Further ordered, that Plaintiffs' Motion for Summary Judgment be and hereby is granted, and it is

Further ordered, that Defendants shall make available to Plaintiffs for inspection and copying within thirty (30) days of date all letter rulings, technical advice memoranda and communications sought by Plaintiffs herein, intact and without deletion, except for those items which, within said thirty (30) days period, Defendants submit to the Court sealed and intact, without deletion but with any proposed deletions indicated, for in camera review as to whether proposed deletion of information is justified under the Freedom of Information Act, together with a detailed written explanation of the justification for each deletion, and it is

Further ordered, that Defendants shall make available to Plaintiffs for inspection and copying within thirty (30) days of date all items in the Internal Revenue Service's index-digest reference card file sought by Plaintiffs herein, and all memoranda of conferences and telephone calls relating to the letter rulings and technical advice memoranda involved herein, unless within said thirty (30) day period those items are submitted to the Court for in camera review as to whether they may be properly withheld as internal memoranda within the meaning of exemption 5, 5 U.S.C. § 552(b)(5), of the Freedom of Information Act.

SENATE—*Monday, June 11, 1973*

The Senate met at 12 o'clock noon and was called to order by Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky.

PRAYER

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

O Lord our God, who has watched over us in our separation, draw us close to Thee that we may be closer to one another in understanding and in work.

We pray especially for the youth of this land emerging from the academic world to the arena where life's vocations are fulfilled. May their flowering idealism and dreams of a better world not be crushed by disappointment, cynicism or fear. Give us ears to hear their message and hearts to understand their yearnings. O Lord, be with all the young wherever they may be, on campus, on missions of mercy, at work with their hands and minds, or in the Armed Forces, guarding them in temptation and strengthening them in hours of peril. And to all who labor in the Government, the young and the mature, give that deeper insight and that loftier courage which enables them to act not alone for today, but for the coming day of Thy kingdom.

We pray in the Master's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 11, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

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

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

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. 7670) to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 4443) for the relief of Ronald K. Downie.

HOUSE BILL REFERRED

The bill (H.R. 7670) to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce, was read twice by its title and referred to the Committee on Commerce.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, June 8, 1973, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXCLUSIVE TERRITORIAL ARRANGEMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 178, S. 978.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 978. To amend the Federal Trade Commission Act (15 U.S.C. 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments, on page 2, line 6, after the word "trademarked", strike out "food" and insert "soft drink"; in line 13, after the word "if", insert "in such defined geographic area"; in line 14 after the word "in", strike out "free and open" and insert "substantial and effective"; and, in line 17, after the word "in", strike out "free and open" and insert "substantial and effective"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45) is amended by insertion of a new subsection (3) as follows:

"(3) Nothing contained in this Act, or in any of the antitrust Acts, shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided,* That this subsection shall apply only if in such defined geographic area (1) such product is in substantial and effective competition with products of the same general class manufactured, distributed, and sold by others, (2) the licensee is in substantial and effective competition with vendors of other

products of the same general class, and (3) the licensor retains control over the nature and quality of such product in accordance with the provisions of the Trademark Act of 1946, as amended (15 U.S.C. 1051)."

SEC. 2. Subsections 3, 4, 5, and 6 of section 5(a) are redesignated 4, 5, 6, and 7, respectively.

SEC. 3. Subsections 5 (as redesignated) of section 5(a) is amended by deleting "(3)" and inserting "(4)" in lieu thereof.

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-188) explaining the purposes of the measure.

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

PURPOSE OF AMENDMENTS

The bill has been amended to clarify the circumstances under which provisions of a license or agreement granting a sole and exclusive right to manufacture, distribute and sell trademarked soft drink products in a defined geographic area are not in conflict with the antitrust laws.

Based on the record developed by the Subcommittee on Antitrust and Monopoly, the Committee believes that competitive conditions peculiar to local markets vary significantly, and that the lawfulness of such territorial provisions should be determined on the basis of competitive conditions unique to each licensee's territory. The Committee has adopted Amendment No. 1 to make clear its intent that the standards prescribed by the bill be applied locally on the basis of the competitive situation in "such defined geographic area", i.e., the territory of the licensee whose right to be the sole and exclusive seller is subject to challenge.

The bill as introduced was applicable to trademarked food products. The hearings on the bill held in August and September 1972 concentrated for the most part on the soft drink industry. Thus, the Committee has had an opportunity to carefully examine the competitive conditions in that industry. Since the term "trademarked food products" has a larger connotation than just soft drinks and since this Committee did not have the opportunity to examine the competitive conditions in such other industries, we have substituted the words "trademarked soft drink products" for "trademarked food products". Thus, the bill has application only to trademarked soft drink products.

The bill, as originally introduced, provided that territorial provisions in licenses to manufacture, distribute and sell a trademarked food product are lawful if "(1) such product is in *free and open competition* with products of the same general class manufactured, distributed, and sold by others, (2) the licensee is in *free and open competition* with vendors of other products of the same general class, and (3) the licensor retains control over the nature and quality of such product in accordance with the provisions of the Trademark Act of 1946, as amended (15 U.S.C. 1051)." At the hearings held on the bill during August and September, 1972, and in several statements subsequently submitted, concern was expressed that the proposed legislation would establish a virtual rule of *per se* legality, largely because of the judicial gloss given to "free and open competition" in interpreting the meaning of that phrase as used in the McGuire Act, the Miller-Tydings Act, and numerous state Fair Trade statutes. This Committee eschews reliance on *per se* rules, whether the rule be one of *per se* illegality or *per se* legality, in judging the validity of territorial provisions in licenses to manufacture, distribute and sell trademarked soft drink products. Accordingly, this Committee has stricken the phrase "free and open" from the language of the bill and substituted therefor the phrase "substantial and effective".

It is not intended here to preclude all challenges to these agreements under the antitrust laws. Rather, given the testimony that such agreements can do more competitive good than harm, it is intended that they should not be held per se illegal. The test of whether there is "substantial and effective" competition in the territory is to be determined by the traditional "rule of reason" approach. The number of brands, types, and flavors of competing products available in the licensee's territory from which consumers can choose, the number of retail price options available to consumers, the degree of service competition among vendors, and the number and strength of sellers of competing products in the territory would certainly weigh toward a finding of substantial and effective competition.

Factors weighing against such a finding would, of course, be evidenced by such things as the persistence of long run monopoly profit, the inability of new firms to enter the market, the persistence of inefficiency and waste, the failure of output levels to respond to consumer demands, and a lack of opportunity to introduce more efficient methods and processes. The absence of intrabrand competition which is inherent in the exclusive territorial franchise system would not be a factor suggesting the lack of substantial and effective competition in a defined geographic area. The Committee does not intend to establish rules for determining when there is substantial and effective competition, but rather to allow the courts to give appropriate weight to these economic indicia of competition as they deem necessary.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to make clear that the traditional territorial franchise system under which certain trademarked soft drinks are manufactured, distributed and sold is lawful under the antitrust laws, so long as there is substantial and effective competition among different products and vendors. If, however, it can be established that there is not substantial and effective interbrand competition[1] within the defined geographic area for which the license is granted, the provisions of this bill shall not apply.

The territorial franchise system, under which licensees are granted the exclusive right to manufacture, distribute and sell trademarked soft drink products within defined geographic areas, has been in use in the soft drink industry for three-quarters of a century.

It is the basis on which over 2,700 bottlers have made capital investments amounting to billions of dollars.[2] Throughout the hearings, arguments were made that exclusive territorial allocations, in fact, promote interbrand competition. On the other hand arguments also were made to the effect that such exclusive territories have the opposite effect and lead instead to reduced competition. Thus, the Committee feels that it should not adopt either a per se illegality or per se legality approach, but that the validity of territorial provisions in licenses to manufacture, distribute and sell trademarked soft drink products should be determined upon a rule of reason approach.

The Federal Trade Commission has brought a series of actions which challenge the territorial provisions contained in bottlers' trademark licensees, and which are designed to restructure the soft drink industry.[3] In these cases, the Federal Trade Commission charged that such exclusive territorial provisions in and of themselves constitute an unfair method of competition and unfair acts or practices, in commerce, in violation of Section 5 of the Federal Trade Commission Act. The respondents in these cases generally denied such a *per se* approach and, in fact, claimed that the validity of the provisions in their license agreements must be determined not on the foreclosure of intrabrand competition inherent in the territorial provisions, but upon the reasonableness of the territorial provisions when considered in connection with the soft drink market as a whole for which many brands of soft drinks compete under numerous tradenames. In short, these respondents claim that the encouragement of interbrand competition by such licensing arrangements outweighs any diminution of intrabrand competition.

The Committee is mindful that the Supreme Court has stated that the balancing of complex economic and social value of the kind involved here is the proper function of the Congress and the action of the Committee is consistent with this reasoning.[4] Congressional action is particularly appropriate where the basic structure of a long established industry is challenged in a way which threatens to disrupt thousands of people and businesses.

Historically, the Congress has been committed to fostering competition as the most effective means of protecting the public interest and, at the same time, to promoting an economic system of independent local businesses which can effectively compete with one another.[5]

The Committee has concluded that the present territorial franchise system in the soft drink bottling industry can foster effective competition. The Committee recognizes that the destruction of the system, could depress the value of the franchised bottling plants, and cause a tremendous economic harm to hundreds of small bottlers who have depended on this system for long years. Rather, it is the judgment of this Committee, based on the record, that the public interest may very well be protected by vigorous interband competition among the various soft drink products. This legislation would not only preserve such competition and protect the consumer but also insure the continued opportunity for small local independent business units to survive. Thus, it has approved this legislation, which shall be applicable in those areas where substantial and effective interbrand competition exists.

HISTORY

On February 7, 1972, Senator Eastland, for himself and 31 cosponsors introduced S. 3133, a bill to protect territorial provisions in licenses to manufacture, distribute and sell trademarked food products. The bill was referred to the Antitrust and Monopoly Subcommittee. Five days of hearings were held during August and September 1972, and considerable data was supplied at the Subcommittee's request by syrup companies and bottlers. When the 92d Congress ended, 41 Senators and 185 Representatives had joined in sponsoring similar legislative proposals.

On February 22, 1973, Senator Eastland with 40 co-sponsors, reintroduced this proposed legislation. The bill was again referred to the Antitrust and Monopoly Subcommittee, which, on April 12, 1973, ordered the bill reported favorably with amendments described above.

BACKGROUND

Under the trademark licensing system which exists in the soft drink industry, the franchise company produces and sells syrups or flavoring concentrates to the independent bottler, participates in advertising and promotion expenditures made in connection with trademarked products, provides advice and technical assistance on production, qual-

Footnotes at end of article.

ity control, management and sales problems, and assists in development and test marketing of new products and containers. The bottler in turn manufactures, distributes and sells the trademarked products, and provides the capital investment necessary for his market. He determines the plant and equipment to be used, the volume of production by size and type of container, the product mix, the price to be charged, and the manner in which he can maximize his market penetration to secure the widest possible distribution of his products throughout the territory.

Territorial provisions in the bottling industry originated from a need to induce local businessmen to make investments necessary to serve local markets. In addition, the services involved in retrieving returnable bottles, the first soft drink container, placed natural limits on the area that could be served effectively by any single bottler. Precise marketing areas were thus defined and help account for the unique character of the industry today.

ANALYSIS

This Act amends the Federal Trade Commission Act and the antitrust laws to clarify the circumstances under which exclusive territorial licenses to manufacture, distribute and sell trademarked soft drink products shall not be deemed unlawful. It is the Committee's intent and purpose to provide that if the requirements of this bill are met, the relevant territorial provisions are not only lawful, but also enforceable through judicial proceedings. Nothing in this bill is intended to protect any other provisions in such trademark licenses, or any practice or conduct or those licensed to manufacture, distribute and sell trademarked soft drink products, from challenge under the antitrust laws.

This legislation applies to situations in which a trademark owner grants licensees the right to manufacture, distribute and sell trademarked soft drink products in specifically defined geographic areas. Such a system exists in the soft drink industry where licensees either manufacture soft drink products, or contract with other parties to have manufactured those products which they may not be equipped to produce, but for which they remain responsible for adherence to the licensor's quality control and trademark standards.

Consistent with the Committee's purpose to preserve the present system of local manufacture, distribution and sale, the bill makes lawful license provisions which have the effect of precluding indirect evasions of the license agreement. Thus, the exclusive territorial rights of one licensee are protected from direct or indirect sales by the licensor or any of its other licensees into his defined geographic area, so long as there is substantial and effective competition within his territory.

Substantial and effective competition requires that there be both competition from other products and other vendors. This phrase, like other phrases of general connotation used in the antitrust laws, gives the courts flexibility to deal with specific situations. In determining whether substantial and effective interbrand competition exists, this Committee recognizes that there is no single, universally reliable indicator of interbrand competition or its absence.

Whether or not there is substantial and effective competition within a licensee's defined geographic area from other brands and vendors depends upon such factors as: the number of brands, types, and flavors of competing products available in the licensee's territory from which consumers can choose; persistence of long run monopoly profit; the number of retail price options available to consumers; the persistence of inefficiency and waste; the degree of service competition among vendors; ease of entry into the market; the failure of output levels to respond to consumer demands; the number and strength of sellers of competing products in the territory; and a lack of opportunity to introduce more efficient methods and processes. The Committee intends to prescribe no hard and fast rule for determining substantial and effective interbrand competition from among these factors, but rather to allow the courts discretion to give appropriate weight to these economic indicia of competition as they deem necessary in each distinctly unique local market.

FOOTNOTES

[1] *Inter*brand competition takes place among products of different brands. *Intra*brand competition, on the other hand, involves competition among products of the same brand sold by different vendors.

[2] The term "bottler" is trade language in the soft drink industry used to refer to all franchisees, including bottling subsidiaries of franchisors, who are licensed to manufacture, distribute and sell soft drinks in bottles, cans, and other containers.

[3] Complaints filed on July 15, 1971, against Crush International Ltd., Dr. Pepper Co., The Coca-Cola Co., Pepsico, Inc., The Seven-Up Co., Royal Crown Cola Co., and Cott Corp. (FTC Docket Nos. 8853–59); subsequently, on Mar. 9, 1972, a similar complaint was issued against Canada Dry Corp. (FTC Docket No. 8877).

[4] "There have been tremendous departures from the notion of a free enterprise system as it was originally conceived in this country. These departures have been the product of congressional action and the will of the people. If a decision is to be made to sacrifice competition is one portion of the economy for greater competition in another portion, this too is a decision which must be made by Congress and not by private forces or by the courts. Private forces are too keenly aware of their own interests in making such decisions and courts are ill-equipped and ill-situated for such decisionmaking. To analyze, interpret, and evaluate the myriad of competing interests and the endless data which would surely be brought to bear on such decisions, and to make the delicate judgment on the relative values to society of competitive areas of the economy, the judgement of the elected representatives of the people is required." *United States* v. *Topco Associates, Inc.*, 405 U.S. 596, 611–12 (1972) (Marshall, J.)

[5] Throughout the history of these [antitrust] statutes it has been constantly assumed that one of their purposes was to perpetuate and preserve, for its own sake and in spite of possible cost, and organization of industry in small units which can effectively compete with each other." *United States* v. *Aluminum Company of America*, 148 F.2d 416, 429 (2d Cir. 1945) (L. Hand, J.)

EXECUTIVE SESSION

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

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

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

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations were considered and confirmed en bloc.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Army, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

LEGISLATIVE SESSION

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

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

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that on the last group of nominations approved by the Senate last week, the President be notified of the confirmation of those nominations.

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

NATIONAL TRANSPORTATION CRISIS EMERGING

Mr. MANSFIELD. Mr. President, I have received from the National Governors Conference Committee on Transportation, Commerce, and Technology a telegram relating to the emerging national transportation crisis. I ask unanimous consent that the telegram be printed in the RECORD.

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

BOSTON, MASS.,
June 8, 1973.

Senator MIKE MANSFIELD,
Senate Majority Leader,
The Capitol, Washington, D.C.

National Governors Conference Committee on Transportation, Technology and Com-

merce met this week and reviewed progress to date in developing effective programs and policies that will solve our Nation's serious transportation problems. There is growing national transportation crisis emerging and only prompt decisive and comprehensive action at the national level will avert impending crises that affect the entire nation.

Imperative that legislative and executive branches of national government agree immediately upon a Federal Aid Highway Act that will meet nation's transportation needs and will give to governors effective and flexible tools needed at State level to implement solutions.

We also urge executive and legislative branches to commence intensive efforts to develop effective legislation to prevent impending shutdown of many of the nation's railroads. Railroad crisis in the eastern section of the United States, for example, will seriously affect economy and well-being of the entire country if not handled promptly and successfully. Two major railroads under court orders to liquidate; four others in bankruptcy courts. We urge Congress to develop suitable reorganization plan quickly without depending solely on plans set forth by the Interstate Commerce Commission and Department of Transportation which call for large scale abandonments and reductions of vital rail services.

The National Governors Conference offers its services to work with executive and legislative branches of our national government to solve these matters of national concern and are prepared to meet with you to further discuss these important problems.

National Governors Conference Committee on Transportation, Commerce and Technology.

Governor Francis W. Sargent, Massachusetts, Chairman; Governor John C. West, South Carolina, Vice Chairman; Governor George C. Wallace, Alabama; Governor Thomas J. Meskill, Connecticut; Governor Thomas L. Judge, Montana; Governor J. James Exon, Nebraska; Governor Mike O. Callaghan, Nevada; Governor Milton J. Shapp, Pennsylvania; and Gov. Press, State House, Boston, Mass.

INFLATION THE NO. 1 DOMESTIC PROBLEM

Mr. MANSFIELD. Mr. President, inflation is the No. 1 domestic problem in this country and should, in the national interest, be faced up to immediately. As a matter of fact, the time to face up to it is long past due. Wholesale prices in May, according to the Labor Department, increased 2 percent over April. That means that so far this year, wholesale prices have been upped at a 24 percent annual rate. Furthermore, since the dissolution of mandatory wage and price controls under phase III in January, consumer prices have soared 9 percent at an adjusted annual rate.

