations, is not asking for price support or other financial assistance on their products or even relief from the temporary loss that would occur with the early marketing of productive layers. They simply want the Secretary of Agriculture to help them adjust the size of their laying flock.

Many people may think it unreasonable or harsh to send these productive layers to market for slaughter. But let us look at the facts. There are well over 300 million layers in the flock today. All of these birds will eventually be slaughtered and sold either as stewing chickens or be used in processed foods, such as soup, or will be included in the statistics on flock mortality. An average of about five per cent of the flock is removed either by mortality or by marketing for slaughter each month. But this is not enough. A small additional percentage needs to be removed now. All the producers of eggs are really talking about is the requiring of early slaughter of birds that otherwise would be slaughtered any way.

There have been charges that this early removal of laying hens will drastically raise the price of eggs to consumers now and forever more. But this is not so. The bill specifies that when the price of eggs exceeds the cost of production for three consecutive 30-day periods, the program must be terminated.

This legislation is designed only to provide the machinery to stabilize prices and prevent the traumatic peaks and valleys caused by extremely low and high prices. It is not designed to guarantee profit or prevent losses to producers.

During consideration of the bill by the Committee a number of changes were made some of these would:

(1) Require producer approval of a program. In approving the bill the Committee felt it was responding to the overwhelming feeling of egg producers that some form of immediate action was necessary to correct an intolerable situation. However, the Committee also felt that producers should have an opportunity to express themselves on the proposal before implementation. Therefore a referendum requirement was added.

(2) Provide that five of the fifteen Egg Industry Adjustment Board Members would be consumer representatives;

(3) Restrict the management cost factor in computation of average production cost to a reasonable allowance for on-farm management personnel;

(4) Make it clear that the percentage slaughter requirement would be applied after deducting the exemption from the total flock;

(5) Increase the exemption to 15,000 fowl. The exemption originally provided in the bill was 10,000 birds.

However, the Committee felt that a 15,000 exemption was preferable since this larger number would offer additional protection to the small family farmers.

(6) Provide for reducing any producer's exemption as necessary to prevent him from sharing in two exemptions or increasing his exemption;

(7) Prohibit any producer for six months after a slaughter requirement from increasing his flock above the reduced size or the exemption, whichever is greater, except to the extent provided by regulation;

(8) Require contractors to apportion any reduction equally among their contract producers;

(9) Require slaughter at such times and manner as not to interfere unduly with the orderly marketing of slaughtered fowl.

Mr. President, this is a bill desperately needed to prevent bankruptcy of egg producers.

This is a bill which will not go into effect unless approved in a referendum by egg producers.

This is a bill which provides for a real expression of consumer interests.

This is a bill which provides special protection for the small family farm.

And finally, this is a bill which will permit egg producers to regulate their own operations without an outlay of government money in the form of subsidies or price supports.

Mr. President, I sincerely hope that the Senate will approve this measure.

Mr. President, I ask unanimous consent to have printed in the Record a section-by-section explanation of the bill.

SECTION-BY-SECTION EXPLANATION

Section 1. Short title.—This section gives the act the short title, "Egg Industry Adjustment Act."

Section 2. Legislative findings.—This section sets out the facts that make the act necessary for the regulation of interstate commerce in eggs and egg-producing fowl.

Section 3. Declaration of policy.—This section declares it to be the policy of Congress to maintain orderly market conditions in order to provide producers and consumers with reasonable prices for eggs. This section also makes it clear that the broiler and broiler breeder fowl industry is in no way covered by this act.

Section 4. Egg Industry Adjustment Board.—This section requires the Secretary of Agriculture to appoint a 15 man Egg Industry Adjustment Board consisting of 10 producer representatives and five consumer representatives. The committee discussed the possibility of providing specifically for the inclusion of persons associated with egg marketing cooperatives and general farm organizations on the Board; but decided that the act clearly permits their inclusion on the Board and felt that no further provision was necessary. It seemed quite likely to the committee that such persons might be nominated by egg producers or producer organizations.

The board members who are representatives of producers are required to be (1) geographically and proportionately representative of commercial egg production areas of the Nation; and (2) appointed from nominations submitted by commercial egg industry producer organizations, except that the Secretary may select such Board members from nominations submitted by commercial egg producers whose interests are not represented by such producer organizations to the extent necessary to give those producers proportionate representation on the Board.