The President, I understand, has been considering these and allied factors, as well he should; he has called inflation the No. 1 problem confronting the Nation today, and it is; but what does the administration intend to do about this ever-pressing and upward problem. The dollar lost 5 percent against the deutschemark in 1 week's time, in effect, a third devaluation and amounting to a 30 percent decline in the value of the dollar in less than 2 years. The cost of farm products rose 4.1 percent in one month.

It is not enough for a spokesman for the administration to refer to this increase as "obviously unwelcome" news. The banks have raised minimum lending rates again, this time to 7.5 percent. This is the sixth increase in 6 months. Joblessness remains steady at 5 percent and will be increased still more, in my opinion, when this year's high school and college classes are out for the summer.

We are waiting for the administration to take steps to face up to economic realities. The stock market has lost 12 percent of its value since January. Profits are up; the dollar is down. Inflation is up; the balance of payments is down. The "stick in the closet" is still in the closet, while confidence in our Government is down. Unless something is done shortly, in my opinion, we face an annual inflation rate of around 10 or 11 percent. This cannot be allowed to happen; and to forestall it, the administration and the Congress, acting together, each must assume its responsibilities. The President must do so now, on the basis of authority which has been delegated to him; Congress will do it as soon as the legislation to establish a Federal Financing Bank, S. 3925, is called up, hopefully this week, because it will follow the pending business.

Preoccupation with Watergate should not be associated with the inflationary process which is now rampant in this country. It is time to restore controls across the board. It is time to use the "club" in the open rather than the "stick" in the closet. It is time to note and to do something about the fact that farm products, foods, and feeds have climbed up at a 43.2 percent annual rate, compared with 16.1 percent under phase II. It is time to note that for industrial commodities, the comparison is a 14.9 percent increase under phase III, against a 3.5 percent increase under phase II. In brief, phase III is not working. Phase III should be scrapped immediately and drastic measures should be undertaken at once to reverse the inflationary spiral and to bring stability to this Government in its activities in this area which, in effect, affect all other areas.

Mr. SCOTT of Pennsylvania. Mr. President, I have agreed in the past, and I agree now, in part, with what the distinguished majority leader has said. The very rapid growth of an affluent economy, the increase in the gross national product, the availability of funds for capital investment have all led to some actions being taken, notably the increase in interest rates sponsored by the Federal Reserve System, which is a very desirable control on the economy. It is not enough. We need selective controls. We need to move into phase IV and to include a restoration of some of the controls under phase II. Even more, I think we need some innovative and, if necessary, rather drastic steps to slow down this economy.

I do not think it is enough to assure us, as we have been assured, that the rate of inflation will tend to decrease during the latter half of the year. The condition of the economy affects the confidence of the people, and it is essential that we restore that confidence. Therefore, I have previously urged, and urge now, that the administration move as expeditiously as possible in taking steps to slow down inflation, to control the rapid rise in the cost of living.

At the same time, I think it necessary to caution that a complete, across-the-board freeze of wages, profits, and prices sounds attractive, in itself; it has some cosmetic effect; it is dramatic; it is attention getting, because it goes further than the actual remedies that probably will be recommended.

At the same time, it could have a horrendous effect on the economy, because many working people today have not had a chance to catch up. There are some unions in which that condition is certainly to be noticed, where it is necessary that the wages paid to their members will more fairly represent the increase in the cost of living to them. But to freeze wages as well as prices and profits at this time would freeze the negotiating, collective bargaining process.

To freeze food prices, for example, would simply cause the producers of food to stop producting for the market, to stop growing, to stop planting, and undoubtedly would lead to a very serious crisis in the economy.

So, as usual, the extremes are wrong. The extreme of laissez-faire, doing nothing, is wrong. The extreme of doing everything because it makes headlines and draws attention is equally wrong.

What has to be done is to look at the causes of the inflation and to meet those causes, to apply the remedies where they will work. It is proper to ask about a time-limited price freeze, "What do you do when the freeze ends?" The complaint about abandoning phase II is that there was nothing to follow it of a mandatory nature. But to freeze again everything simply means that at the end of the freeze will be nothing to follow it of a mandatory nature; so all you have done is to postpone an evil day. It seems to me that it is not rational for that reason, that we do need controls.

I have been in the lead in urging the administration to do this. I believe they will. I believe it is essential that they do so. I think that Congress, as the distinguished majority leader has said, should cooperate, but should cooperate in the sense of working out what realistically can be done to lower the cost of living and to ease the tensions of inflation and to restore confidence.

Finally, in the area of restoring confidence, I repeat what I have said many times: The Senate can help. We can help by showing our faith and our confidence in this great and strong country, and that confidence will be reflected at home and abroad in strengthening the dollar, in stabilizing gold, and in stabilizing the economy.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT of Pennsylvania. I yield.

Mr. MANSFIELD. Mr. President, I want to say, first, that the question of a 90-day freeze is not absolute, so far as I am concerned. Perhaps it could be an indeterminate freeze, depending upon developments.

Second, I think I should say that the Senate has been acting responsibly, and

that applies to the Senate as a whole, both Republicans and Democrats, and it is prepared to act responsibly in discharging its obligations for the conduct of the affairs of the Nation.

Third, I want to say that the distinguished minority leader has been doing his utmost to bring to the attention of the administration the need for action in the field of the economy; because, as he has indicated—and as I have tried to—the inflationary trend at the present time and for some time past is and has been getting out of hand.

So I would hope that the administration would listen to what the joint leadership of the Senate has had to say—not for the first time, may I remind the Senate—about this most important, this most pressing problem, and be prepared to do something about it. So far as we are concerned, we will be prepared to cooperate to the best of our ability in assuming our responsibility.

Mr. SCOTT of Pennsylvania, I thank the distinguished majority leader; and I would suggest that the next time a bill comes in to add a billion dollars or more to the amount requested, consonant with the budget, the Senate exercise due restraint.

Mr. MANSFIELD. If the Senator will yield once more, I have my budget outline for the remainder of this session, and I want to assure him that before I get through, it will not be one billion dollars but many billions of dollars cut from the requests made by the President of the United States.

Mr. SCOTT of Pennsylvania. That could be salutary, if wisely done.

ORDER OF BUSINESS

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

Mr. STAFFORD. Mr. President, I ask unanimous consent that the time reserved to Senator GRIFFIN may be reserved to me, and I reserve that time.

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

Mr. ROBERT C. BYRD. Mr. President, I yield back the time allotted to me.

Mr. STAFFORD. Mr. President, I yield back the time allotted to me.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR VOTE ON BAYH AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and I am authorized to do this by the distinguished majority leader, and it has been cleared on the other side of the aisle—that a vote occur today at the hour of 2:45 p.m. on amendment No. 214 offered by the Senator from Indiana (Mr. BAYH) to S. 1248.

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

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON TRANSFER OF FUNDS

A letter from the Acting Assistant Secretary of Defense (Comptroller), reporting, pursuant to law, on the transfer of certain funds. Referred to the Committee on Appropriations.

REPORT ON COMPLETION OF SOIL SURVEY AND LAND CLASSIFICATION

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, that an adequate soil survey and land classification has been completed of the lands in the Kanawha Water District, Sacramento Canals Unit, Central Valley Project (with an accompanying paper). Referred to the Committee on Appropriations.

REPORT ON CONSTRUCTION PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE NAVAL RESERVE

A letter from the Deputy Assistant Secre- of Defense (Installations and Housing), reporting, pursuant to law, on certain construction projects proposed to be undertaken for the Naval Reserve. Referred to the Committee on Armed Services.

PROPOSED TRANSFER OF DESTROYER ESCORT

A letter from the Acting Assistant Secretary of the Navy (Installations and Logistics), reporting, pursuant to law, on the proposed transfer of the destroyer escort ex-U.S.S. *Osterhaus* (DE 164) to the Little Rock Chamber of Commerce, Little Rock, Ark. Referred to the Committee on Armed Services.

REPORT LISTING CONTRACT AWARDS

A letter from the Acting Assistant Secretary of Defense, transmitting, pursuant to law, a secret listing of contract awards, dated June 1, 1973 (with an accompanying report). Referred to the Committee on Armed Services.

REPORT ON EXPORT CONTROL

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on export control, for the first quarter of 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT ON APPROVAL OF CERTAIN LOANS BY THE EXPORT-IMPORT BANK

A letter from the President, Export-Import Bank of the United States, reporting, pursuant to law on the approval of loans, guarantees, and insure in support of United States export to certain countries, for the period December 1972, through April, 1973. Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT ON IMPLEMENTATION OF TRANSPORTATION POLICY

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on implementation of transportation policy, dated May 1973 (with an accompanying report). Referred to the Committee on Commerce.

PROPOSED LEGISLATION FROM THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the laws governing the transportation of hazardous materials (with accompanying papers). Referred to the Committee on Commerce.

PROPOSED LEGISLATION FROM THE DISTRICT OF COLUMBIA

A letter from the Commissioner, District of Columbia, Washington, D.C., transmitting a draft of proposed legislation to repeal section 274 of the Revised Statutes of the United States relating to the District of Columbia, requiring compulsory vaccination against smallpox for public school students (with an accompanying paper). Referred to the Committee on the District of Columbia.

REPORT ON INTERNATIONAL AGREEMENTS

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, certain international agreements entered into by the United States (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORT ON EQUIPMENT TITLED IN NONPROFIT EDUCATIONAL INSTITUTIONS AND OTHER NONPROFIT ORGANIZATIONS

A letter from the General Manager, United States Atomic Energy Commission, transmitting, pursuant to law, a report on Equipment Titled in Nonprofit Educational Institutions and other Nonprofit Organizations, for the calendar year 1972 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Student Loan Insurance Fund, Fiscal Years 1971 and 1972," Office of Education, Department of Health, Education, and Welfare, dated June 8, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED AMENDMENT OF CONCESSION CONTRACT

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment of a concession contract in the Kalaloch area of Olympic National Park, Wash. (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

REPORT ON DEFECTOR ALIENS

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered into in the case of certain defector aliens (with accompanying papers). Referred to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Acting Commissioner, Immigration and Naturalization Service, De-

partment of Justice, transmitting, pursuant to law, reports on temporary admission into the United States of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT ON ADMINISTRATION OF THE WELFARE AND PENSION PLANS DISCLOSURE ACT

A letter from the Secretary of Labor, transmitting, pursuant to law, report on the administration of the Welfare and Pension Plans Disclosure Act, covering the calendar year 1972 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT OF RAILROAD RETIREMENT BOARD

A letter from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, a report of that Board, for the fiscal year ending June 30, 1972 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A joint resolution of the Legislature of the State of California. Referred to the Committee on Interior and Insular Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 31—RELATIVE TO THE OFFICE OF SALINE WATER

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 31, MacDonald. Office of Saline Water.

"Memorializes President and Congress to restore the budget of the Office of Saline Water to a level sufficient to continue the operation of certain specified test facilities.

"Whereas, The Office of Saline Water of the United States Department of the Interior has for many years been actively engaged in the quest for new water supplies through the development of the technology necessary to enable the desalination, of sea water and the demineralization of brackish water; and

"Whereas, The efforts of the Office of Saline Water have resulted in continuing improvements in the technology of desalination and demineralization of sea and brackish water; and

"Whereas, Water from these sources can constitute a valuable supplemental supply in the future if the technology of demineralization and desalination can continue to be advanced; and

"Whereas, Cuts in the budget of the Office of Saline Water will inhibit the development of this essential technology by necessitating the immediate closing of the San Diego, California, Roswell, New Mexico, and Freeport, Texas, test facilities; and

"Whereas, Pioneering technology in the demineralization of brackish waters by the process of reverse osmosis has been developed at the Roswell Test Facility, thus enabling the production of fresh water with a technology completely unknown only 12 years ago; and

"Whereas, Research in the technology of the reverse osmosis process must continue if essential further improvements are to be realized and supplies from this source made available to help meet the water requirements of the people of the United States; and

"Whereas, The process of reverse osmosis also offers great potential as a means of reclaiming waste water and of attaining the goals of clean water established by the Congress of the United States in the Federal Water Pollution Control Act Amendments of 1972; and

"Whereas, The technology being developed in the desalination of sea water through the operation of the San Diego Test Facility is essential if the world oceans are to one day become a viable source of meeting our ever increasing water requirements; and

"Whereas, The efficient operation of desalination facilities is, additionally, dependent upon essential technical knowledge being gained through research conducted at the Materials Test Center at Freeport, Texas; and

"Whereas, Continuing development of the technology necessary for the economic production of fresh water from sea and brackish sources is essential if the water supply and water quality requirements of the people of the United States are to be fulfilled; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of United States to restore the budget of the Office of Saline Water to a level sufficient to continue the operation of the abovenamed facilities, in order that the development of the technology of desalination and demineralization of sea and brackish waters might be continued and enhanced; and, be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Director of the Office of Saline Water, to the Speaker of the House of Representatives, to the Chairmen of the Senate and House Committees on Interior and Insular Affairs, to the Chairmen of the Senate and House Committees on Appropriations, to Chairmen of the Senate and House Subcommittees on Water and Power Resources of the Committees on Interior and Insular Affairs, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the Legislature of the State of Nebraska. Referred to the Committee on the Judiciary:

"LEGISLATIVE RESOLUTION 23

"Whereas, the sweeping judgment of the United States Supreme Court in the Texas and Georgia abortion cases expressly deprived the unborn of legal and constitutional protection during their gestation; and

"Whereas, such judicial holding condones the destruction of an entire class of live human beings; and

"Whereas, in states in which abortion laws have recently been relaxed or repealed, professional medical ethics and respect for unborn life have proved to be wholly inadequate for the reasonable protection of the lives of the unborn; and

"Whereas, a legal threat to the right to life of any individual member of a society imperils the right to life of every other member of that society; and

"Whereas, human life in all stages is entitled to the protection of the laws and may not be abridged by act of any court or legislature or by any judicial interpretation of the Constitution of the United States; and

"Whereas, the issue is of such great magnitude—the extent to which human life itself is protected under the Constitution; and

"Whereas, the Legislature of this state believes it to be in the best interest of the people of the United States that an amendment to the Constitution of the United States be adopted to protect unborn human lives.

"Now, therefore be it resolved by the Members of the Eighty-third Legislature of Nebraska, First Session:

"1. That the Congress of the United States take appropriate action to adopt a Constitutional Amendment that will guarantee the explicit protection of all unborn human life by extending the appropriate constitutional rights, including due process of law, which apply to the unborn in an appropriate manner and to the same extent as all other citizens of the United States, and will guarantee that no human life will be denied protection of law or deprived of life on account of age, sickness, stage of development, or condition of dependency or wantedness.

"2. That the Clerk of the Legislature transmit a copy of this Resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, each member of the Nebraska Congressional delegation, each member of the United States Supreme Court, and to the legislatures of each of the several states."

A resolution of the Senate of the State of West Virginia. Referred to the Committee on the Judiciary:

"SENATE RESOLUTION NO. 10

"(By Mr. Darby and Mrs. Leonard)

"Memorializing the Congress of the United States to approve House Joint Resolution No. 261, introduced on January 30, 1973, proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged or the incapacitated

"Resolved by the Senate:

"That the Congress of the United States be urged and requested to approve the amendment to the United States Constitution introduced in House Joint Resolution No. 261, which reads as follows:

"Proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged or the incapacitated. To be ratified by the states within seven years of Congressional approval.

"Article —

"SECTION 1. Neither the United States nor any state shall deprive any human being, from the moment of conception, of life without due process of law; nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.

"SEC. 2. Neither the United States nor any state shall deprive any human being of life on account of illness, age or incapacity.

"SEC. 3. Congress and the several states shall have the power to enforce this article by appropriate legislation," and, be it

"Resolved further, That the Clerk of the Senate notify the Congress of the United States of this action by forwarding to the appropriate officers of each House of Congress a certified copy of this Resolution."

A resolution adopted by the County of Maui, Wailuku, Hawaii, praying for the enactment of legislation to subsidize a program for diversified farming in the State of Hawaii. Referred to the Committee on Agriculture and Forestry.

A resolution adopted by the City Council of Baltimore, Maryland, praying for the enactment of legislation relating to the most-favored-nation tariff treatment. Referred to the Committee on Finance.

A resolution adopted by the County of Maui, Wailuku, Hawaii, relating to water-use objectives of the waters surrounding the State of Hawaii. Referred to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Armed Services, without amendment:

H.R. 4682. An act to provide for the immediate disposal of certain abaca and sisal cordage fiber now held in the national stockpile (Rept. No. 93-203).

AUTHORIZATION TO FILE JOINT REPORT ON H.R. 7200 (S. REPT. NO. 93-202)

Mr. HATHAWAY. Mr. President, I ask unanimous consent to file a joint report

on H.R. 7200, an act to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise certain eligibility conditions for annuities; to change the railroad retirement tax rates; and to amend the Interstate Commerce Act in order to improve the procedure pertaining to certain rate adjustments for carriers subject to part I of the act, and for other purposes, from the Committees on Labor and Public Welfare and Finance, and that in accordance with the order of May 23, 1973, it be referred to the Committee on Commerce for its consideration of titles II and III.

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

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, with amendments:

S. 1775. A bill to provide the homebuilding and construction industries with the increased production of wood materials necessary to achieve the housing goals established by the Housing Act of 1949 and the Housing Act of 1968; acompanied by a more balanced and efficient development of the national forest system and privately owned forest lands through establishment of a forest lands planning and investment fund; to regulate and control the export of timber from the United States; to amend the Export Administration Act of 1969 to establish a Technical Advisory Committee to develop forecast indexes of domestic supply and demand for certain commodities to help assure that these commodities will not be in short suply; and for other purposes (Rept. No. 93–204). Referred to the Committee on Agriculture, under the order of the Senate of May 10, 1973.