Board members would serve at the pleasure of the Secretary but not more than 2 years. The Secretary could also appoint up to four ex officio (nonvoting) members.

The Board would meet semiannually, or more often at the call of the Secretary, or upon petition of one-third of its members.

The Board would be terminated upon either a two-thirds vote of its members or a determination by the Secretary that its continuation no longer tends to effectuate the declared policy of the act. Termination would not preclude the Secretary from later reestablishing a new Board if such reestablishment would tend to effectuate the declared policy of the act in the light of changed conditions.

Members of the Board would serve without compensation, but be reimbursed for necessary expenses.

Section 5. Duties and powers of the Board.—This section requires the Board to recommend a regulatory program for adjusting the supply of commercial eggs. The Board would also advise the Secretary, if requested, on rules and regulations needed to effectuate the act, and have such additional duties and responsibilities as the Secretary may prescribe.

The Board could, with the approval of the Secretary, accept any services, use of any facilities, or use of any personnel of any college, university, research organization, poultry trade association, farm cooperative association, or other qualified persons.

Section 6. Egg industry adjustment program.—This section authorizes the Secretary to make the program recommended by the Board effective if he finds that (1) the seasonally adjusted average farm price received for eggs by a representative sample of egg producers is less than the average cost of production of such producers for a period of at least three consecutive 30-day periods, and (2) the program will effectuate the policy of the act and is approved or favored:

(i) By at least two-thirds of the producers who, during a representative period, have been engaged in the care or ownership of flocks of 1,000 or more fowl, or

(ii) By producers who during such representative period have cared for or owned at least two-thirds of the number of fowl in flocks of 1,000 or more fowl, computed on the basis of the highest number of fowl in each such flock during such representative period.

For the purpose of ascertaining such approval, the Secretary shall conduct a referendum among such producers. In the case of an amendment to the program he may, but need not, conduct a referendum. In instances of contract production, the owner of the laying flock shall be entitled to vote one-half the number of fowl covered by the contract and the producer who cares for the flock shall be entitled to vote the other half of such number of fowl.

If a program provides a method for slaughter or for specifying slaughter percentages, and is approved by producers, the subsequent application of the method to fix specific percentages or to impose regulation pursuant to the method, as needed, would not require producer approval by referendum or otherwise.

Determinations by the Secretary as to approval or disapproval of a program by producers would be final and conclusive.

No program may be continued after the seasonally adjusted average farm price described in (1) above has exceeded the cost standard described in (1) above for at least three consecutive 30-day periods. Any determination by the Secretary of such price and cost would be final and not subject to review. In determining the average cost of production, the Secretary would include a reasonable allowance for the cost of management by persons who work on the farm, and exclude any cost of management by other persons. The Secretary would publish the average prices and costs determined by him, together with an itemization of the major elements of cost considered and a description of the method used.

Section 7. Terms and conditions of program.—This section requires any program under the act to contain one or more of the following provisions and no others:

(A) A provision for the slaughter from time to time of a uniform percentage of that portion of the total number of egg-producing fowl owned by each producer in excess of the exempt number. The exempt number would be 15,000. To prevent evasion of the act the exempt number for any producer would be reduced by:

(1) The number of fowl owned by another for the benefit of such producer;

(2) That part of the number of fowl owned by any corporation in which such producer owns as much as 10 per centum of the stock which bears the same relationship to the total number of fowl owned by such corporation as the stock in such corporation held by such producer bears to the total stock of such corporation;

(3) That part of the number of fowl owned by any partnership in which such producer is a partner which is proportionate to such producer's interest in the partnership;

(4) The number of any fowl owned by any member of such producer's household other than for the benefit of such producer which were acquired from such producer or with such producer's funds and without the payment of adequate consideration to such producer therefor; or

(5) Such additional number of fowl as the Secretary may deem fair and equitable and by regulation prescribe in order to prevent any person, firm, partnership, corporation, or other entity from—

(i) Participating in the benefit of any exemption in excess of 15,000 fowl, or

(ii) Increasing the exemption accruing to his benefit through formation or dissolution of partnerships, corporations, or other entities, or by other means, including, but not limited to, any arrangement whereby a producer makes available the ownership of fowl to (i) a producer who normally engages in caring for fowl for the account of others, or (ii) any other person, while retaining control of the marketing of eggs produced by such fowl.

The Secretary could prescribe exemptions from the foregoing exemption reductions as necessary to prevent hardship or inequity. For 6 months after being required to slaughter any of his flock, no producer could increase his flock except to the extent prescribed by the Secretary. Any slaughter by a contractor would be required to be apportioned pro rata among the flocks cared for by him and by other producers pursuant to contract with him. Slaughter would be required to be made at such times and manner as would not unduly interfere with the orderly marketing of slaughtered fowl.

(B) A provision for adjustments and exceptions as necessary to provide equity and relieve hardship of persons whose production is substantially unrepresentative of their normal operations.

(C) A provision requiring persons who acquire egg-producing fowl for slaughter, to certify that such fowl have been slaughtered, make reports to the Secretary, and maintain books and records.

(D) A provision for administration of the program by the Secretary through such facilities and personnel of the Department of Agriculture (including local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended), as the Secretary may designate, and for the collection, compilation, and analysis of reports and other information obtained under the program.

(E) A provision for different programs for brown and white egg production.

(F) Terms and conditions incidental to and not inconsistent with the foregoing provisions as necessary to effectuate the program.

Section 8. Suspension or termination.—This section provides for termination or suspension of the program or any provision thereof whenever it obstructs or does not tend to effectuate the act, or is not in the public interest.

Section 9. Provisions applicable to amendments.—This section makes the provisions of the act applicable to amendments to the program.

Section 10. Petition and review.—Any person subject to the program or any regulation under the act, may file a written petition with the Secretary, stating that such program or regulation is not in accordance with law and praying for a modification thereof or to be exempted therefrom. After a hearing, the Secretary's ruling upon such petition would be final, if in accordance with law.

Subsection (B) vests jurisdiction in the district court of the United States for the district in which such person is an inhabitant, or has his principal place of business, to review such a ruling if a complaint is filed within 20 days from the date of the ruling. If the court determines that the ruling is not in accordance with law, it shall remand to the Secretary with directions (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

Section 11. Enforcement and penalties.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and restrain violation of, the act. Violators of the act are also liable to a penalty of not more than $5,000 for each offense, which may be recovered in a civil suit, and each day an offense continues shall be deemed a separate offense. These provisions

are in addition to any remedies now or hereafter existing at law or in equity.

Section 12. Registration, reporting, and recordkeeping.—This section authorizes the Secretary, whether or not a program is currently in operation, to—

(A) Require egg producers to register;

(B) Require egg producers to report with respect to their production of eggs, the size and age of their flocks of egg-producing fowl, the prices received by them for eggs, the costs of producing eggs, and such other information as he may require;

(C) Require egg producers to keep such books and records as he may require. Such books and records would be open for inspection at all times during normal business hours by authorized representatives of the Secretary; and the Secretary would be authorized to examine such books, papers, records, copies of income tax reports, accounts, correspondence, contracts, documents, or memorandums as he deems relevant and which are within the control of such person, or any party having, either directly or indirectly, actual or legal control of or over such person or of any subsidiary of any such person;

(D) Conduct such other investigation and require such other reports and records as he may determine to be reasonably necessary in the administration of the act.

Section 13. Confidential data.—This section requires that all information furnished to or acquired by the Secretary in the administration of the act is to be kept confidential. Only information necessary to the enforcement or defense of the program is to be disclosed, and then only in a suit or administrative hearing initiated by the Secretary, or to which he or any officer of the United States is a party, and involving the program with reference to which the information to be disclosed was acquired. Nothing in this section would prohibit (i) the issuance of general statements based upon reports of a number of persons subject to a program, which do not identify the information furnished by any person, or (ii) the publication, by direction of the Secretary, of the name of any person violating the program together with a statement of the particular provisions of the program violated by such person. Violations of this section would subject the offender to a fine of up to $1,000, imprisonment for up to 1 year, and removal from office.

Section 14. Regulations.—This section authorizes the Secretary to make such rules and regulations as may be necessary to carry out the provisions of the act.

Section 15. Investigations.—This section authorizes the Secretary to—

(A) Make investigations necessary to carry out the act;

(B) Administer oaths, subpena witnesses, compel their attendance, take evidence, and require the production of books and documents; and

(C) Invoke the aid of the appropriate court of the United States in requiring the attendance and testimony of witnesses and the production of books and documents.