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. HATHAWAY:

S. 1973. A bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution. Referred to the Committee on the Judiciary.

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 1974. A bill to provide for the disposition of funds appropriated to pay judgments to the Creek Nation of Oklahoma in Indian Claims Commission docket Nos. 167 and 273, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 1975. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Creek Indians in Indian Claims Commission docket No. 275, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 1976. A bill to study an Indian Nations Trail within the National Trails System. Referred to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY (for himself, Mr. CRANSTON, Mr. EAGLETON, Mr. MONDALE, and Mr. PELL):

S. 1977. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

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

S.J. Res. 121. Joint resolution authorizing the President to proclaim September 28, 1973, as "National Indian Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATHAWAY:

S. 1973. A bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution. Referred to the Committee on the Judiciary.

Mr. HATHAWAY. Mr. President, today I am introducing a bill dealing with the procedures and structure of a constitutional convention called subsequent to the receipt of the requisite number of petitions for such a convention from the States. This bill is a modification of similar legislation which has been introduced by Senator ERVIN and which is currently before the Judiciary Committee. I presented a statement on the major thrust of my bill to Senator ERVIN's subcommittee and ask unanimous consent that this statement be printed in the RECORD at the conclusion of my remarks.

In addition to the changes described in the statement, my bill suggests several further modifications. First, I have inserted a provision limiting the size of the convention to approximately 250 delegates, 50 of which would be selected at-large from each State with the remainder coming from specially created million-person districts. My intent here is simply to hold the size of the convention to a number conducive to taking well considered action in a limited amount of time.

Second, my bill would prohibit Members of Congress from serving as delegates to the convention simultaneously with their membership in Congress. Finally, I suggest several minor changes designed to eliminate undue procedural problems connected with the rules and officers of the convention.

I am fully aware of the delicacy of this subject matter and do not take my position lightly. I hope my colleagues will give serious consideration to the points which I raise, as this important legislation moves toward enactment.

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

STATEMENT OF WILLIAM D. HATHAWAY ON S. 1272

Mr. Chairman, I appreciate this opportunity to make my views known on the bill presently before this committee. I am preparing for submission my own bill relating to the procedures to be followed in a Constitutional Convention called pursuant to petitions from the states under Article V of the Constitution. My bill, although identical with the Chairman's bill in most respects, will differ substantially in several important areas, and it is to these differences that I would like to address my remarks today.

At the outset, I should express my profound respect for the Chairman as a scholar of our Constitution and an articulate exponent of the ideals imbedded in that document. I further compliment the Chairman for his foresight in developing this legislation in advance of a possible crisis situation which could develop as a result of sufficient state petitions being received before procedures for calling a Convention are established. In light of present circumstances, it is critical that Congress address itself to this problem without further delay; it is my hope that some legislation in this area will emerge from the present Congress.

I would like to focus my remarks on one aspect of the bill presently before the Committee, that is, the limitations the bill places on subject matter to be considered at a convention called pursuant to petitions received under Article V. It is the position of the Chairman's bill, reiterated in several sections, that the Convention be strictly limited to consideration of amendments which relate to the same subject as the petitions of the states which initiated the calling of the convention. My proposal would loosen this stricture under certain carefully limited circumstances and allow the Convention, once established, to consider the proposition of amendments not on the "agenda" defined by the state petitions.

Before considering the substance of this proposal, I should acknowledge my awareness that many in Congress, and among the public generally, are of the opinion that an "open" Constitutional Convention would, at the least, pose a serious threat to beneficial aspects of our present system, and, at the worst, be an unmitigated disaster for the Republic. I have studied this argument or set of arguments carefully and am unconvinced; I take my own position only after long and serious reflection and a sober consideration of all possible consequences. Further, I would require concurrence by two-thirds of the delegates on any proposed amendment on a subject different from that in the original petitions (and leave the simple majority requirement for petitioned Amendments which was in the Chairman's original bill). As any member of this body knows, obtaining a two-thirds majority on a subject of any importance is extremely difficult. Such a requirement would certainly serve as a substantial safeguard against precipitous action by the Convention. I mention this provision of my proposal at this point only to emphasize that I am sensitive to the Committee's concern on this matter and do not make this proposal lightly.

Why then, in light of all the potential dangers inherent in a "free" Constitutional Convention, would someone urge opening the door to such a possibility? I advance my proposal because of a profound conviction that many of the structures, institutions, and relationships which have evolved from the Constitution into our present system of government are insufficient to meet the demands placed upon them by a modern nation of 200 million people. Coupled with this is a second conviction that the people are capable of correcting deficiencies without damaging the essential fabric of the Constitution.

It may be that, upon analysis, the people's representatives will feel that they cannot improve upon the present system and that no substantial changes are necessary. Even if this is the case, however, I would argue that the very act of reconsidering some aspects of the Constitution would be a healthy one for our nation. Such questions as the scope of judicial review in a democratic society, the governmental paralysis created by a prolonged period of having the Presidency and Congress controlled by different political parties, the proper role of local, state and federal governments, the relationships between the various branches of government in such areas as foreign policy, military affairs, and the budgetary process,

the relevance and function of present state boundaries in light of current economic and demographic realities, and others are serious problems which deserve serious consideration in an arena where effective decisions can be made.[1] I fear that our failure to address ourselves to these questions is producing a situation where government at all levels and government as an overall system is less and less able to meet the needs of our people. I would submit that the plummeting "respect" rating of our political leaders, the general lack of confidence in government's ability to serve the people and a widespread malaise about the effectiveness or fairness of "the system" are all indicators that fundamental questions are going unanswered. As a member of the United States Congress for more than 8 years, I am more and more convinced that the structure of the institution itself, is, in large measure the enemy of responsive and effective government.

The question is logical, at this point, why, if these enumerated questions are so important, haven't individual amendments "bubbled-up" to deal with them, such as the previous amendments on the income tax, universal suffrage and prohibition or the present ones being considered on busing, reapportionment and school prayer. The answer lies in the nature of the political process and the nature of the issues which I have suggested as deserving of consideration. The amending process, as presently constituted, has the effect of screening out all proposals save those with the aggressive and active support of some identifiable group in the society. Because of the multiple political hurdles involved, only an amendment with the support of an organized and highly intense group has a realistic chance of ultimate passage. This system is fine as far as it goes, because it assures that those matters upon which broadly based popular support can be generated will receive a full hearing, while narrow "special interest" proposals are screened out. The problem is that this approach also effectively screens out proposals not addressed to specific needs or issues but which deal with general, and more fundamental, problems. There is a widespread discontent abroad in the land—a feeling that our government isn't working; but this feeling which is shared by many of our people is so vague and so lacking in focus that it may never generate a political constituency sufficient to force consideration of the fundamental questions through the traditional amending process.

This situation leaves us with a system which can be tinkered with, but never analyzed in its basic assumptions; a system which has served us well for 200 years but is fundamentally immutable, despite clear signs of structural problems; a system designed by men for the service of man, but which, it turns out, is not our servant but an increasing cranky and irrational master.

Finally, I should add a word about the often expressed fear that a "free" convention will destroy the beneficial aspects of the Constitution such as the separation of powers or the Bill of Rights and become the captive of far-out special interests. I don't think this would be the case for two reasons: First, anything the convention proposed would have to be approved by a two-thirds majority, (no mean feat for radical alterations, as noted earlier) as well as the legislatures of three-fourths of the states. Secondly, there will be no political pressures, in the traditional sense, operating on the delegates to the convention since they will not be seeking reelection to anything.

I believe that this atmosphere, created in part by the nature of the gathering and in part by the awesome responsibility placed upon the delegates, would be one conducive to careful assessment of some of the problems I have raised.

I do not deny that the course I am proposing contains risks; but the willingness to accept risks in the pursuit of high purpose has been an enduring trait of the American character. To narrowly restrict the Convention would mean the loss of a unique opportunity to at least consider and breathe new life into our institutions of government, as the Republic enters into its third century.

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[1] Subsequent to the preparation of these remarks, no less diverse commentators on these matters than Mr. Kevin Phillips of the Emerging Republican Majority and TRB of the *The New Republic* made strikingly similar observations—W.D.H.

By Mr. KENNEDY (for himself, Mr. EAGLETON, Mr. MONDALE, and Mr. PELL):

S. 1977. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1974

Mr. KENNEDY. Mr. President, I introduce today the National Science Foundation Authorization Act of 1974. This bill would provide the Foundation with an authorization of $704 million for its scientific research and education programs in fiscal year 1974. This is precisely the same authorization which the Foundation currently has during fiscal year 1973. Despite the continuing inflation in research costs and the growing need for scientific contributions to the resolution of the Nation's problems, I am not proposing an increased authorization at this time.

The administration has requested only $583 million for NSF for fiscal year 1974. During the current fiscal year the administration has impounded approximately $62 million in NSF funds. In view of this situation, it is clear that an authorization of more than the proposed $704 million would not result in funded programs. I am proposing this amount as the maximum which can be realistically hoped for at this time—even though the scientific needs of the Nation would call for an even higher figure.

Since its creation as an independent agency in 1950, the National Science Foundation has carried out the extremely important mission of maintaining the Nation's scientific strength. The Foundation operates no laboratories or scientific facilities of its own, but through grants and contracts supports programs of scientific research and education in thousands of universities, research institutes, and other organizations. These programs cover all fields of science and engineering, encompassing the mathematical and physical sciences, engineering, social sciences, biological and medical sciences, materials research, and the environmental sciences. They cover all levels of science education from elementary school through postdoctoral fellowships. And these programs are carried out in all of the 50 States to assure a strong, broadly based national scientific enterprise.

The impact of the Foundation's programs is both pervasive and profound on the Nation and on the future of mankind. For we live in an age of science—from the computers that increasingly manage our transactions to the transistors that power our electronic devices to the advanced medical technology which promises profoundly to affect the maintenance of man's health. Science has become essential to the Nation's military security, to the strength of its domestic economy and international economic position, and, indeed, to the resolution of the widespread social problems which beset our Nation.

But scientific research is not a spigot which can be turned on and off at will. Before scientific know-how can be effectively applied to particular problems in areas such as transportation, health care, housing, communication, energy resources, nutrition, and pollution control, the underlying foundation of basic research must be patiently and continuously built over the years, and the Nation's scientific and technical talent must be carefully nurtured and trained.

This is the key task to which the Foundation has directed its principal efforts over the years; but in recent years the Foundation has also expanded its programs with respect to applied research which is relevant to the Nation's social problems. Although the various Federal agencies sponsor some applied research relevant to their particular missions, there remains a considerable amount of extremely important applied research which is too broad in scope or too fundamental in substance to fall within the mandate or resources of the mission agencies. The National Science Foundation is the only agency which can tackle these problems. So the role of the National Science Foundation is to keep the Nation strong in basic science, sponsor the appled research which cannot be effectively handled by other agencies, and assure the Nation an adequate supply of scientific talent.

The $704 million which my bill calls for is $121 million higher than the $583 million requested by the administration. The principal differences in the bills stem from increased funding for science education and research applied to national needs in my bill

The bill calls for the establishment of an Energy Research Division within the National Science Foundation and the authorization of not less than $50 million in fiscal year 1974 for energy research programs, with emphasis on solar, geothermal, and other nonconventional energy sources. While the $50 million for nonconventional energy research programs represents a $29.3 million increase over the $20.7 million called for in the administration request, it is still small by comparison with the $323 million requested for the liquid metal fast breeder reactor or the $120 million requested for coal research.

The energy needs of the Nation are too critical to be overly dependent on any particular form of energy. We need to explore all promising alternatives. Solar, geothermal, and the other nonconventional energy sources being explored by the National Science Foundation are extremely promising alternatives for the future.

Thus the recent report of the Solar Energy Panel—a joint effort by the National Science Foundation and the National Aeronautics and Space Administration—calls for $1.5 billion in solar energy R. & D. over the next 15 years. And the recent report on geothermal energy by former Secretary of Interior Hickel, calls for $680 million in geothermal research. The $50 million for such research in my bill represents the minimum level of funding which the Nation must devote to those areas.

The proposed bill increases the RANN budget—Research Applied to National Needs—by a total of $36 million. In addition to the $29.3 million more for energy research, this includes $3.7 million more for technology assessment studies, and $3 million more for earthquake engineering. Thus the bill establishes minimum levels of $5 million for technology assessment studies, and $10 million for earthquake engineering studies.

The earthquake engineering program is of great importance to the lives and property of thousands of American citizens in all parts of the country. Contrary to the prevalent view, earthquakes in America are not limited to California and Alaska. There is no State in the Union which has not experienced earthquake damage at one time or another. Twenty States have been subjected to serious damage, and are likely to experience serious damage again. These include South Carolina, Nevada, Kentucky, Washington, Illinois, New York, Idaho, Massachusetts, New Hampshire, Tennessee, Mississippi, Montana, Wyoming, Utah, Maine, Indiana, Missouri, and Arkansas, as well as California and Alaska. Through the earthquake engineering program, the Nation can take steps to prepare for future earthquakes and to minimize their adverse consequences.

Another area of vital importance to the Nation's continuing efforts to improve environmental quality is the provision of modern research vessels needed for the conduct of advanced research in oceanography. Of the 32 research vessels supported by the National Science Foundation, 13, or more than 40 percent, were built 25 or more years ago. Close examination of the ship replacement requirements makes it clear that the Foundation should accelerate fleet modernization programs in fiscal year 1974. The bill establishes a minimum level of $6 million for the oceanographic ship construction/conversion program.

The bill also calls for a total of $81 million for science education programs. This is $37.6 million more than the $43.4 million requested by the Administration but $34.7 million less than the $115.7 million authorized for science education programs in the current fiscal year. My bill calls for $19.8 million more for science education improvement, $11.8 million more for graduate student support, and $6 million more for institutional improvement for science. The total of $46 million in the bill for science education improvement includes a requirement for a minimum level of $7.5 million to be used for the Ethnic Minority Colleges program, to help such colleges upgrade their science education capabilities.

The following is a brief summary of the programs included in the National Science Foundation Authorization Act.

First. Scientific Research Project Support, $292,700,000. The objective of this program is to provide support for individual scientists or groups of scientists in finding answers to unresolved scientific questions. Support is provided in the following areas: atmospheric, earth, biological, and social sciences, oceanography physics, chemistry, astronomy, mathematics, engineering, and materials research.

Second. National and Special Research Programs, $108,600,000. These are a variety of major programs which require special coordination and include the: International Biological program; Global Atmospheric Research Program, Experimental R. & D. Incentives program; National R. & D. Assessment program; International Decade of Ocean Exploration; Ocean Sediment Coring program; Arctic Research program; U.S. Antarctic Research program; Oceanographic Facilities and Support; and Solar Eclipse.

Third. National Research Centers, $46,000,000. These include the National Astronomy and Ionosphere Center at Arecibo; Kitt Peak National Observatory; Cerro Tololo Inter-American Observatory; National Center for Atmospheric Research; and National Radio Astronomy Observatory.

Fourth. Computing activities, $10,000,000. This program is designed to develop new knowledge in the computer sciences for application in the design of improved computer hardware, software, and integrated computer systems; and to seek new ways to couple the capabilities of computers to the conduct of research in all areas of science.

Fifth. Science information activities, $8,300,000. This program is designed to facilitate the flow of scientific and technical information and reduce unnecessary redundancy and overlap in the generation and dissemination of scientific information.

Sixth. International cooperative scientific activities, $6,200,000. This program is designed to promote U.S. access to, and appropriate participation in, international scientific activities.

Seventh. Research applied to national needs, $115,200,000. This program includes: advanced technology applications; energy research and technology programs; environmental systems and resources; social systems and human resources; and exploratory research and problem assessment.

Eighth. Intergovernmental science program, $1 million, to aid State, regional, and local governmental agencies in making the benefits of science and technology more widely available within their regions.

Ninth. Institutional Improvement for Science, $15,000,000. These funds will go to colleges and universities to improve their academic science programs and to increase the effectiveness of their research programs, through improved management.

Tenth. Graduate student support, $20,000,000. This includes graduate fellowships to assure an adequate flow of highly talented individuals into science careers; and postdoctoral fellowships to assist scientists and engineers in upgrading their professional skills and in making a transition into other technical areas.

Eleventh. Science Education Improvement, $46,000,000. This program is designed to help improve the effectiveness of science education at all academic levels. It focuses on such problems as: increasing the cost effectiveness of science education through improved programs, technology, and instructional strategies and methodologies; assuring the Nation of a large enough and flexible enough scientific and technical workforce; improving science education for the nonscientist; and providing adequate science educational opportunities outside the formal structure of the educational system.

Twelfth. Planning and Policy Studies, $2,000,000. This program is designed to provide the factual data and analytical basis for sound national science policy decisions.

Thirteenth. Program Development and Management, $30,000,000. These funds are used to provide for the operation and management costs of carrying out the preceding 12 programs.

In addition to the above programs, the bill authorizes the appropriation to the National Science Foundation of $3,000,000 to be paid in excess foreign currencies, for expenses which the Foundation incurs in its activities abroad.

As can be readily seen from this summary, the programs of the National Science Foundation are extremely diverse, cut across innumerable fields, and are far reaching in their implications. In many cases their effects may not be felt for years, or even decades. But if the history of the 20th century can serve as a guide, then sooner or later these effects will surely be felt and will have a major impact on the shape of our civilization and the quality of our lives.

There is no doubt that science is the key to progress in our time. The vitality of our economy and the viability of our society depend on further scientific advance. This authorization for the National Science Foundation represents an essential investment in the future of the Nation. If we are unwilling to make the necessary investment today, we will reap a bitter harvest in polluted water and air, in congested roads and cities, in contaminated food and drugs, in inadequate energy supplies, and stagnant or even declining quality of life. And as we would suffer for our shortsightedness, so would our children, and our children's children for many years to come.

The Special Subcommittee on the National Science Foundation, of which I am chairman, held a hearing on the administration's authorization request on May 3, 1973. The bill I am introducing today is based on careful study of that hearing record. All of the increased amounts in this bill are based on evidence presented in that record. I believe

that the $704 million called for in this bill represents the minimum authorization necessary for the National Science Foundation to carry out its mission in fiscal year 1974. I intend to ask the subcommittee to consider this bill, along with the administration request, in the very near future.