Section 16. Definitions.—This section defines the terms "Secretary", "person", "eggs", "producer", "fowl", and "United States", as those terms are used in the act. Eggs and fowl are defined so as to make it clear that the act deals with chicken eggs sold for human consumption and egg-laying chickens over 20 weeks old. Produce is refined to make it clear that both the owner and the person tending the flock under contract are considered to be producers. United States is defined so as to make it clear that the act is confined to the 48 contiguous States and the District of Columbia.

Section 17. Separability.—This section provides that if any provision of the act is held invalid, the validity of the remainder shall not be affected thereby.

Section 18. Authorization.—This section authorizes the appropriation of such funds as are necessary to carry out the act.

Section 19. Effective Date and Expiration.—This section makes the act take effect upon enactment and expire 2 years after enactment.

Mr. MILLER. Mr. President, I regret that I cannot vote for the pending bill.

There is a serious problem of overproduction in the egg industry—everyone knows that. Moreover, I am persuaded that Federal legislation could be helpful in relieving the problem. However, this bill is not the way to do it.

On the basis of letters and telephone calls, I have conculded that the producers in my State are very evenly divided for and against.

Our committee received testimony against this bill from successful producers who asked to be left alone by their Government, stating that in their area or in their particular operation they were getting along reasonably well and felt they should not be forced to bear some of the cost of a problem which they did not cause. Many of the producers in my State have taken the same position.

The only way to accommodate these people—to avoid forcing them to cut their flocks because of a nationwide problem which does not apply to their locale, and which they had nothing to do with, would be to establish a voluntary program, with an adequate incentive to obtain sufficient flock reduction compliance to meet the problem. I offered an amendment in committee which would have done this—providing for Government price support in the amount of the cost of production. This was rejected by a very substantial majority of the committee.

And so we are left here with a compulsory program, subject, of course, to a referendum. However, the referendum allows producers having flocks as small as 1,000 layers to vote. Since producers having flocks of 15,000 or fewer birds are exempted from any forced reduction, they really would have nothing to lose and everything to gain by voting for the program in a referendum. This does not seem fair to those who want to be left alone and would vote against the program.

I believe that those who are inclined to favor this bill should realize that they could be ordered to reduce their flocks by as much as 20 percent in order to achieve the 8 percent total national reduction estimated to be needed to bring about stability in the egg markets. Some of them might be willing to do so. But in the case of those who want to be left alone and do not have a problem in their operation, this would be a severe blow to be forced upon them by their Government.

Mr. President, I reserve the balance of my time.

Mr. BURDICK. Mr. President, will the Senator from Iowa yield me some time?

Mr. MILLER. I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. BYRD of Virginia). The Senator from North Dakota is recognized for 3 minutes.

Mr. BURDICK. Mr. President, I wish to express my opposition to S. 2895, the Egg Industry Adjustment Act.

In the past few weeks I have met with egg producers in North Dakota to discuss this proposal and, after the bill was favorably reported by the Senate Committee on Agriculture and Forestry. I contacted a number of these producers by telephone to discuss with them the provisions of the bill as amended.

They see no need for this legislation and have so informed me in forceful language in a telegram dated March 17 from Francis Schol, president of the North Dakota Egg Producers Association.

I ask unanimous consent that the text of the telegram be printed in the RECORD.

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

Northwood, N. Dak., March 17, 1972.

Senator QUENTIN BURDICK,
Senate Office Building,
Washington, D.C.

Request your strongest opposition to S. 2895 Egg Industry Adjustment Act. The proposed legislation is completely unenforceable and serves only to establish a foot in the door to total government control of egg industry. The bill only seeks to bail out those who have expanded beyond sound business judgment while working a severe hardship on the producers who respond to the market. Giving authority to some—the one thousand to twenty thousand bird producers—to visit restrictions and curtailment on others—the over twenty thousand producers—is undeniably inequitable. The board of directors of the North Dakota Egg Producers Assn. unanimously oppose S. 2895.

FRANCIS SCHOL,
President, North Dakota Egg Producers Assn., Northwood.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the text as amended be considered as original text for purposes of further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the committee amendments are considered and agreed to en bloc and the text as amended will be considered as original text for purposes of further amendment.

The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. TALMADGE. Mr. President, I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 2 minutes.

Mr. CURTIS. Mr. President, the pending legislation is not without a problem. It is a new department. Some concern has been expressed about certain matters concerning the administration of the act because, unlike acres that are farmed, there are no specific statistics on individual flocks of chickens. It is a

type of industry that can fluctuate very rapidly.

Questions have been raised as to how effective the cutback would be of laying hens. Notwithstanding that, there are a number of egg producers who feel that the act ought to be tried.

I would be less than candid if I did not say also that there are a number of those who are very much opposed. I believe the RECORD should show these two facts, however.

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

Mr. TALMADGE. Mr President, I yield 3 additional minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 additional minutes.

Mr. CURTIS. Mr. President, no action can be taken under this proposal, should it become law, without a referendum. If a referendum is held, all producers who have flocks of 1,000 or more birds will be entitled to vote. And no order for a cutback in the volume of birds or in the number of producers can become effective unless the producers approve the proposed program by a two-thirds majority vote.

In other words, no program of reduction of laying flocks will become effective unless two-thirds of the producers approve it.

The second point I would like to mention and one that is entitled to consideration in this matter is that it does not involve a Government subsidy. In the past some efforts have been undertaken to increase the price of eggs and poultry, and particularly eggs, and they have run into a great deal of difficulty. There is no Government subsidy planned in this proposal.

It also should be pointed out that in a sense this is somewhat of a trial. If it is concurred in by the House and if the measure is signed by the President and becomes law, it is to be for a period of 2 years.

This is a new departure in many sections and we do not know the answer, but I felt it important to place in the RECORD the fact of the referendum, that there is not a Government subsidy involved, and that this is a program to be tried for 2 years.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I intend to vote against S. 2895, for I fear that this legislation would establish a precedent on production control that none of us would care to see created. This legislation authorizes the Secretary of Agriculture to order the reduction in flocks of laying hens in sufficient quantities to stimulate the price of eggs.

FIRST HENS—THEN SOWS AND COWS

Somehow there is a principle in this authorization that I cannot accept—for I can foresee the day when this body would consider passage of similar legislation that would authorize the similar killing of sows to stimulate pork prices—or to kill cows to raise beef prices.

I am eager to improve net farm income for all farmers, including the egg producing segment, however, control over the number of laying hens a farmer owns should be left to his own determination.

REFERENDUM NOT EQUITABLE

A producer referendum is, of course, now included in the legislation. Since this referendum will enable all producers with 1,000 layers or more to vote, this adds some justification for support of the measure, however, those producers who have not expanded their flocks recently to contribute to the excess production and who were in the minority in such a referendum will also be required to reduce their flock size. Such action, to me, represents an unconscionable taking of property without due process of law.

HATCH CONTROL BETTER SOLUTION

Also, I would concur with the recommendation of the Department of Agriculture that a better approach might well be the regulation of hatches and placement of started pullets.

Finally, the value of the information gained and service rendered in the taxpayer's behalf makes it difficult to justify the $4 million annual cost.

PROVIDES FOR FUTURE "KILLS"

Mr. President, I urge my colleagues to join me in opposing this bill. I do not deny that an emergency situation exists in the egg industry today with farmers receiving less for their eggs than it costs to produce them. That has been well documented. Such a critical situation should be met with legislation that will provide the desired correction now, but more important, that would prevent a recurrence of the overproducion. This legislation only provides future "kill" mandates to correct future overproduction.

VOLUNTARY REGULATION

It would seem to me that far less than $4 million could accomplish a program of voluntary hatch regulation by providing the egg producers with information on the number of layers on a regular reporting basis.

An emergency measure should eliminate the emergency and prevent its recurrence—not provide for that emergency's recurrence—at a cost of $4 million per year.

Mr. CHILES. Mr. President, I believe I am fully aware of the serious difficulties many egg producers are faced with today. But I do not feel S. 2895 as written will be able to accomplish its intended purpose, and may materially harm the small and medium-sized producer.

One of the provisions I especially object to is the fact that the act provides that any producer who has 1,000 fowl or more would be eligible to vote in the referendum. However, the legislation, in addition, provides an exemption of 15,000 fowl in connection with any mandatory fowl slaughter program approved in such referendum. This, in effect, means that a producer who has from 1,000 fowl to 14,999 fowl has the right to vote in a referendum but is exempt from any of the terms and conditions of the fowl slaughter program. This does not make sense to me.