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

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

S. 1977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending June 30, 1974, for the following categories:

(1) Scientific Research Project Support, $292,700,000.

(2) National and Special Research Programs, $108,600,000.

(3) National Research Centers, $46,000,000.

(4) Computing Activities, $10,000,000.

(5) Science Information Activities, $8,300,000.

(6) International Cooperative Scientific Activities, $6,200,000.

(7) Research Applied to National Needs, $115,200,000.

(8) Intergovernmental Science Program, $1,000,000.

(9) Institutional Improvement for Science, $15,000,000.

(10) Graduate Student Support, $20,000,000.

(11) Science Education Improvement, $46,000,000.

(12) Planning and Policy Studies, $2,000,000.

(13) Program Development and Management, $30,000,000.

SEC. 2. Notwithstanding any other provision of this or any other Act—

(a) of the amount stipulated for the purpose of "National and Special Research Programs in category (2) of section 1, not less than $6,000,000 shall be available for the oceanographic ship construction/conversion program;

(b) of the amount stipulated for the purpose of "Research Applied to National Needs" in category (7) of section 1, not less than $50,000,000 shall be available for energy research and technology programs, including but not limited to solar, geothermal, and other non-conventional energy sources, not less than $10,000,000 shall be available for earthquake engineering programs, and not less than $5,000,000 shall be available for technology assessment programs;

(c) of the amount stipulated for the purpose of "Science Education Improvement" in category (11) of section 1, not less than $7,500,000 shall be available for ethnic minority college programs.

SEC. 3. In addition to such sums as are authorized by section 1 of this Act, not to exceed $3,000,000 is authorized to be appropriated for the fiscal year ending June 30, 1974, for expenses of the National Science Foundation incurred outside the United States to be paid in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 4. Appropriations made pursuant to authority provided in sections 1 and 3 of this Act shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

SEC. 5 (a) No funds may be transferred to or from any particular category listed in section 1 if the total of the funds so transferred to or from that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Director or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason therefor, or

(2) each such committee before the expiration of such period has transmitted to the Director written notice to the effect that such committee has no objection to the proposed action.

(b) The provisions of subsection (a) shall not apply during any period in which the Congress is in adjournment sine die.

SEC. 6. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by such institution that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years any further payment to or for the direct benefit of, such individual under any of the programs specified in subsection (c).

(c) The programs referred to in subsections (a) and (b) are as follows:

(1) The programs authorized by the National Science Foundation Act of 1950; and

(2) The programs authorized under title IX of the National Defense Education Act of 1958 relating to establishing the Science Information Service.

(d) (1) Nothing in this Act or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice and law.

(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.

SEC. 7. The National Science Foundation shall establish a Division of Energy Research and Technology which shall carry out the Foundation's energy research and technology programs.

SEC. 8. Notwithstanding any other provision of this or any other Act the Director of the National Science Foundation shall keep the Committee on Science and Astronautics of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

SEC. 9. This Act may be cited as the "National Science Foundation Authorization Act of 1974."

ADDITIONAL COSPONSORS OF BILLS

S. 179

At the request of Mr. STAFFORD (for Mr. GRIFFIN) the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 179, limiting jurisdiction of Federal courts in busing.

S. 1875

At the request of Mr. STAFFORD, the Senator from Kentucky (Mr. COOK) was added as a cosponsor of S. 1875, to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes.

AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF STATE—AMENDMENT

AMENDMENT NO. 218

(Ordered to be printed.)

Mr. PROXMIRE proposed an amendment to the bill (S. 1248) to authorize appropriations for the Department of State, and for other purposes.

NOTICE OF HEARING ON A NOMINATION

Mr. ROBERT C. BYRD (for Mr. EASTLAND). Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, June 19, 1973, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nomination:

Clarence M. Kelley, of Missouri, to be Director of the Federal Bureau of Investigation

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

ADDITIONAL STATEMENTS

DUE PROCESS OF LAW

Mr. SCOTT of Pennsylvania. Mr. President, as has every Senator of both political parties, I have been greatly con-

cerned by the direction the Watergate case has taken. The Nation's news media have performed a great service by insistent digging. A bad situation has been uncovered, largely through the efforts of the courts, the press, television, and radio.

But is justice being served today?

Are we not, in fact, in grave danger of subverting justice? Are we not trying the case against the President prematurely, in the press, in contradiction of our ideal of justice for all upon which this country was founded? And, as to the others also accused—but not the President; for, in the largest sense, there is no appeal for a President—are we not, perhaps, laying the groundwork for successful appeals from any convictions that might be obtained? Such has happened before.

The Supreme Court has ruled that pretrial publicity is a major factor to be considered in upsetting a conviction. I think that was a wise decision. A fair trial cannot be held in an atmosphere of hearsay, innuendo, speculation, and public accusation by unidentified persons.

Today I fear, because of the tremendous ability of television to enter into the home of every American, that we are near to providing the very atmosphere against which our Supreme Court ruled.

Publisher John S. Knight, a consistent critic of the Watergate mess, has nevertheless been moved to caution—Philadelphia Inquirer, June 2, 1973:

> The Senator Ervin committee, a special prosecutor and ultimately the courts must decide as to the guilt or innocence of any person said to be involved in the Watergate affair. True, the press must report all developments. But it has no right or power to try and convict out of hand.
>
> I urge, therefore, that the press exercise a greater measure of restraint while the due processes of law are being followed.
>
> The people want the truth, but let the truth be ascertained by those duly appointed to seek and find the truth.

The American people want to see justice done. They want to see the guilty sent to prison for just terms. They want to see the truth brought out. And they want to see the innocent freed without taint or shadow on their lives.

When looking for the highway of truth, there are many footpaths which may be followed for a time. Most of them lead nowhere. When the final map is drawn, only the highway shows. Hearsay is but a foot path in shallow sand. It is expressly prohibited by our code of law, for giving it voice can hurt beyond any possibility of redemption. Only evidence—solid, concrete evidence, brought forward according to the rules of evidence—can bring us to the highway of truth and justice.

So I do have a very deep concern, one which I share with all Americans. I want the judgment upon our President to be rendered upon the basis of truth. I want it found through our due process of law. I do not want it based on anything else.

Long ago, I made it clear that I would not raise my hand—I would not lift a finger—to interfere with the operations of the Senate Special Committee charged with this investigation, and I will not do so now.

But I would hope that further conferences will be held between the Special Prosecutor and the chairman and vice chairman of the Special Committee, so that they can cooperate harmoniously, to the end that when it is all over, we—and everyone—can look back upon this epoch as one which has strengthened our American system.

I ask unanimous consent to print an editorial from the Times of London of June 5 last entitled "Due Process of Law," in the RECORD.

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

DUE PROCESS OF LAW

The President of the United States is in the unenviable position of being tried by his fellow countrymen in three different forums, each of which has its own particular deficiencies and two of which have the power to offer freedom from prosecution to those whose evidence may accuse him. That is not to say the President is innocent, or that he would be innocent if any precisely formulated charges had been brought against him. It is perfectly possible for a wholly guilty man to be tried in a wholly unjust way. Indeed, many of the men who have been lynched in the course of history were lynched for crimes they had actually committed. That does not alter the fact that what Mr. Nixon is now receiving is a Washington variant of lynch law, and that while he may or may not be innocent, he may never be proved guilty by a process so clearly lacking in justice.

The three forms of trial, which are taking place simultaneously, are the Ervin Committee in the Senate (and this leaves out other related inquiries by five other Senate or Congressional committees), the Grand Jury, and the media, including *The New York Times* and the *Washington Post*.

PUBLICITY

The Ervin Committee is investigating precisely because the Senate thought that the due process of law was working too slowly. The Senators are trying to ask fair and relevant questions; there is no allegation that this is a Senate committee on the lines of the McCarthy Committee, though it has approximately the same powers and rules. Yet Senate committees are not courts: they do not have an adversary procedure; they do not have cross examination by Counsel for the accused; they can take and certainly do take hearsay evidence. The Ervin Committee has already been warned by Mr. Archibald Cox, the special prosecutor of "risk of damage to investigations and any resulting prosecution". The enormous publicity given to hearsay evidence in televised hearings is so prejudicial that it alone would seem to preclude the possibility of fair trial for any accused, even including the President himself if there were impeachment proceedings.

The second tribunal is the Grand Jury. No student of British law will forget that we abandoned the Grand Jury procedure because of its notorious weaknesses as an instrument of justice. Grand Jury proceedings provide the prosecutor with opportunities to introduce prejudicial evidence, which would not be admissible in a trial. The Watergate Grand Jury proceedings have been held in camera but have been widely leaked. The public has therefore a partial and unreliable account of these proceedings; that must be more damaging to the administration of justice than if there were a full account or no account at all. The publication of alleged reports of proceedings held in camera would be contempt of court under British law.

The third tribunal is the press, with television. But for the work of the *Washington Post* the real elements of the Watergate scandal would not have been uncovered. However, now we have a simultaneous process of trial by newspaper allegation, beside the Senate hearings and the Grand Jury. The American press, and particularly the *Washington Post*, deserve their full credit for forcing the Watergate affair into the open. They are however now publishing vast quantities of prejudicial matter, that would be contempt under British law, which again must tend to prejudice the fair trial of any accused, or, if it came to that, of the President.

The latest and most damaging example of this is the evidence given by Mr. Dean. According to *The New York Times* and the *Washington Post*, Mr. Dean told Senate investigators that he conferred with President Nixon thirty-five to forty times between January 1 and April 30 of this year. The subject of these conversations was alleged to be the concealment of the fact that White House men were behind the break in of June 17 last year, the Watergate burglary. Mr. Dean also alleged that the President agreed to buy the silence of the accused. These allegations have been denied specifically by the White House, though it is agreed that the President saw Mr. Dean, who was indeed the White House counsel at the time.

This is evidence of the greatest possible importance. It is not too much to say that if Mr. Dean's evidence is true Mr. Nixon is not fit to remain the President of the United States. Mr. Dean's evidence, if believed, would convict the President on two counts, firstly of conspiracy to pervert the course of justice and secondly of deliberate, continued and systematic lying to cover up his own part in that conspiracy. In practice, if Mr. Dean's evidence comes to be accepted, it could well lead to the successful impeachment of the President of the United States, and it is the first evidence in the whole case which takes the central matter straight home to the President, not by hearsay but by direct account.

This evidence of Mr. Dean's has come out first in two great newspapers, the most important national newspapers of the United States. Perhaps one should consider what the quality of Mr. Dean's statement is as evidence. In the first place it was given to Senate investigators whose committee have the power to give or withhold immunity from prosecution to witnesses before the Senate committee. Mr. Dean has stated that he will not be the fall-guy, and one way in which he could avoid being the fall-guy would be to obtain immunity for himself in return for his evidence against other people. There is a long legal tradition that the evidence of those who wish to turn Queen's evidence should be treated with suspicion.

SLENDER EVIDENCE

Mr. Dean's evidence was a preparatory statement; it was not given on oath; it was not given in open hearings; it was not given in open court; it must have be subject to questioning by the staff of the Senate committee, but not to public examination. It was most certainly not open to cross-examination by counsel for the President. On these grounds alone it is hard to think how evidence could be less satisfactory. Yet on this evidence could well be based public conclusions which could destroy a President of the United States.

The case is in fact worse than this. Any cross-examination would have put to Mr. Dean the apparent contradictions between

this statement, now so unfortunately leaked to the press, and the earlier statement made by Mr. Dean's "friends" in an interview published by *Newsweek* on May 6. Mr. Dean did think that Mr. Nixon knew of the cover up, but gave only the slender evidence of an interview in September, 1972, in which the President stated: "Good job. Bob told me what a great job you've been doing." Mr. Dean took this to refer to the cover-up. By May 6, we are therefore already dealing with a Mr. Dean who is a hostile witness to President Nixon. He makes no mention then of the thirty-five meetings, but provides much more remote evidence for his belief that the President knew what was happening.

That is not a crucial inconsistency; Mr. Dean could well have been dribbling out the truth, a little last month, a little this month. In the same interview, however, Mr. Dean's friends quoted another story of Mr. Dean seeing the President. Mr. Dean admitted that he had never conducted the supposed inquiry into White House involvement, and told the President so on March 21, 1973. "The President came out of his chair" in apparent shock. So by Mr. Dean's first account we have the President shocked by a fact which, if Mr. Dean's second account were true, the President could scarcely have failed to know. That little physical detail of President Nixon bouncing out of his chair when he hears that Mr. Dean has been organizing a cover-up tells strongly in the President's favour, particularly as it comes from a hostile witness, and particularly as it refers to a date as recent as March 21 of this year.

SAME PRINCIPLES

That is not to say that this contradiction cannot conceivably be explained. What it does do is illustrate the danger of prejudice inherent in press reports of unsworn, untested, uncorroborated evidence. This is leakage of evidence likely to prejudice the Senate committee, which when it is presented to the Senate committee will further prejudice any trial that may depend upon it. It is prejudice very close to the fountain of information on which justice at some later stage is supposed to be done. The Dean leak is lethal, if believed, and yet of minimal evidential value; it alone could make a fair public trial impossible.

The tragedy is that the whole case is concerned with justice. What the President is accused of that really matters is to have interfered with the course of justice. That would be as grave an offence as a President could commit. Yet are not the Senate committee who are taking and publishing hearsay evidence to the whole country also interfering with the course of justice? "It is much more important for the American people to know the truth . . . than sending one or two people to jail", said Senator Ervin, the Chairman of the committee. That is not only interfering with the course of justice, but justifying the decision to do so.

And what about the press. Of course the American law of contempt is very different from ours, but the principles of fair trial are the same, how can one justify the decision to publish the Dean leak? Here is a piece of hanging evidence, the missing element—if it is believed—in a chain of proof. Here is a piece of wholly suspect evidence—unsworn, unverified, not cross-examined, contradicting previous evidence, subject to none of the safeguards of due process, given by a man who may be bargaining for his freedom. How can the newspapers defend themselves from the very charge that they are bringing against the President, the charge of making a fair trial impossible, if they now publish evidence so damning and so doubtful with all the weight of authority that their publication gives?

NORTH CAROLINA PLANNER REVIEWS LEAA PROPOSALS

Mr. ERVIN. Mr. President, on June 5 and 6, 1973, the Senate Subcommittee on Criminal Laws and Procedures conducted hearings concerning the future of the Law Enforcement Assistant Administration, established under the Omnibus Crime Control and Safe Streets Act of 1968. The subcommittee heard the testimony of a number of witnesses, including Mr. Ed Griffin, of Hickory, N.C.

Mr. Griffin is criminal justice planning director for the Western Piedmont Council of Governments, serving Alexander, Burke, Caldwell, and Catawba Counties. Because his work is at the local level where the ultimate success or failure of the LEAA program is determined, Mr. Griffin is uniquely qualified to comment on the operation and contribution of LEAA.

Mr. President, I ask unanimous consent that the text of Mr. Griffin's statement before the Criminal Laws and Procedures Subcommittee, on June 6, 1973, be printed in the RECORD.

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

SPEECH BY MR. ED GRIFFIN TO THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES, JUNE 6, 1973

I would like to begin my presentation by expressing my appreciation to you for allowing me to comment on these proposed bills and the LEAA program as we now know it.

It is my firm contention that I not support specifically any legislation introduced, but instead comment on specific items that I believe to be pertinent to any changes in the program. I have had the opportunity to briefly study the proposed bills and to speak with the State Administrator and several planning directors concerning amendments to the program. Although each state, and likewise each region, has unique characteristics, I am sure that they too have common perspectives toward the administration of the LEAA program. Although my remarks are directly influenced by the structure within North Carolina and the composition of my particular region, I am sure such comments would manifest the opinions of others in similar capacities.

I shall try to address my remarks to those items which necessitate legislative decisions as opposed to administrative. I find this difficult to differentiate the two at times in a program as complex as this. In order for legislative decisions to be most meaningful, perhaps it is in order to touch on administrative problems.

I congratulate each author of the bills I have studied, as they all indicate a strong emphasis on the development of professionalization among the criminal justice agencies and personnel.

In North Carolina and in Region E, the initial thrust of the program was to provide standard operational equipment to the law enforcement agencies. Although not as meaningful in a long range scope as other projects, the funds served as a credible purpose. They helped to facilitate equipment needs of departments, especially smaller departments, that were drastically ill-equipped. It helped also to encourage interest in, and support for, the LEAA program among the rank and file of law enforcement. The Governor's Committee on Law and Order has now gone on record as not favoring funding these projects in the future, but addressing other areas of critical concern.

Program areas which are now being explored and successfully undertaken are youth programs, Police legal advisors, rehabilitation, public education, and crime prevention. In North Carolina and in Region E, the emphasis now is on programs that not only meet the needs at present but will make a contribution to the future.

I should like to comment on a bill introduced by Senator Tunney:

(1) I would heartily encourage states, regions, and local governments to define their needs and adopt a comprehensive law enforcement plan. I must note that it is my most emphatic belief that the State Plan should reflect a composite of local and regional plans, rather than a State Staff's perspective of a State Plan. This has not been the case in North Carolina and perhaps in other states as well. To be more specific I would endorse the concept of the submission of a State Comprehensive Plan, with amendments to the plan submitted every two years unless drastic changes occur which necessitate an amendment for an annual assessment.

(2) A sixty-day evaluation and approval period would certainly seem to be adequate. As projects are submitted to the State, no particular time is announced as to when the project will be decided upon. I submitted a Juvenile project for review in September of 1972 and received notification of its award in February of 1973. A great deal of strategic time was lost in the implementation of the project due to the excessive time in evaluating the project and the unwillingness of the Governor's Committee to meet.

(3) I can once again endorse, due to personal experience, the concept of an evaluation procedure of projects. North Carolina was one of the first, if not the first to implement a comprehensive evaluation program to give vital feedback as to the impact and effectiveness of the projects. I would encourage such an undertaking by each state planning agency.