After studying the bill and talking with egg producers I have concluded that this bill will not serve to accomplish its stated purpose, will almost surely add chaos to an already intolerable situation, and could do serious harm and irreparable damage to many of the family farm and moderate-sized independent producers. I voted against reporting the bill out of the Agriculture Committee and I do not favor its passage on the Senate floor today.

Mr. AIKEN. Mr. President, although this bill will not be the salvation of the egg industry, it will be of help to the smaller egg producers of the country, especially those who have less than 15,000 laying hens. Production of the large producers, some of whom have laying hens numbering into the millions, has really mushroomed, and the little fellow cannot stand the result. So Vermont, New York, and New England producers, I think for the most part, are in favor of this bill because they are the small producers. As I say, although any relief would be temporary, it would be helpful to the small producers.

Therefore, Mr. President, I support the bill.

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

Mr. MILLER. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent, and I think I speak with the approval of the ranking Republican member of the committee and the chairman of the committee, that the vote on the pending measure, which I approve of because I think it is an important and needed step in the right direction, occur at the hour of 10:45 tomorrow morning.

The PRESIDING OFFICER. Does the Senator wish to waive rule XII?

Mr. MANSFIELD. Yes, I ask that rule XII be waived.

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

Mr. PERCY. Mr. President, I ask for the yeas and nays on the pending bill.

The yeas and nays were ordered.

CONFERENCE REPORT ON RADIO FREE EUROPE AND RADIO LIBERTY TO BE VOTED ON AT 11 A.M. FRIDAY, MARCH 24, 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the conference report on Radio Free Europe and Radio Liberty at 11 o'clock tomorrow.

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

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the conference report covering Radio Free Europe and Radio Liberty occur at 11 o'clock tomorrow.

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

Mr. MANSFIELD. On that measure I ask for the yeas and nays.

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

PROGRAM

Mr. MANSFIELD. Mr. President, we come in at 9 o'clock tomorrow. We have orders for four 15-minute speeches.

I ask unanimous consent that at the hour of 10 a.m. tomorrow, Calendar 611, H.R. 9526, an act to authorize certain naval vessel loans and for other purposes, be laid before the Senate and made the pending business.

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

Mr. MANSFIELD. Mr. President, the way it looks now we might be able to complete our business around 12 o'clock noon tomorrow, and then the Senate will go over until 10 a.m. or 11 a.m. on Tuesday next. In other words, there will be no session this coming Monday. I think the Senate has earned a respite because its record in recent weeks has been magnificent.

EGG INDUSTRY ADJUSTMENT ACT

The Senate continued with the consideration of the bill (S. 2895) to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers.

Mr. MILLER. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MILLER. I would like to ask a question of the Senator from Georgia so that this may be a matter of legislative history on this legislation.

Mr. TALMADGE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MILLER. Mr. President, this has to do with the referendum which is called for in the bill. My recollection is that there is nothing said in the bill itself or in the committee report on this point, but would it not be the intention of the manager of the bill, one which I would share, that in implementing the referendum the Secretary of Agriculture would make a timely announcement well ahead of the referendum of the terms and conditions of the referendum so that the press and the news media would carry this information and would inform the general public about the referendum.

Mr. TALMADGE. I think that is an absolute necessity.

Mr. MILLER. I thank my colleague.

I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I have asked for a record vote on this bill because of the principle involved. This bill is basically aimed at increasing the price of eggs by requiring the slaughter of a certain proportion of the chickens in this country and thereby reducing the number of eggs. I think it would be another example of Government interference in the marketplace. I speak in opposition to this bill on behalf of a great many of the farmers in my State who would like to see us gradually move away from Government interference in the marketplace and work toward a freer market to the greatest extent we can.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. PERCY. I yield.

Mr. TALMADGE. Is the Senator from Illinois aware of the fact that the Illinois Poultry Council and also the Illinois Poultry and Hatchery Federation are on record supporting this bill?

Mr. PERCY. I am aware of that.

Mr. TALMADGE. I thank the Senator.