(4) "Federal Credit Funding" as noted in Part C, Section 102 of Senator Tunney's bill, would seem to provide the kind of incentive to local government that the supplanting stipulation now prevents.

(5) To say the least, the provision to authorize funds to institutions of higher education "in an effort to develop curricula leading to a degree in the field of criminal justice planning" is imperative if we can expect professional program development and administration. It is extremely difficult to find qualified persons in this field.

(6) I would take issue with part H, Section 102 of Senator Tunney's bill which is entitled "Prohibition of Conflict of Interest." The bill excludes parties being present and voting upon an application in which he has an interest. Although the theory behind the stipulation is most commendable, and I, as a planning director, would highly encourage the elimination of politics from project assessment, I would equally encourage that a representative of a project be allowed to speak on the issues raised in evaluating and approving any project.

Concerning Senate Bill 1023 introduced by Senator Hartke, I would express an interest in the formation of a Commission on Accreditation of Law Enforcement Agencies. However, as its initial purpose, I would be more supportive of the Commission addressing agencies needing assistance in ascertaining the standards and criteria set forth to be certified as an accredited agency. The incentive, I am sure, in the bill is worthy; however, I believe that more departments could and would be helped if steps were taken to at least begin them on their way

to accreditation. Otherwise, large, well-to-do agencies which already have many resources available to them will have even more, while the smaller departments will once again be limited.

North Carolina has authorized, by legislative enactment, the N.C. Criminal Justice Training and Standards Council to determine the qualifications which will certify each law enforcement officer in the State. In addition, it will provide the statute regulations for minimum training for each officer. Although the logistics in adminstering the laws are very difficult, cooperation among agencies and local units of government has allowed for a demonstrably effective program.

I believe the bill introduced by Senator Eagleton reflects the intent and purpose of the Council and is a national effort to assure more qualified personnel in law enforcement.

The basic concept which originated the LEAA program, as I understand it, was to provide, through federal assistance, funds to the states and local units of government to help in the development and improvement of their respective criminal justice systems. As a means for continuation, funds could be allocated to re-fund a project with, in most cases, the acknowledgement being that future funding will be the responsibility of that agency, unit of government, or state (subgrantee). It appears that the LEAA program has provided counter productive measures which have created problems in future funding. The first match ratio was 60%–40%; secondly, 75%–25%; and now in North Carolina, with a State Buy-in, 81.25%–18.75%. Instead of the locals assuming more responsibility, they are assuming less. Although this provides for a greater distribution of funds, it does not necessitate a great deal of commitment on the part of local units of government.

I, like many others, do not fully understand the "Revenue Sharing Concept" and how it specifically differs from the existing LEAA program, with the exception of no local match. Certainly this will eliminate many hours of accounting and will be a giant step in simplifying a complex program. Perhaps if the local governments knew of the specified amount of money that would be allocated to their government, they would use the funds wisely. Until such time as small cities and towns can and do acquire some help and guidance in the preparation of plans to expend money, I would encourage the continuation of a program similar to the one in existence. From the knowledge I presently have of "Revenue Sharing," the idea is most commendable and the process most welcomed by a majority of the people now wrestling with individual bureaucracies to ascertain funds.

As indicated in the bill by Senator Hruska, as well as other bills, the control and responsibility of the program will rest with the Governor. I strongly urge the continuation of this procedure, as it is working well in North Carolina at the present time, and seems to offer no difficulties in the structure of state government.

In the "Revenue Sharing" Bill, and most others, particular attention is being given to "Crime Prevention." I commend you for this. I believe Florida has experienced a great deal of success with their state-wide program. North Carolina is now making plans to develop a similar program which we believe will be equally successful and will be a great asset to the deterrence of crime.

Although I have spoken on many issues with which we share a common concern, I am sure that I have not addressed all of the questions you might have of a regional planning director. I shall be glad to entertain any questions you might have.

TAXES

Mr. FANNIN. Mr. President, it was my privilege this spring to get a preview of the booklet, "Tax Loopholes: The Legend and the Reality," by the outstanding economist, Roger A. Freeman.

On May 3, 1973, I called the attention of the Congress to the fact that this booklet would soon be published by the American Enterprise Institute and the Hoover Institute.

This publication punctures many of the myths concerning our income tax system. It demonstrates that high income Americans do pay their share of taxes, and those who may escape taxation are noteworthy only because they are extremely rare.

Last Wednesday the Wall Street Journal carried an editorial citing the very interesting facts from this AEI publication which is now available. I ask unanimous consent that the editorial be printed in the RECORD for the benefit of my colleagues who will be working on tax issues in this Congress.

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

TAXES AND THE RICH

Associated Press recently checked on the price of approximately a dozen luxury items in scattered U.S. cities and found about what you would expect—that they cost more today than a year ago, anywhere from 10% to 15% way on up. Yet we doubt that many Americans, with troubles enough of their own because of rising prices for food and other necessities, will lament that the rich have to pay more for caviar and French wine. Besides the obvious advantages that the rich enjoy, everyone knows that the rich pay low taxes because they can exploit loopholes.

Yet what everyone professes to know is not necessarily so. In a fascinating booklet, "Tax Loopholes: The Legend and the Reality" published by the American Enterprise Institute, Dr. Roger A. Freeman demolishes some of the more persistent tax myths that have taken hold in recent years. His thesis is not that federal tax policies are desirable or above criticism; indeed, he cites any number of shortcomings, and says the Tax Reform Act of 1969 is justifiedly called the "Lawyers' and Accountants' Full Employment Act of 1969." But he thinks it important to understand, and we agree, that the public tax policy be based on a factual understanding of the problem, not on comfortable ignorance.

Take the common assumption that the heaviest tax burden falls on the middle class. Dr. Freeman, senior fellow at the Hoover Institution, shows that in 1970 Americans with adjusted gross incomes in excess of $20,000 received 21.3% of adjusted gross income and paid 35.5% of the federal tax liability. By comparison, those with adjusted gross incomes from $7,000 to $19,999 received 59% of adjusted gross income and paid 54% of the federal tax liability. While the federal tax rate is entirely too high at every level, it it obvious the rich are not avoiding their share of the tax burden and it is equally obvious the middle class does not pay a disproportionate tax percentage.

The main reason for the widespread misunderstanding results from the well publicized fact that some rich people have avoided paying federal income taxes in certain years under special conditions. For 1970, for example, 112 individuals reporting incomes of more than $200,000 did not pay federal taxes. But these 112 represented only .07% of Americans reporting incomes over $200,000. And they had legitimate reasons for not paying.

Some derived their income from foreign transactions and were taxed in those countries. In 12 cases, deductions for state and local taxes exceeded adjusted gross income (although 11 of the 12 paid an average $1.6 million federal income taxes the previous year). Elsewhere, large charitable deductions, when added to deductions for interest, taxes, medical expenses and casualty losses, equalled or exceeded adjusted gross income.

Finally, in still other cases, nontaxability was due to deductions—i.e., losses of securities pledged to secure loans, losses on guarantee of loans, payments in settlement of litigation—that an operating business could deduct before computing adjusted gross income but costs which individual investors can offset against earnings only by using itemized deductions after adjusted gross income. In short, these taxpayers who submitted returns with a high adjusted gross income appeared to have high incomes only because they followed the procedural requirements of the income tax form.

But the essential point is that 99.3% of taxpayers reporting incomes of more than $200,000 (15,323 individuals) did pay federal taxes—an average of $177,161, equal to 44% of adjusted gross income and 60% of taxable income. The 621 with income of over one million paid an average federal tax of $984,862, equal to 46% of their adjusted gross income and 65% of the taxable income.

Dr. Freeman does not argue that the current allowances for charitable deductions, capital gains, mineral percentage depletion, municipal bonds, interest and the like are sacrosanct, or even the best method for accomplishing our stated public policies. But he notes that they were enacted and are retained, not to benefit the rich but precisely to provide economic and social incentives that Congress has repeatedly deemed to be in the public interest.

Obviously, the rich can afford the top legal and accountng talent enabling them to take advantage of every deduction to which the law entitles them. But it would be wise to get the facts straight before taking arguments about loopholes for the rich as a reason for wholesale changes in existing tax policy.

A FREE PRESS

Mr. KENNEDY. Mr. President, during these past several months, there has been a heightened awareness across this country of the protection afforded the public by the first amendment guarantee of the freedom of the press.

The reporting of Carl Bernstein and Robert Woodward of the Washington Post, earned their paper a Pulitzer Prize and recently earned them the distinguished service award of the national journalism honor society, Sigma Delta Chi.

They and the men and women who serve as the eyes and ears of the American public rarely receive the accolades due them. Reporters on small- and medium-sized newspapers and local broadcasters around the country particularly tend to be overlooked by their own communities, yet they are the catalysts for change, raising issues to public attention, and sparking local and State movements to deal with those issues.

This month, Sigma Delta Chi announced the winners of its annual journalism awards and also listed many of the other journalism award winners around the country.

I believe they deserve the attention of the Congress as well. I ask unanimous consent that these award winners be printed in the RECORD. The professional tradition they maintain is a honored one, one which is vital to the strength of this Nation.

There being no objection, the award-

winners were ordered to be printed in the RECORD, as follows:

SIGMA DELTA CHI AWARDS

Winners of the 41st annual Sigma Delta Chi Awards for Distinguished Service in Journalism were honored in special ceremonies at Omaha, Nebr., last month. The awards, in 16 categories of print and broadcast journalism, are for outstanding performance during 1972.

GENERAL REPORTING—RACING SCANDAL

"We still feel like we have a lot of investigating to do," said William F. Reed, Jr. He was referring to himself and James M. Bolus, who received Sigma Delta Chi Distinguished Service Awards for their investigation of the thoroughbred racing industry in Kentucky.

As a special assignment writer for the Louisville *Courier-Journal*, Reed's first job was to stay underground, as an out-of-work free-lance writer, and study the gambling bookmaking racket in the horse races.

In going to the races, Reed said he first wondered why there were bookmakers at the race track. He found out why when he did not have to stand in line to bet and the bookmakers would extend him credit when he didn't have a dime.

At the 1972 Kentucky Derby, gamblers and bookmakers knew by 11 a.m. the winners for two races that had been fixed, said Reed.

Reed said he called his managing editor and "We immediately shifted our investigation from gambling and bookmaking to the entire thoroughbred industry."

The investigation turned up a conflict of interest with one of Kentucky's highest racing officials.

In June the information appeared. Reed said, "We broke the story on the racing commission and we broke the story about the fixed races."

Reed said information was at first easy to find since no one had thought of investigating the thoroughbred industry. He said most people believed the industry to be beyond reproach.

PUBLIC SERVICE—BOYS TOWN

Paul Williams, managing editor of the weekly Omaha *Sun*, believes the press has an obligation to everyone to report "fully the workings of institutions in our society." Out of this belief grew an expose of Boys Town.

A Sun Newspaper report revealed that Boys Town had a net worth of at least $209 million, a money machine which brought in some $25 million a year in public donations and investment income, increased its net worth by $16 to $18 million per year, and that it continued to send out 33 million fund-raising letters a year telling Americans it needed their money.

The *Sun* report was published March 30, 1972, and since then, Williams said, Boys Town has begun a self-examination of its resources. Consequently, the institution established programs on child development and speech and hearing defects.

Four other staff members who worked on the Boys Town investigation are Randy Brown, assistant managing editor, Mick Rood, Doug Smith and Wes Iversen.

Managing editor Williams reiterated the importance of investigations of this kind—to more fully understand how institutions work, the public cannot always rely upon information emanating from them. Borrowing from an *Esquire* article published last year, Williams went on to say, "The way to protect the right to publish is to publish. So we published and took our chances."

Those chances led to a SDX Distinguished Service Award for newspaper public service, a Pulitzer Prize and other high journalism honors.

NEWS PHOTOGRAPHY—VIETNAM NAPALM

Huynh Cong (Nick) Ut was taking one of his many trips up Route 1 in South Vietnam June 8, 1972, covering the North Vietnamese spring offensive with a group of South Vietnamese—on one of those days when "nothing was happening."

Vietnamese Air Force planes were conducting strikes on enemy positions when suddenly a misdirected napalm drop trapped fleeing soldiers and civilians.

Among the civilians burned by the napalm, running screaming and naked down the road, was 9-year-old Phan Thi Phuc. Nick Ut's picture of the suffering child covered America's front pages, a brutal symbol of the war's tragedy.

Ut, who was not allowed by the South Vietnamese government to come to the United States to accept his SDX award, literally swept all awards competitions in journalism photography with this picture. No single photo may have received so many big displays since publication early in the Vietnam war of the photo of the immolation of a Buddhist monk in Saigon.

The 9-year-old girl was traced to a Saigon hospital and followup stories were written on her recovery. Among readers responding to the photo were a group of Bronx firemen who raised a fund to help rebuild her home. The firemen said they felt the picture did more than any other piece of news photography to show the horror of war and hasten a peace settlement.

Ut has been wounded three times in covering the war. His brother, an AP man, was killed.

WASHINGTON—WATERGATE

"It was evident after two days that there was much more to Watergate."

So Carl Bernstein and Robert Woodward, Washington *Post* metro reporters, went after the background of last June's burglary of the Democratic headquarters.

At first, the young reporters were assigned the story because "it looked like another burglary," Bernstein said. When it became apparent there was more to the story than the surface facts, they pursued the facts using "basic, tested reportorial techniques."

"As metro reporters, we didn't have contacts," Bernstein said. "We made new sources as we went along." They discovered that even those who covered the White House regularly "didn't have much more than a superficial notion" about the real lines of authority and structures of the White House staff and the Committee for the Re-election of the President.

When he and Woodward did get information, they often could not attribute it. Bernstein said they used a policy of never using anything unless it was verified by two of their confidential sources.

Bernstein said the last 10 months' developments have vindicated the *Post* from the Nixon administration's accusations of last fall. He said the Watergate incident was shown to be part of a pattern of political espionage and sabotage dating back to just after the 1970 elections.

Bernstein and Woodward received the SDX Distinguished Service Award for Washington correspondence.

FOREIGN CORRESPONDENCE—RUSSIA

Charlotte Saikowski, Moscow correspondent for the *Christian Science Monitor*, wrote five letters to President Nixon, but she has yet to receive an answer.

Saikowski said through the letters, published in the *Monitor* and addressed to Nixon prior to his trip to Russia, she tried to explain to the American public what it means to be a citizen in the Soviet Union.

"I felt that previous correspondents had dwelled too much on heavy subjects, such as the economy of Russia. I tried to approach the subject from a different standpoint."

She said the letters were not addressed personally to President Nixon, but were used to attract attention to the series.

Saikowski said she doesn't know if the President ever read the letters, but through the Voice of America, which often broadcasts western correspondents' reports, the series was heard in the Soviet Union.

Saikowski said western journalists in the Soviet Union live "under severe restrictions both professionally and personally." She described the living conditions as "foreign ghettos."

She said the authorities are particularly sensitive to stories about dissidents activities in the Soviet Union.

Saikowski, who speaks Russian, said she has had a "good taste of the geographical areas of the Soviet Union." She said reporters have to be very careful about making contacts in the country. "I can count the number of my Russian friends on my hands."

EDITORIAL WRITING—COMPETITIVE BIDDING

Ten editorials by John Harrison started a campaign in Florida to repeal a law that prohibited competitive bidding on engineering projects for the state. The three months of editorials in the Lakeland (Fla.) *Ledger* resulted in Gov. Reubin Askew's suspending the law.

The state of Florida spends about $700 million in engineering costs per year. Harrison said the change in the law, signed in early May 1973, would save 10 to 15 per cent in engineering costs.

Harrison said his attorney was instrumental in helping with the campaign. He said the lawyer kept him informed about following the laws.

Public reaction to the editorials was slight. Harrison said few people wrote to the paper in response. The *Ledger* was the only paper in Florida writing about the ban on bidding until Harrison had gone through court appearances and appeared before a Florida legislative subcommittee. After that, papers in Miami, Tallahassee and Jacksonville began writing about the ban.

Harrison said that in writing his editorials he realized that "words are crude, blunt instruments and a journalist must mold them into tools of power, beauty and excellence."

"Reach for the ultimate goal. Aim for the highest mark in editorial writing," Harrison said.

This marks the third consecutive year that the Lakeland *Ledger* has won this award for editorial writing. Harrison won it two years ago and Joanna Wragg last year.

TELEVISION REPORTING—WALLACE SHOOTING

Laurens Pierce, a cameraman for CBS News, won a Distinguished Service Award for his coverage of the attempted assassination of Alabama Gov. George Wallace on May 15, 1972.

Pierce, who was the only cameraman to record the actual shooting of Wallace, started with CBS "just at the beginning of the civil rights story."

"I wanted to film gentle, beautiful stories but was type cast as an action cameraman," said Pierce.

"Being at the right place at the right time is luck. The reason that I was able to stand behind Wallace at this time was because I made acquaintances and knew his staff the best that I could. I took the liberty to step over the rope into the restricted area just before the shooting, and because the Secret Service and Wallace people knew me I was allowed to remain," he added.

Pierce, who had traveled with the governor for many years, said that the incident was a close personal tragedy. "It was almost as if you were seeing a member of the family being shot. A man reached up and grabbed my camera after the shooting. He was so angry and I was angry, too, but the experience and business of years of hard news kept me there."

Following the Wallace shooting Pierce could not find anyone to escort him and his exclusive film from Laurel, Md., to Washing-

ton in order to make CBS Evening News with Walter Cronkite. He was finally offered a ride in a Singer Sewing Machine truck.

TV PUBLIC SERVICE—WILLOWBROOK

"A year and four months later and nothing's changed," lamented Steve Skinner, producer of the public service in television award winner for WABC-TV.

Skinner said that over two and a half million people in the New York City area viewed the half-hour documentary, "Willowbrook: The Last Great Disgrace," a commentary on the treatment of the mentally retarded in the state of New York, and as of today there is no improvement.

Skinner, who produced the six o'clock news show where the original footage of the program was aired, said the station's newsmen captured "the horror show of indescribable proportions."

He recounted how the initial film was shot at an open house where 150 of the 5,000 institution's residents were well-dressed and put on display for the local press. The remainder of the film was taken after the photographers "crawled through the bushes outside at six in the morning" to get to Willowbrook and enter unannounced to record the real conditions.

The producer described such things as the "gruel" fed to the patients and how there "was literally nothing for them to do."

WABC–TV's program combined the conditions at Willowbrook with the drastically different but highly successful community care concept for the mentally retarded in California. The effect of this contrast, according to Skinner, was to "create a point of view."

TV EDITORIAL—CONSUMER FRAUD

Four bills regarding auto repair are pending in the Florida legislature as a result of a series of editorials by WCKT–TV, Miami.

News director Gene Strul and anchorman Richard Whitcomb were the leaders of a "mission impossible" team which exposed businesses indulging in crooked or incompetent services.

Their studied investigation of an estimated $6 million "rip off" went as follows: Strul and Whitcomb, along with two assistants, a cameraman and female reporter, acquired a "non-descript" panel truck with a two-way mirror. They consulted an expert mechanic who put the truck in complete running order except for one faulty spark plug, which caused the truck to miss and stall. The mechanic assured them that any competent mechanic would find this fault easily and with little cost to the customer.

The female reporter, equipped with a hidden mike, drove the truck while the cameraman hid in the back. They recorded conversations with the mechanics.

Of the 10 businesses the team visited only two correctly repaired the truck and charged a reasonable amount. For a job that should have cost around $4, some companies charged as high as $40. One mechanic told the reporter a new air filter was needed, another said she needed a new radiator hose, another installed eight new spark plugs in the truck and they weren't even gapped correctly, and still another said he could not find anything wrong with the truck.

RADIO REPORTING—WALLACE SHOOTING

Valerie Hymes has added a new dimension to journalism: woman's intuition. It led her to a scoop on the George Wallace assassination attempt on May 15, 1972.

"It really bothers me that people say it was all luck," she says, "because it was not."

Mrs. Hymes explained that in following Gov. Wallace's campaign there were omens of trouble which made her feel that he might get shot at any time, and she vowed to herself to attend all of Wallace's speeches, from beginning to end, even though they were the same.

"At the time he was shot I realized that I was the only reporter still around. He had gone down into the crowd to shake hands with some well-wishers and I was about 15 feet behind him on the bullet-proof stage. Immediately I thought of President Kennedy's assassination and how it was covered, and I had to just keep my head and be concerned about accuracy more than anything else—even then I heard only four shots, instead of the actual five."

On the day of the assassination attempt Mrs. Hymes stayed up way past midnight in order to give reports to stations all over the country, and she further explained that these reports really opened the door for her.

Now that the Wallace story has simmered down, Mrs. Hymes, in addition to her freelance reporting does radio and television analysis throughout the state of Maryland, and she has a regular column, "The State of Things," which is published in 34 Maryland newspapers.

RADIO PUBLIC SERVICE—CHILDREN

Joe Mayer, public affairs director at WGAR Radio, Cleveland, described the background of WGAR's series of documentaries on mental retardation which won the station national honors.

"It started with a request for trading stamps," Mayer, also a disc jockey, said. The goal of a six-week campaign for public transportation for the retarded was 2,300 stamp books. WGAR received 4,200 books and purchased two minibuses to transport retarded children to and from their homes.

"It was a huge success," Mayor said, adding, "there was almost total involvement in northeastern Ohio."

Working together, the public affairs and news departments of WGAR created the one-to-two minute documentaries which ran once an hour 24 hours a day. Mental retardation as seen through the eyes of parents of retarded children was the approach used.

Meyer stressed the "importance of making the retarded feel needed.

"We've got to approach things positively, try to approach it all with the idea that steps are being made to help the mentally retarded.

"We've got to paint the picture bright because we know what the problems are. Things are getting better and we've got to say things are getting better."

Mayer said he thought it "much healthier and you get a lot more done" by running a local campaign instead of broadcasting public service ads by national celebrities.

RADIO EDITORIAL—CHRISTMAS BOMBING

"I have no tale of journalistic derring-do, I merely tried to reflect the anguish that was in the minds, and hearts of a great many people," said Frank Reynolds.

For his timely radio broadcasts about the Christmas 1972 bombing of North Vietnam, entitled "Season of Peace," Reynolds received the Distinguished Service Award for radio editorializing.

"I tried to point out the pathetic paradox of the renewed air-to-ground hostilities during the very days when Peace on Earth was the wish of the entire world," he said.

"I spoke what was on my mind. I have no second thoughts about the comments I made."

Reynolds went on to talk about what he feels is the role of the press and what the obligations are of a news commentator.

"The role of the press is not to be a pacifier. I have always felt that sometimes in the conflict between the government and the press, a different view is seen by the public. The government is afraid of the people.

"A news commentator is supposed to express his opinion. A person familiar with the facts should be allowed to express his views.

"We have to respect public opinion, but we should also be able to ignore it. However, no reporter should deliberately set out to write a news story and rearrange the facts to suit his own conclusion.

"A news commentator has no such obligation. A commentator is supposed to express his opinion."

MAGAZINE REPORTING—DRUGS

An appropriate postscript to the death of *Life* Magazine is the awarding of an SDX Distinguished Service Award to one of its staff writers, Thomas Thompson.

His account of a father who loved his son but, in the end, killed him over the nightmare of drug abuse is, in the opinion of the SDX judges, "a powerful story that puts a difficult contemporary problem on a personal level for every reader. In this, the story serves a prime function of magazine journalism, reaching behind daily reporting to seek out the many small but revealing facets that add up to a deeply moving account."

Thompson, 39, a Fort Worth, Texas, native, joined *Life* in 1961 as a correspondent in Los Angeles. Two years later he became the magazine's associate editor covering the entertainment beat in New York. He was also the magazine's Paris bureau chief. At the time of *Life's* suspension, he was a staff writer.

He is currently writing a screenplay for Paramount Pictures called "Ring Master."

RESEARCH—POLITICAL POWER

Overclassification of documents and materials and the arrogance of high-level officials are two areas in government-press relations of great concern to William Small, recipient of a Distinguished Service Award for his book, "Political Power and the Press."

Small, vice president of CBS News, Washington, D.C., said he wrote the book because he "was greatly troubled by the events of the last few years. Government actions in this period have infringed on areas belonging to the free press."

"Currently, there are about 200,000 documents being classified by the government per day," he said. Small added that this practice was going on despite President Nixon's "important first step" last year in ordering a review and modification of government classification policy.

Small said his book is essentially a "look at history" and a study of the "techniques of politicians." It also examines the publication of the Pentagon Papers and the broadcasting of CBS-TV's "The Selling of the Pentagon."

He previously won a Distinguished Service Award for his book, "To Kill a Messenger" (1970), which dealt with free press problems encountered in television news.

MAGAZINE PUBLIC SERVICE—HEALTH

For the third time in six years, *Philadelphia Magazine* is honored in magazine public service with a Distinguished Service citation.

The 1972 citation goes for an article by Mike Mallowe, "Guess What's Coming With Dinner."

Said the SDX judges: "It was an outstanding public service to the people of the Philadelphia metropolitan area. Combining excellent reporting with excellent writing, Mallowe provided significant and shocking information about unsanitary conditions in public restaurants and the indifference, or worse, of public agencies charged with maintaining standards."

Philadelphia Magazine was previously cited by SDX for an article in 1967 called "The Reporter," exposing the allegedly illegal activities of a supposedly crusading newspaper reporter, and for an article in 1969 which documented "gross mismanagement" in the Philadelphia-based Pearl S. Buck Foundation on the part of the Foundation's president.

EDITORIAL CARTOON—JAILED NEWSMEN

Editorial cartoonist Bill Mauldin says he likes to fight back at government.

"When the government put Agnew on the press, it was obvious they mean war," Mauldin said.

Mauldin explained his technique for coming up with cartoon ideas.

"I read a lot at night, and take a notepad to bed with me. But by morning I hardly ever decide to use any of those ideas, so I sit in a hot bath and just think. Usually the ideas just come out of my head."

Mauldin's 1972 award-winning cartoon, which dealt with the issue of jailing news people for refusing to divulge sources and information, was no better or worse than any of his others, he said.

"Usually I can't stand to look at my stuff," he said. "When I get an award for my work, I always wonder why. Later I get very mellow about my work and after a few years I can actually like some of it.

"I also have this terrible moral ethic about my work. If I don't work on a cartoon for a long time, I think it stinks."

Mauldin is now a three-time SDX award winner. His two previous winning cartoons dealt with the deaths of Presidents Kennedy and Eisenhower.

OTHER AWARDS FOR EXCELLENCE IN JOURNALISM—PULITZER PRIZES

The 57th annual Pulitzer Prizes in Journalism, issued by the trustees of Columbia University on the recommendation of the Pulitzer advisory board, were announced last month.

The Washington *Post* received the public service prize for its coverage of the Watergate scandal. The Columbia trustees cited reporters Carl Bernstein and Robert Woodward for playing "so dominant a part in the inquiry . . . and development of much of the evidence that now is public property."

The trustees noted that the *Post* articles were supported by strong editorials by Roger Wilkins and editorial cartoons by Herbert A. Block (Herblock).

Additional honors came to the Washington *Post* through the awarding of the Pulitzer Prize for commentary to David S. Broder. Last year, in a poll of political correspondents, Broder was chosen as the most respected political writer in the nation.

The Chicago *Tribune* won a Pulitzer in the local spot news reporting category for its stories on vote fraud in the Chicago primary election of March 21, 1972. A task force team under the direction of investigative reporter George Bliss, a past Pulitzer winner, conducted a thorough search of voters' registrations, polling places and election judges and discovered numerous cases of ghost voting, forgery and other frauds.

Max Frankel of the New York *Times*, for his coverage of President Nixon's trip to China, received the award for reporting of international affairs. Frankel wrote thousands of words of news daily in his eight days and nights in China, plus columns of observation and commentary.

Ron Powers, television columnist for the Chicago *Sun-Times* won the Pulitzer Prize for criticism. "I think it's appropriate that a Pulitzer is given to a TV critic . . . not me, but to a TV critic," Powers said upon receiving the award. The statement corresponds with what he wrote in his very first column: "No other critic . . . deals with a medium that reflects so directly the personality, character, hopes, fantasies, distractions, myths and delusions of the American people." (See feature article by Powers in this issue, page 32.)

The Sun Newspapers of Omaha, Neb., won the award for local investigative or specialized reporting for stories uncovering the large financial resources of Boys Town in Nebraska. While the papers criticized this program, they made no allegations of wrongdoing and reported none.

Robert Boyd and Clark Hoyt of the Knight Newspapers won the national reporting award for their disclosure of the psychiatric history of Sen. Thomas Eagleton (D-Mo.), which led to his withdrawal as the 1972 Democratic vice presidential nominee. Even though they had enough information to go with their story on July 23, Boyd and Clark waited for Eagleton to make his own disclosure before publishing.

Roger B. Linscott, for the body of his editorial writing in 1972 for the *Berkshire Eagle*, Pitsfield, Mass., won for editorial writing. His editorials, critical of such things as hospital boards, a $213-million highway project and poor busing service in his city, had positive results, such as reversals of position and the setting up of special study commissions.

Huynh Cong Ut of the Associated Press won the spot news photography award for his photograph, "The Terror of War," depicting Vietnamese children fleeing a napalm attack. It is an unforgettable picture (page 17) which literally swept all journalism photography awards this year.

Brian Lanker of the Topeka (Kan.) *Capital-Journal* received the feature photography award for a sequence on childbirth. It told the story of a mother who had decided on natural childbirth under the Lamaze method, in which her husband assisted her instead of leaving everything to the physician. The couple agreed to pictures.

In the field of books, W. A. Swanberg, the subject of a QUILL cover article last December, won the Pulitzer Prize in biography for "Luce and His Empire."

The non-fiction award was shared by Frances Fitzgerald for "Fire in the Lake: The Vietnamese and the Americans in Vietnam" and Robert Coles for Volumes II and III of "Children of Crisis."

No Pulitzer Prize was awarded this year for editorial cartooning.

BINGHAM, SMITH, PEABODY, BROUN, PEARSON, DUPONT, MOTT, PYLE, STOKES

Carl Bernstein and Robert Woodward of the Washington *Post* received the $1,000 Worth Bingham Prize.

Stewart Hensley, United Press International diplomatic correspondent, received the $500 Merriman Smith Memorial Fund Award for his coverage of President Nixon's trip to China.

This year's George Foster Peabody Award for excellence in news broadcasting went to Bill Monroe, Washington editor of NBC's "Today" program.

Carl Bernstein and Robert Woodward won the Newspaper Guild's 1972 $1,000 Heywood Broun Award.

Bernstein and Woodward were awarded the second annual Drew Pearson Prize for investigative reporting.

The New Jersey Public Broadcasting Authority and Princeton film producer John Drimmer are winners of Alfred I. duPont-Columbia University Awards in Broadcast Journalism for a 30-minute program providing an inside view of people, problems and conditions in the central ward of a Newark public housing complex.

The annual Frank Luther Mott-Kappa Tau Alpha Award, demonstrating the best research in journalism in 1972, went to Dr. William E. Ames' "History of the National Intelligencer."

Bill Stokes, columnist for the Milwaukee *Journal* was named winner of the 20th Ernie Pyle Memorial Award worth $1,000 for best capturing "the concern for everyday people with everyday dreams."

Bob Poole, special assignment reporter for the Winston-Salem (N.C.) *Twin City Sentinel*, has won the 1972 $1,000 Thomas L. Stokes Award for a series of articles on the serious environmental hazards to rivers and streams from channelization projects.

KENNEDY AWARDS

Jean Heller of the Associated Press and Geraldo Rivera of WABC–TV were named the 1972 winners of the Robert F. Kennedy Journalism Awards.

Miss Heller received the newspaper coverage award for a series on untreated syphilis among Alabama black, a story she broke in July 1972. Rivera received the television coverage award for the documentary on care of the mentally retarded, entitled "Willowbrook: The Last Great Disgrace." Sen. Edward M. Kennedy presented the awards, which honor outstanding coverage of the disadvantaged in the United States.

The award winners were selected by a panel of journalists and broadcasters from a record 418 entries in the five-year-old program. No awards were made this year in radio and magazine coverage.

OVERSEAS PRESS CLUB

Best Daily Newspaper or Wire Service Reporting from Abroad—Charlotte Saikowski, Christian Science Monitor, for her five-part Soviet series, "Letters to President Nixon."

Best Daily Newspaper or Wire Service Interpretation of Foreign Events—William L. Ryan, Associated Press, for background articles on U.S.-China and U.S.-Soviet relationships.

Best Daily Newspaper or Wire Service Photographer Reporting from Abroad—Huynh Cong Ut, Associated Press, for his photo of a nine-year-old girl fleeing in pain from a napalm strike near Saigon.

Best Cartoon on Foreign Affairs—Thomas F. Darcy, Newsday.

Best Latin American Reporting—Lewis H. Diuguid, Washington Post, for a series of articles on Chile.

Best Article or Report on Asia—Richard Dudman, St. Louis Post-Dispatch.

Best Business Reporting from Abroad—Stars and Stripes, for expose documenting high pressure sales tactics used by U.S. land promoters selling to G.I.s overseas.

Best Magazine Reporting from Abroad—James Kraft, in the New Yorker Magazine.

Outstanding Book on Foreign Affairs—"The Best and the Brightest" by David Halberstam, published by Random House.

Best Radio and Television News Report from Abroad—CBS Radio News, for coverage of the Olympic Village shootout in Munich.

Radio Interpretation of Foreign Affairs—John Chancellor of the National Broadcasting Company for his coverage from China, the Soviet Union and Washington.

Radio and Television Documentaries on Foreign Affairs—both to the American Broadcasting Company, for a radio special, on prisoners of war and an hour-long television special "Chile, An Experiment in Red."

Television Spot-News Reporting—CBS for coverage of fighting on Route 1 in South Vietnam.

Television Interpretation of Foreign Affairs—Tom Streithorst, NBC–TV, for a seven-part series on Cuba.

Photo Reporting-Interpretation—Thomas J. Abercrombie of National Geographic Magazine, for his article "The Sword and the Sermon."

Magazine Interpretation of Foreign Affairs—James A. Michener, for an article in the New York Times Magazine titled "A Lament for Pakistan."

PICTURES OF THE YEAR

The 30th annual Pictures of the Year competition was conducted by the National Press Photographers Association and the University of Missouri School of Journalism.

Newspaper Photographer of the Year—Kurt E. Smith, Lorain (Ohio) *Journal*, for photos of President Nivon on the campaign trail.

Magazine Photographer of the Year—Co Rentmeester, *Life* Magazine, for portfolio, in-

cluding photo of Mark Spitz (see page 27 swimming to one of his Olympic gold medals (the photo ran as a two-page spread in *Life*).

Special World Understanding Award—John Launois, Black Star Publishing Co., for portfolio.

Spot News—Huynh Cong (Nick) Ut, Associated Press, "Terror of War."

General News—Mike Zerby, Minneapolis *Tribune*, "Cease Fire."

News Pictures Story—Perry C. Riddle, Chicago *Daily News*, "I Thought You Were Dead."

Feature Pictures—Bob Brown, Richmond (Va.) Newspapers, Inc., "First Day."

Pictorial—Akira Suwa, St. Petersburg (Fla.) *Times*, "A Time for Us."

Sports—Jerry Gay, Everett (Wash.) *Herald*, "The Finish."

Home and Family Interest Picture Stories—Brian Lanker, Topeka *Capital-Journal*, "The Moment of Life."

News/Documentary Magazine—Dirck Halstead, *Time*, "Victims."

News/Documentary Picture Story—James A. Sugar, *National Geographic*, "Funeral of an African Chief."

Feature Magazine Pictures—Dick Durrance II, *National Geographic*, "Hungry Boy, Bangladesh."

Feature Picture Story, Magazine—Dick Durrance, II, "Moment Remembered."

Sports Pictures, Magazine—Walter Meayers Edwards, *National Geographic*, "The Desert Was the Loser."