Mr. PERCY. Mr. President, I believe the principle involved here is an important one. I can well imagine that if this is a situation that holds true for chickens and eggs and that the price is depressed, as it has been, and I recognize that it has been since sometime in 1970, this same condition exists in other areas. We had very low hog prices a year ago and farmers certainly complained about $17 hogs. But they did not come in and ask for the Government to slaughter hogs. That might have brought back recollections of three decades ago when we had hungry people in this country and we were slaughtering hogs to try to control prices. In the case of hogs, the producers themselves voluntarily reduced the size of their output. They did this without Government intervention, interference, and control over costs, and hog prices are back up this year. Prices are back up for hogs to $27 and $28 now. That is a much healthier condition than if the price had been brought up by Government intervention, because once the Government moves into an area it is exceedingly difficult to move it out.

As I understand the bill it would set up a 15-man Egg Industry Adjustment Board composed of 10 producer representatives appointed by the Secretary of Agriculture from industry nominations and five consumer representatives also appointed by the Secretary.

If they so recommended, the Secretary of Agriculture could issue a regulation to adjust the supply of commercial eggs by requiring the slaughter of a uniform percentage of each producer's total flock of chickens in excess of 15,000 birds.

To set up the program, a referendum would be held and two-thirds of all producers with 1,000 birds or more would have to approve.

It would require all egg producers to register; require them to report on their production of eggs, the size and age of their flocks, the prices received for eggs, the cost of producing eggs, and other information. They would have to keep books and records open to inspection at all times. The Secretary would be authorized to examine the producer's books, papers, records, income tax returns, accounts, correspondence, contracts, and so forth.

If a producer did not kill the right number of chickens, he could be fined up to $5,000 a day.

The program would cost $4 million a year in administrative expenses.

I recognize, and certainly egg producers in my own State have pointed out, that they are in a boom-and-bust situation on occasion, as certain other agricultural products are. They are in a cost-price squeeze, as farmers have been for many years. For the egg producers, since mid-1970, this has been more difficult than before that time.

At present there is an oversupply of eggs due to decreased mortality of chickens and control of disease. Chickens are simply laying more eggs this year than last year.

The bill is represented to be the most feasible way to meet the problem—and I certainly respect the Committee on Agriculture and Forestry's attempt to solve this problem—but I simply do not feel that the only way to adjust prices is through forced slaughter of chickens.

I earnestly and deeply believe in the over-all ability of letting market conditions prevail. This certainly was true in the case of hogs within the past year.

Furthermore this bill for the first time would allow an official of the Federal Government to go onto a farm and order a producer to slaughter and sell a certain amount of his production. This would be a very dangerous precedent for future crops and animals. This would put further Government regulation into agriculture and move farther away from market forces.

We also are at a time of a budget squeeze. This bill adds another $4 million to the Federal budget, which, while it is not exactly a lot when we consider the over-all economy and budget, will nevertheless result in increased expenditures. We will also have a new Federal agency which will hire people and require another office to take care of this kind of work.

Such new offices are very difficult to get rid of. We have the whole structure of government as an example of how we keep adding things to the responsibilities of the Federal Government.

Taking the sentiment of my own farmers and trying to speak in their behalf, I would say that weighing in the balance all the various alternatives, they would prefer that we move in the direction of letting the market prevail.

For that reason, I have asked for a record vote and for that reason I will vote against the bill tomorrow.

I thank the Senator for yielding to me.

Mr. MILLER. Mr. President, if my colleague is of the same mind, I am ready to yield back the remainder of my time.

Mr. TALMADGE. Mr. President, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. What is the pleasure of the Senate?

ORDER FOR ADJOURNMENT UNTIL 9 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 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATORS ROTH AND BYRD OF VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that after the two leaders have been recognized tomorrow morning under the standing order, the distinguished Senator from Delaware (Mr. ROTH) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished Senator from Virginia (Mr. BYRD) for not to exceed 15 minutes.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, before moving to adjourn, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL TUESDAY, MARCH 28, 1972, AT 10 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 10 o'clock a.m. on Tuesday next.

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 meet at 9 o'clock 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 ROTH, Senator BYRD of Virginia, Senator WEICKER, and Senator STEVENSON.

At the conclusion of the unanimous-consent orders just referred to, the Chair will lay before the Senate—and under the order previously obtained by the majority leader, the time will be 10 o'clock—H.R. 9526, the naval vessel loan bill. Debate will proceed on that bill, and rollcalls on any amendment or passage of the bill could occur prior to 10:45 a.m., of course.

Under the order, at 10:45 a.m. a rollcall vote will occur on passage of S. 2895, a bill dealing with egg prices.