Sports Picture Story, Magazine—Co Rentmeester, *Life*, "World Record Holder, Pre-Olympics."

Picture Editor, Newspaper—L. Jean Bennett, Wilmington (Del.) *Morning News*.

Best Use of Photographs, Newspapers—Chicago *Tribune*.

Newspaper Sunday Magazine Picture Editor—Maurice Tillman, Louisville (Ky.) *Courier-Journal*.

Magazine Picture Editor—Robert S. Patton, *National Geographic;* special commendation to *Time*.

EMMY AWARDS

CBS-TV with 11 Emmys was the major winner of the 25th annual Emmy Awards of the National Academy of Television Arts and Science. NBC won three awards and ABC, two.

The Public Broadcasting Service series. "The Advocates," and a PBS special, "VD Blues," each won special Emmys.

CBS was honored for its early coverage of the Watergate break-in, its dramatic films of the shooting of Gov. George C. Wallace of Alabama, for its magazine series, "60 Minutes," and several other programs.

"America," the British-made examination of the American heritage shown on NBC, won three awards in the category of documents dealing with historic, artistic, or cultural subjects. Alistair Cooke picked up two awards for the series—one as its narrator and one as writer of a single episode.

ABC's major award was for the coverage of the tragedy at the Olympic games in Munich last summer. Jim McKay, an ABC correspondent there, was cited for his commentary of the Munich drama.

CBS, first of the networks to present investigative reports on the Watergate affair—which it did in late September and early October of last year—won an Emmy for outstanding achievement for its efforts within correspondents Walter Cronkite, Dan Rather, Daniel Schorr and Joel Blocker were also honored.

NBC's Emmy awards were for two documents, "The Blue Collar Trap" and "One Billion Dollar Weapons," and the third for the editing of newsfilm on President Nixon's Russian trip.

Included among other CBS programs honored were the network's reports on the U.S.-Soviet wheat deal, and an Eric Sevareid commentary.

NATIONAL HEADLINER AWARDS

This is the 39th year the Press Club of Atlantic City and the City of Atlantic City have honored the working press in all media. The long list of winners includes:

Joseph A. Fisina Jr., Fresno (Calif.) *Bee;* Carl Miller, Colorado Spring *Sun;* Lakeland (Fla.) *Ledger;* Miami *Herald;* William F. Reed Jr. and James M. Bolus, Louisville *Courier-Journal* and *Times; Geoffrey Vincent,* Courier *Journal* and *Times;* David Kryszak, Detroit *News;* Nada Skerly, *Newsday;* Detroit *News;* Ranan Lurie, United Features Syndicate; Stewart Alsop, *Newsweek;* Edward T. Adams, Associated Press; Sanford Pawde, *Newsday;* John Barbour, AP; Saul Pett, AP; Fred Shannon, Columbia (Ohio) *Dispatch;*

Harrisburg (Pa.) *Patriot* and *Evening News;* Sandy Grady, Philadelphia *Evening* and *Sunday Bulletin;* WCKT-TV, Miami; WMAQ-TV, Chicago; WOBO Radio News, Baton Rouge, La.; WWL-TV, New Orleans; National Public Radio, Kensington, Md.; American Broadcasting Co. New York; National Broadcasting Co., New York; WTVN Radio, Ohio; Jessie C. Smith, KRLD Radio, Richardson, Texas; KING-TV, Seattle, Wash.; WWVA Radio, Wheeling, W. Va.

TOBENKIN, JEFFERSON

Detroit *Free Press* reporter Howard Kohn has won Columbia University's 1973 Paul Tobenkin Award of $250 for his series of articles that led to the freeing of a Detroit man imprisoned for 18 years for murder.

U.S. Sen. Sam J. Ervin (D-N.C.) has been chosen recipient of the first Thomas Jefferson Award, for public officials "who defend" press freedom.

GEORGE POLK MEMORIAL AWARDS

FOREIGN REPORTING—Jean Theraval, bureau chief, and Jean DeClerc du Sablon, special correspondent, *Agence France-Press,* for information about life in Hanoi.

NATIONAL REPORTING—Carl Bernstein and Robert Woodward, Washington *Post,* for stories on Watergate.

METROPOLITAN REPORTING—Joseph Martin, Martin McLaughlin and James Ryan of the New York *Daily News,* for disclosing municipal scandal in New York.

LOCAL REPORTING—Doris Ellen Olsen, Santa Maria (Calif.) *Times,* for breaking a story about child beating.

COMMUNITY SERVICE—Ronald Kessler, Washington *Post,* for two series of stories, one on hospital mismanagement and excessive operatoinal costs; the other on improper and excessive legal settlement fees homebuyers are obliged to pay.

INVESTIGATIVE REPORTING—Jean Heller, Associated Press, for her disclosure that the U.S. Public Health service had been using black men as guinea pigs to study the effects of syphilis.

MAGAZINE REPORTING—Frances Fitzgerald, *New Yorker,* for a series of Vietnam.

TELEVISION REPORTING—Jim McKay, ABC, for his reports on Arab terrorists at the Olympics.

TV-NEWS-DOCUMENTARY—"60 Minutes" (CBS) and "First Tuesday" (NBC).

NEWS PHOTOGRAPHY—Huynh Cong Ut, Associated Press, for a photo portraying Vietnam children fleeing an area after an aerial napalm strike.

BOOK—Sanford J. Ungar, for "The Papers & the Papers."

SPECIAL AWARD—Lesley Oelsner, New York *Times,* for a series of articles on New York State's criminal justice system.

LOEB, HOWARD, CLAPPER

The University of Connecticut's 1972 G. M. Loeb Awards for distinguished business and financial journalism have been won by: John Barbour, Associated Press, for "Rising Food Prices Traced From Market to Market"; Clem Morgello, *Newsweek,* for articles entitled "Wall Street"; Everett Mattlin, *Pensions* Magazine, for "Special Report on Real Estate: The Old Frontier is now the New Frontier."

The St. Louis *Globe-Democrat* and WABC-TV, New York, were top winners in the 1972 $2,500 Roy W. Howard Public Service Awards, the *Globe-Democrat* for a series by Richard Krantz and Steve Higgins on traffic ticket fixing, and WABC-TV for reports, "Migrants: Dirt Cheap" and "Willowbrook: The Last Great Disgrace."

This year's $1,000 Raymond Clapper Memorial Award was given to Jean Heller of the Associated Press.

LIQUEFIED GAS

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution adopted by the board of directors of the Oklahoma Liquefied Petroleum Gas Association.

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

RESOLUTION

Whereas, a critical shortage of liquefied petroleum gas exists for essential human needs; and,

Whereas, this shortage has been largely caused by the unprecedented usage of liquefied petroleum gas by industry and power generation as an alternate to critically short supplies of natural gas; and,

Whereas, natural gas is in critically short supply due to the longstanding and disastrously short-sighted federal policy of controlling natural gas prices at the well head at ridiculously low levels, which policy has virtually dried up incentive capital for the development of new domestic natural gas reserves and has made the usage of coal generally uneconomic for power generation and industry; thus resulting in the two-fold squeeze effect of making the nation dependent upon natural gas as the major source of energy and, at the same time, drying up the development of new natural and liquefied petroleum gas reserves for human needs, and the virtual elimination of coal as an alternate form of energy for power generation and industry; now,

Therefore, in order to insure sufficient supplies of liquefied petroleum gas, and of its collateral clean-energy fuel, natural gas, for essential human needs, and at the same time to provide alternate energy sources for power generation and industry, the Board of Directors of the Oklahoma LP-Gas Association herewith adopts the following resolution:

Be it resolved, that the Oklahoma LP-Gas Association requests the Federal Government to adopt a national fuels policy with respect to propane and butane-propane mixtures, as it has already done with natural gas, establishing an order of liquefied petroleum gas priorities for domestic, farm, small commercial, and small industrial uses, in that order; and,

Be it further resolved, that the Oklahoma LP-Gas Association requests the Federal Government to take urgent and immediate steps to convert power generation and major industry to the usage of coal, as an intermediate step to a long-range solution of the Nation's energy problems; and,

Be it further resolved, that the Oklahoma LP-Gas Association requests the Federal Government to de-control the price of natural gas at the well head, as a means of stimulating the flow of incentive capital into the development of new natural gas and liquefied gas reserves; and,

Be it further resolved, that, in the interest of urgent enlargement of the areas of domestic production of energy, the Oklahoma LP-Gas Association requests the Federal Government to authorize speedy construction of the Alaskan Pipeline, and to open up the Atlantic Continental Shelf and additional

acreages of the Gulf Continental Shelf for early development of new oil, gas and liquefied petroleum gas reserves; and,

Be it further resolved, that, in order to assure a more equitable and orderly marketing of liquefied petroleum gas throughout the industry, the Oklahoma LP-Gas Association requests the Federal Government to place all wholesale marketers of liquefied petroleum gas upon the same basis in the price control system; and,

Be it further resolved, that the Oklahoma LP-Gas Association shall transmit copies of this resolution to the President of the United States; the United States Senators and Congressmen from the State of Oklahoma; the Secretary of the Interior; the Governor, State Officials, and Members of the Legislature of the State of Oklahoma; the Liquefied Petroleum Gas Associations of the various states, the wholesale marketers of liquefied petroleum gas in the State of Oklahoma, and the news media.

HIGH DRUG PRICES: BRAND NAMES VERSUS GENERIC

Mr. NELSON. Mr. President, there is no end to the ingenuity of the drug industry in exploiting the American people. As we have shown on several previous occasions with specific and concrete examples, the drug industry is discriminating against the American people by charging higher prices for drugs in the United States than it charges for the same drug, manufactured by the same firm in the same plant and sold under the same brand name in foreign countries. But this is not all.

In addition to this outrageous practice, the drug industry is fleecing the people by trying to convince them, through high-powered and expensive advertising, that drugs sold under a brand name at exorbitant prices are somehow or other more reliable than the same drugs sold under their official—generic—name from one-half to one-thirtieth as much. In many cases the drugs are sold by the same company under both the brand and generic names. For example, the city of New York bought 1,000 benadryl—50 mg—capsules from Parke-Davis for $15.63 but paid $3 to the same company for the same quantity of the same drug, an antihistamine, under its generic name of diphenhydramine.

Now, why in the world would anyone be foolish enough to pay up to 30 times as much for a drug when sold under a trademarked name than under its scientific name? There are three reasons for this:

First, the number of people who decide which and how many drugs should be used and who must be reached by drug manufacturers is relatively small. The purchase of prescription drugs by 200 million people in the United States is controlled by 200,000 physicians. About $1 billion are spent annually on prescription drug advertising, which means that $5,000 is being spent each year on each practicing doctor to persuade him to prescribe brand name products. Since in most States no other brand of drug can be legally substituted for another, if the doctor prescribes a brand name drug, competition has been effectively reduced and in many cases eliminated entirely. In the absence of competition, there is no safeguard against outrageously high pricing practices. That exactly this situation exists should come as no surprise, since the whole system is designed to achieve just this result.

Second, drugs are unlike other consumer products in that the prescriber, unless he conducts an elaborately controlled study, is unable to judge the relative merits of various drugs, whether the products work at all, and the extent of their effectiveness. Even though a drug has no therapeutic activity, the placebo effect is very important. In addition, most patients would get better anyhow—even without a drug.

Bergman and Werner stated that:

It is fortune that physicians find themselves allied with nature. Otherwise, it might be unbearable to see so many examples of how little effect the drugs prescribed have on the course of an illness.[1]

Third, most people, including physicians, probably feel that if they pay a higher price for a product, then it must be better than a lower priced one. The impression has been nurtured by the pharmaceutical industry that if you pay $16.70 for 100 tablets of Pentids, Squibb's brand of penicillin G, then it must be better than the penicillin G you can buy for $2.41. The last three Commissioners of the Food and Drug Administration have emphasized on several occasions that there is no significant difference in quality between generic and brand-name drugs.

In fact, there have been many cases of generic drugs meeting higher standards than their brand-name counterparts.

The March 1973 issue of the FDA Consumer, which is the official magazine of the Food and Drug Administration, carried an article by Dr. Henry Simmons on the relative merits of brand name and generic drugs.

Dr. Simmons, until recently the Director of the FDA's Bureau of Drugs, makes the following points:

First, the FDA is the world's largest repository of original and frequently unpublished information on drugs, is in a unique position to examine both sides of this issue, and has no financial interest in it.

Second, according to law, all batches of antibiotics must be tested before marketing, and each year the FDA's National Center for Antibiotics Analysis receives about 20,000 samples for examination. The rejection rate is approximately 1 percent. These rejects cannot be marketed.

Dr. Simons' conclusion is that:

Based on many years of experience with this program, we are confident *there is no significant difference* between so-called generic and brand name antibiotic products on the American market. Any antibiotic offered for sale in the United States, regardless of whether it is brand or generic, has met the same high FDA standards. (Emphasis added.)

Third, since 1970 the FDA's National Center for Drug Analysis in St. Louis has completed the study of 19 other classes of drugs.

Dr. Simmons states that:

On the basis of the data we have accrued to date, we cannot conclude there is a significant difference in quality between the generic and brand name products tested.

Fourth, as the number of drug substances increases, and as the expense involved in maintaining manufacturing facilities for a full line of drugs rises, more and more manufacturers—large and small, generic and brand—are selling to each other either bulk drugs or finished dosage forms. Many of the high-priced brand drugs are manufactured by generic manufacturers. This makes it impossible for the average purchaser to know who really made the drug.

Mr. President, in view of these findings by the FDA and a massive supply of statistics on prices, it is clear that the American public is being taken for quite a ride by the drug industry. For years the American people have been exploited by companies charging outrageously high prices for drugs. The chief victims have been the aged and the poor, particularly the children of the poor. The greatest need for medicines occurs in the periods of early youth and old age, yet these two segments of our population have suffered the most because of high prices.

I have received hundreds of letters from old people all over the country who are having great difficulty making ends meet.

An elderly person from Salt Lake City writes that:

My wife and I are over 65 and our costs for drugs over the past year was $400, which we really cannot afford.

A citizen from Massillon, Ohio, writes that:

We are retired, and of course the cost of drugs is increasing materially every year. We wish also that something could be done about the doctors who invariably prescribe by a brand name when the generic name would make the cost considerably less.

From Winter Park, Fla.:

My elderly parents who live on social security have had to spend an exorbitant amount of money on drugs, which poses a great hardship on them.

From Gloverville, S.C.:

I am a heart attack victim and my drug and medicine bill every 18 days is $23. With no disability coming in and not knowing if the vocational rehabilitation department will approve me for disability, it sure is a burden on my husband.

From Denver, Colo.:

As an arthritic, retired and pensioned, the cost of drugs is almost prohibitive, and any action taken to reduce costs is most commendable.

The latest official findings of the Food and Drug Administration confirms that we do not have to pay outrageously high prices for many of the drugs we use. In some instances we can buy a drug for one-twentieth the heavily advertised brand name price.

A few examples are sufficient to illustrate the problem. Chlor-Trimeton, an antihistamine, one of the 200 most fre-

[1] Bergman, Abraham B., and Werner, R. J.: "Failure of Children to Receive Penicillin by Mouth," New England Journal of Medicine, June 13, 1963, pp. 1334–8.

quently prescribed drugs, is sold by the Schering Corp. to druggists for $21.66—4-milligram tablets in bottles of 1,000.

Antihistamines are a type of drug many people take over a long period of time. They take it day after day if they have allergies. The drug under its generic name is available to druggists in the same quantity and strength for as low as $1.05. But laws have been passed in 40-odd States that once a doctor prescribes a drug by a brand name, the druggist has to supply the drug on that basis. So here we have a situation where a drug is available to the druggist for $1.05 and some drug companies are happy to sell it for this price, making a good profit on it. Yet, the druggist is unable to supply the less expensive drug if the physician has written the brand name on the prescription.

Peritrate is a vasodilator for heart patients.[2] The people who use it may keep using it the rest of their lives. It is sold by Warner-Chilcott to druggists for $36—that is, for 1,000 20-milligram tablets. Yet under its almost unpronounceable generic name of pentaerythritol tetranitrate, it is available for $1.75. For the combination of Peritrate with a little phenobarbital, Warner-Chilcott charges the druggist $40.50. Under its generic name this combination is available to the druggist for $1.75.

Another good example is the widely prescribed tranquilizer meprobamate sold under the trade name of Miltown by Carter-Wallace and Equanil by Wyeth. Carter-Wallace charges the druggist $61.20 for 1,000 tablets—400 mg—of Miltown. Wyeth charges the druggist $68.21 for 1,000 tablets—400 mg—of Equanil. Both are among the 20 most prescribed drugs. Under their generic name of meprobamate they are available to the druggist for $4.95.

Serpasil is a hypertensive drug widely used by older citizens, and taken over a long period of time. It is sold to the druggists by the Ciba Co., a Swiss-owned firm, for $39.50 for 1,000 tablets—.25 mg. Under its generic name of reserpine it is available to the druggist for $1.35 for the same amount of the drug. Incidentally, although the Ciba Co. was charging the druggist $39.50 for 1,000—0.25 mg.—when it sought business from the Department of Defense, it offered the same quantity of the same drug under its generic name for 60 cents. It lost out, however, to a small company that bid 48 cents.

These are only a few of the many drugs for which the public is paying unnecessarily high prices. The following table compares the wholesale prices of a list of brand name drugs with the prices of one generic manufacturer for the same drug. No effort was made to select the lowest generic price. But even then, the savings are enormous. For the consumer, who generally pays the retail price, the savings will be even greater.

I ask unanimous consent that Dr. Simmons' article be placed in the RECORD following the chart entitled "Comparison of Brand and Generic Drug—Wholesale Prices."

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

[2] Although the National Academy of Sciences-National Research Council has found that there is no scientific evidence that Peritrate is effective for purposes claimed, it is still one of the most prescribed drugs in the United States.