That will be immediately followed, at 11 a.m., by a rollcall vote on the conference report on Radio Free Europe. Senators are reminded, therefore, that there will be at least two rollcall votes tomorrow, and there may be more.

It is anticipated that the Senate will complete action on the various measures reasonably early tomorrow, so that all rollcall votes should be completed by 1 o'clock p.m. or thereabouts, if not earlier.

ADJOURNMENT UNTIL 9 A.M.

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 9 o'clock tomorrow morning.

The motion was agreed to; and at 5:40 p.m. the Senate adjourned until tomorrow, Friday, March 24, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 23, 1972:

INTERSTATE COMMERCE COMMISSION

Rupert L. Murphy, of Georgia, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1978, reappointment.

Alfred Towson MacFarland, of Tennessee, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1978, vice John W. Bush, term expired.

EXTENSIONS OF REMARKS

FOOTWEAR PRICES TO RISE NEXT FALL

HON. WILBUR D. MILLS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 21, 1972

Mr. MILLS of Arkansas. Mr. Speaker, I am including with my remarks a most interesting article written by Mr. Leonard Sloane in the March 21, 1972, issue of the New York Times entitled "Footwear Prices to Rise Next Fall."

The article clearly shows the justification for licensing and limiting exports of hides from the United States. The Department of Commerce should act now on such a request that is and has been pending.

The article follows:

[From the New York Times, Mar. 21, 1972]

FOOTWEAR PRICES TO RISE NEXT FALL

(By Leonard Sloane)

Footwear prices will rise between $1 and $6 a pair next fall as a result of abnormally large buying of American hides by foreign countries, according to domestic manufacturers, retailers and tanners. Speaking at a news conference yesterday at the National Shoe Fair, leaders of the four principal trade associations in the footwear industry said that prices would advance still higher unless temporary hide export quotas were imposed immediately.

"In 1966, the Government did impose an embargo for much less urgent reasons than there are today," Harold Gessner, president of the American Footwear Industries Association, said. "Even if the Administration imposes embargoes on shipments out of the country, it will take three to four months to put this situation in balance."

INCREASES CITED

The industry executives at the conference, in the Statler-Hilton Hotel, attributed the forthcoming footwear increases to the recent price rises in hides and leather.

Irving R. Glass, president of the Tanners' Council of America, asserted that the average price of cattle hides jumped from 12 cents a pound on Aug. 15, 1971, when President Nixon's New Economic Policy was announced, to 26 cents a pound last Friday. During the same period, he added, the average price of leather rose from 56 cents a foot to 68 to 74 cents.

The prices of hides and leather are not controlled under the Administration's economic stabilization program because they are agricultural products. Large shoe manufacturers can apply to the Price Commission for increases based on their higher costs, while retailers are permitted to maintain their normal markups.

DEVALUATION A FACTOR

In tracing the background of the short hide supply in the United States that was said to be responsible for rising prices, Mr. Glass pointed to the decline in cattle slaughter in Argentina as the origin of this crisis. The United States and Argentina normally supply 80 per cent of the world's hide supply, but last year's Argentina supply was reduced by 3.5 million head of cattle.

When the Argentine Government imposed quota restrictions on hide exports last May, foreign demand converged on the United States. The currency devaluation on Dec. 8, 1971, gave many of these foreign buyers from Western Europe and Japan a 10 to 18 per cent price advantage in purchasing American hides, the American shoe men said.

In calling for immediate action by the President under the authority granted to him by the Export Control Act, the shoe men emphasized their belief that farmers are not the beneficiaries of the higher hide prices, since hides are a byproduct of cattle. "The packers are profiteering at the expense of the consumers," said Mark E. Richardson, president of the footwear industries association.

Edward Atkins, executive vice president of the Volume Footwear Retailers of America, observed that "this could be the break of the dike for stabilization" if footwear prices were not brought under control.

"Temporary restraints on export of United States shoe supplies in 1966 within a few months stabilized a similar situation," he said. "Every day of inaction fuels inflation."

OTHER ACTIONS

In other actions, the Olin Corporation said that its Ecusta Paper division will increase prices of six types of lightweight printing papers by $1 per hundredweight, effective April 1.

The Pennwalt Corporation announced that it was advancing the price of 50 per cent liquid caustic soda shipped from its Lemont, Ill., terminal to $77.50 a ton, from $71.50 a ton, effective April 1.