COMPARISON OF BRAND AND GENERIC DRUG—WHOLESALE PRICES[1]

Brand name, company, dosage form, and quantity	Brand name price	Generic price	Generic (official) name	Therapeutic category
Polycillin (Bristol):				
100 capsules, 250 mg	$14.85	$4.70	Ampicillin	Antibiotic.
100 capsules 500 mg	28.74	9.65	do	Do.
Penbriten (Ayerst):				
100 capsules, 250 mg	14.54	4.70	do	Do.
100 (2×50's) 500 mg	24.92	9.65	do	Do.
Pentids 400 (Squibb) 100 tablets.	10.04	1.45	Penicillin G	Do.
Pentids 800 (Squibb) 100 tablets.	15.06	4.50	do	Do.
Chlor-Trimeton (Schering) 1,000 tablets, 4 mg.	21.66	1.05	Chlorpheniramine (maleate).	Anthishistamine.
Teldrin (Smith, Kline, & French) 500 capsules, 8 mg. timed disintegration.	24.25	3.20	Chlorpheniramine	Do.
500 capsules, 12 mg timed disintegration.	32.50	4.00	do	Do.
Benadryl (Parke, Davis):				
1,000 capsules, 25 mg	18.68	4.85	Diphenhydramine	Do.
1,000 capsules, 50 mg	27.84	4.95	do	Do.
Dilatin (Parke, Davis) 1,000 capsules, 1½ gr.	15.85	4.95	Diphenylhy-dantoin	Anticonvulsant.
Decadron (Merck, Sharpe & Dohme) 100 tablets, .75 mg.	12.94	5.25	Dexamethasone	Corticosteroid.
Dicumarol (Abbott) 1,000 tablets, 50 mg.	21.28	6.85	Bishydroxycoumarin	Anticoagulant.
Dramamine (Searle) 100 tablets, 50 mg.	3.78	.75	Dimenhydrinate	Antiemetic.
Equanil (Wyeth):				
100 tablets, 400 mg	7.06	1.05	Meprobamate	Tranquilizer.
1,000 tablets, 400 mg	68.21	4.95	do	Do.
Miltown (Carter-Wallace):				
100 tablets, 400 mg	6.50	1.05	do	Do.
1,000 tablets, 400 mg	61.20	4.95	do	Do.
Feosol (SKF) 1,000 tablets	11.00	1.95	Ferrous sulphate	Antianemic.
Feosol Spansules (SFK) 500 capsules.	21.25	4.80	do	Do.
Nembutal (Abbott):				
1,000 capsules, ¾ gr.	13.07	4.50	Pentobarbital	Sedative-hypnotic.
1,000 capsules, 1½ gr.	19.24	5.85	do	Do.
Gantrisin (Roche): 1,000 tablets, 0.5 gm.	26.73	9.85	Sulfisoxasole	Antiinfective.
Furadantin (Eaton):				
100 tablets, 50 mg	10.26	2.50	Nitrofurantoin	Antiinfective.
100 tablets, 100 mg	20.52	4.85	do	Do.
Mandelamine (Warner-Chilcott):				
1,000 tablets, 0.25 gm	18.00	4.50	Methenamine mandelate.	Do.
1,000 tablets, 0.5 gm	36.00	6.70	do	Do.
Noctec (Squibb):				
100 capsules, 3¾ gr.	2.97	.85	Chloral hydrate	Sedative-hypnotic.
100—7½ gr.	5.00	1.25	do	Do.
Erythrocin (Abbott): 100 tablets, 250 mg.	17.39	6.70	Erythromycin	Antibiotic.
Nydrazid (Squibb): 1,000 tablets, 100 mg.	9.90	2.75	Isoniazid	Antitituberculer.
Peritrate (Warner-Chilcott):				
1,000 tablets, 10 mg	$27.00	$1.65	Pentaerythrito,tetra-nitrate.	Anitanginal.
1,000 tablets, 20 mg	36.00	1.75	do	Do.
Peritrate with phenobarbital:				
1,000 tablets, 10 mg/15 mg	29.70	1.65	Pentaerythritoltetra-nitrate with phenobarbital.	Do.
1,000 tablets, 20 mg/15 mg	40.50	1.75	do	Do.
Premarin (Ayerst):				
100 tablets, 0.625 mg	4.08	.35	Conjugated estrogens	Estrogen.
100 tablets, 2.5 mg	12.97	3.95	do	Do.
Premarin with methyltestoserone (Ayerst):				
100 tablets, 0.625 mg and 5 mg test.	8.72	2.85	Conjugated estrogens	Do.
100 tablets, 1.25 mg and 10 mg test.	15.40	4.45	Plus testosterone	Do.
Pro-Banthine (Searle): 100 tablets, 15 mg.	4.26	1.65	Propantheline	Antispasmodic.
Pro-Banthine with phenobarbital.	4.68	1.85	Propantheline with phenobarbital.	Do.
Pyribenzamine (Ciba):				
100 tablets, 50 mg	2.80	.80	Tripelennamine	Antihistamine.
1,000 tablets, 50 mg	27.16	3.45	do	Do.
Serpasil (Ciba): 1,000 tablets, 0.25 mg	39.50	1.35	Reserpine	Antihypertensive.
Reserpoid (Upjohn): 1,000 tablets, 0.25 mg	8.39	1.35	do	Do.
Rau-sed (Squibb): 1,000 1,000 tablets, 0.25 mg	10.86	1.35	do	Do.
Sandril (Lilly): 1,000 tablets, 0.25 mg	9.12	1.35	do	Do.
Dexedrine (SKF): 1,000 tablets, 5 mg	22.60	5.15	Dextro-amphetamine sulfate.	Amphetamine.
Sudafed (Burroughs-Wellcome): 1,000 tablets, 60 mg	32.67	7.90	Pseudoephedrine	Bronchodilator.
Tedral (Warner-Chilcott): 1,000 tablets.	32.85	3.75	Combination of 130 mg theophylline, 24 mg ephedrine HCL, 8 mg phenobarbital.	Do.
Terramycin (Pfizer): 100 capsules, 250 mg.	20.48	1.95	Oxytetracycline	Antibiotic.
Tetracyn (Roerig): 100 capsules, 250 mg.	3.86	1.20	Tetracycline	Do.
100 capsules, 500 mg	7.50	2.25	do	Do.
Achromycin V (Lederle): 100 capsules, 250 ng.	5.35	1.20	do	Do.
1,000 capsules, 250 mg	52.02	7.95	do	Do.
100 capsules, 500 mg	9.75	2.25	do	Do.
V-Cillin K (Lilly): 100 tablets, 250 mg.	8.95	2.60	Potassium phenoxy-methyl penicillin.	Do.
1,000 (2 x 500), 250 mg	75.00	23.50	do	Do.
100 tablets, 500 mg	16.93	4.50	do	Do.
Pen-Vee K (Wyeth): 100 tablets 250 mg.	10.47	2.60	do	Do.
100 tablets, 500 mg	19.69	4.50	do	Do.

[1] Average wholesale prices—1973 Red Book and supplement No. 1.

BRAND VERSUS GENERIC DRUGS: IT'S ONLY A MATTER OF NAME

(By Henry E. Simmons, M.D., M.P.H)

It's one of the most significant issues in the prescription drug area today: are "generic" drugs equivalent to "brand" drugs? Each side has its proponents. Some of the traditional views of the brand-generic controversy are no longer accurate. In this article, Henry E. Simmons, M.D., director of FDA's Bureau of Drugs, presents his views on this subject and tells what FDA is doing to assure that all drugs are of the highest quality. This story is based on a speech Dr. Simmons presented before the California Council of Hospital Pharmacists in San Diego September 30, 1972.

Generic equivalency is one subject we've always been very much concerned about at FDA. I am constantly discouraged at the quality of the dialogue in his important area—an area significant not only because of the quality of health care in this Nation, but also because it is a basic economic issue as well. The pronouncements made by members of the various camps are often biased and, occasionally, frankly and intentionally misleading or exaggerated.

The generic-brand issue presents us at FDA with a unique opportunity as well as a major responsibility.

As the world's largest repository of original and frequently unpublished information on drugs, we are in a unique position to be able to examine both sides objectively. Unlike either side in this issue, we achieve no financial gain regardless of which camp carries the day.

With our responsibility for the public welfare, we and the public "lose" if the American patient does not receive drugs of uniformly high quality. We and the public "win" only if both generic and brand manufacturers consistently produce a quality product.

This then is the Government's role in the public interest: to do everything within its power to assure that all drugs—generic and brand, made by big and small manufacturers—are both safe and effective, honestly labeled, and of the quality necessary to produce the intended effect. We must maintain a surveillance system which will assure that this quality continues once it is attained. Should quality be found wanting, appropriate steps must be taken to correct the situation or stop production. We must also assure that physicians are provided sufficient information on drugs so that the wisest therapeutic decisions can be made on behalf of the American people.

We recognize our responsibility and accept it. We are aware that the job cannot be done if manufacturers do not also recognize and accept their responsibility. Fortunately, in general, drug manufacturers, large and small, generic and brand, have accepted their responsibility and are taking appropriate steps to fulfill it.

Given our responsibility, how do we meet it? What are the programs and resources of the Federal Government, specifically the Food and Drug Administration that are addressed to this area? To understand this, let me examine some facts about the rapidly changing and growing FDA.

FDA today is an agency of more than 6,000 people with a budget of over $150 million. FDA's drug responsibilities are vested in the Bureau of Drugs, which has about 1,000 people backed by a field force of about 4,000 inspectors.

The Bureau of Drugs is a highly technical bureau with approximately 120 physicians, 100 microbiologists, 50 pharmacists and pharmacologists, and 50 chemists, plus statisticians, epidemiologists, and other professional personnel.

No new drug can be marketed in this country until teams of physicians, pharmacists, chemists, and statisticians from the Bureau of Drugs have completed a thorough assessment of it. Any firm wanting to place a new drug on the market not only must first develop data to show that it is safe and effective, but also must demonstrate to FDA's satisfaction that adequate controls have been provided to assure proper identification, quality, purity, and strength of the new drug.

In this context the New Drug Application must include a list of all the components; a statement of the composition of the new drug dosage form; a description of the facilities and personnel involved in the manufacture of the drug, which is verified by factory inspection; acceptance specifications and test methods for the raw materials and new drug substance to assure uniformity from batch to batch; a description of the manufacturing process for the final dosage form, which includes manufacturing process, packaging, and labeling; a description of the analytical controls, specifications, and test procedures for the drug; and stability studies to assure continued quality for the time it will be in a retail outlet before being used by the consumer. All of these data are carefully reviewed, and approval is given only after all the requirements are satisfied.

Whenever other manufacturers want to place chemically equivalent drug products on the market, they must submit for FDA approval adequate data to demonstrate the equivalency of the product. It then goes through the same review.

All firms are bound by the same regulations governing proper manufacturing processes.

The Bureau of Drugs operates two large modern laboratories for drug research and methodology development and for drug analysis. These two analytical laboratories are the National Center for Antibiotics Analysis, in Washington, and the National Center for Drug Analysis, in St. Louis. Both help assure the high quality of drugs we have in this country.

The National Center for Antibiotics Analysis is a 150-man team working in a highly automated laboratory. It is responsible for testing the potency, purity, and stability of *every* batch of *every* antibiotic before it is marketed in this country.

Before marketing, samples of every batch of bulk antibiotics and the finished dosage form are submitted to FDA for analysis. The batches from which the samples are taken are kept in quarantine until FDA completes its analyses. Along with the samples the firm submits data on the batch, such as formula and the firm's own test results.

If the samples meet all of the requirements, the batch is certified by FDA. *Only such* batches can be released for marketing in this country.

Any qualified firm may decide to make the same product. This the so-called "me-too" product, since it must meet all the requirements of the original one.

Many "me-too" manufacturers and brand name manufacturers use bulk antibiotic ingredients from the same few bulk producers. After the drug has shown comparability, the firms must put batches on stability test and report every three months for a specified period of time and at least yearly thereafter. Any significant problem with the drug must be reported immediately to FDA. Additionally, we collect post certification samples at random from the market as a further check on the continued quality of antibiotics.

Each year our National Center for Antibiotics Analysis receives approximately 20,000 samples for examination. The rejection rate is approximately 1 percent. These rejects cannot be marketed.

Based on many years of experience with this program, we are confident there is no significant difference between so-called generic and brand name antibiotic products on the American market. Any antibiotic offered for sale in the United States, regardless of whether it is brand or generic, has met the same high FDA standards.

A similar certification program is conducted for every batch of insulin produced in the United States.

Another important drug quality program conducted by FDA is at the National Center for Drug Analysis in St. Louis. This 50-man laboratory is unique in having automated equipment for the analysis of a large number of tablets of a particular drug product.

Since 1970, our St. Louis lab has completed the study of 19 classes of drugs, including adrenocorticosteroids, major and minor tranquilizers, urinary antibacterial agents, central nervous system depressants, antithyroid agents, cardiac glycosides, coronary vasodilators, anticoagulants, oral contraceptives, and others.

We have extended the study to 30 drug products representing the top 15 therapeutically significant drug classes. This study will cover every known manufacturer of these products. We believe in this way we will have reliable data upon which we can make meaningful judgments on an across-the-board basis.

Under FDA's new Freedom of Information regulations (see FDA PAPERS, now FDA CONSUMER, June 1972), we intend to begin publishing this data once it has been verified and we have assured ourselves it will present a true picture on a given class of drugs.

On the basis of the data we have accrued to date, we cannot conclude there is a significant difference in quality between the generic and brand name product tested.

There have been only a few exceptions turned up by our testing in St. Louis. One of these, digoxin, a heart drug, is the most prominent exception, as our studies showed quality and performance differences between manufacturers' versions. We are taking action to assure that all digoxin now marketed meets uniform standards of quality.

Another important surveillance program is our Drug Product Defect Reporting Program. This is a jointly sponsored program by the American Society of Hospital Pharmacists, United States Pharmacopeia, and FDA.

It is a voluntary program in which hospital pharmacists across the Nation report defects they encounter in drug products, packaging, and labeling. Through this program, we have received hundreds of reports and have learned of several significant defects. We are finding defects in both brand and generic products.

In addition to these programs, we continue with the traditional approach to drug surveillance in the United States. This is routine inspection of drug plants by our field districts. We have 19 district offices, 95 resident posts, and 400 drug inspectors scattered across the Nation. They inspect across the across the Nation. They inspect drug firms to operating under current good manufacturing procedures. When necessary, evidence is gathered for possible legal action by FDA in the form of seizure, injunction, or prosecution.

These inspectors also monitor drug recalls to make certain defective products are actually removed from commercial channels. In 1972 we had 638 drug recalls. Of these, 291 were brand name and 347 generic products. Again, defects were encountered in big companies, small companies, brand and generic products.

In addition to our efforts to assure the quality of all drugs, brand and generic, developments are taking place in other areas. For years, the large brand name manufacturers have been major providers of generic drugs. Recent events indicate that more and more generics will be manufactured by traditionally brand name manufacturers. Also, as the number of drug substances increase, and as the expense involved in maintaining manufacturing facilities for a full line of drugs rises, more and more manufacturers—

large and small, generic and brand—are selling to each other either bulk drugs or finished dosage forms.

This all makes it increasingly difficult for the average purchaser to know who really made the drug. In a number of instances, one manufacturer is providing to a large number of firms the same drug, which is then marketed under a wide variety of brand and generic names.

Thus it is difficult today for an individual health professional—and virtually impossible for the consumer—to really assess the quality of drugs. After all, each professional has limited experience with a particular drug. Evidence of some uncertainty is seen in the fact that some professionals prescribe the highest priced product when the same product is being offered at a substantial saving by equally large or experienced firms or offered by the same manufacturer generically at a lower price than the brand name drug would cost.

Some professionals seem to mistakenly equate "big manufacturer" or "brand name" with good, and "smaller manufacturer" or "generic" with bad. This impression is not borne out by the facts. Some of this confusion wil be dispelled as we begin publishing the results of our national drug quality survey.

When this is done, I hope people will understand that a firm found to have produced a bad batch by these surveys should not necessarily be condemned or put out of business, because, as I have stressed, large and small have stumbled—and have corrected their defects and gone on to produce quality products. However, if a firm develops a pattern of poor performance or does not correct a defect once found, then corrective action will obviously be appropriate, and we will not hesitate to take such steps.

In summary, what does this all mean, where do we stand in total drug quality today?

In my judgment, the total quality of the Nation's drug supply is high and is constantly improving. Marginal drugs and manufacturers are being removed. Those that remain are better tested than they have ever been before. We exceed in quality the drug supply of any other nation in the world.

Is it good enough? Not yet.

Can it ever be perfect? Given the complexities of drug manufacturing, probably not.

Do we still find defective drugs? Yes, we do, but this should surprise no one, since it is humanly impossible in this less than perfect world to produce tens of billions of doses of a wide variety of drugs each year and not make a mistake.

Is a brand name a guarantee that a drug will be good while a generic name is an indication that the drug will be bad? In our experience it is not.

We at FDA plan to take further steps to strengthen our quality assurance program in the months ahead. We know we will find problems in the future. This is to be expected. When found, we will correct them, and thereby raise the standard of quality one more step toward the goal of consistent and uniform high quality drug supply for the American public.

THE PRINCIPLE OF FREE ENTERPRISE AND ADAM SMITH'S WEALTH OF NATIONS

Mr. BENNETT. Mr. President, the importance of our free enterprise system in contributing to the economic well-being of this country is immeasurable. Our free enterprise system has provided us with a standard of living unparalleled in the history of the world. It has done so by allowing individuals to utilize their time and talents in whatever endeavor they choose. Also, it has done so by providing business enterprises with the flexibility they need to adjust quickly in meeting the emerging demand for new goods and services. Without this system of free enterprise, I seriously doubt that the high standard of living which we now enjoy in this nation could have been attained, nor would it be so widely shared.

The importance of the free enterprise principle was discussed recently by Federal Reserve Board Chairman Arthur F. Burns in a speech which he presented to the Adam Smith Symposium in Kirkcaldy, Scotland, on June 5, 1973. In his speech, entitled "The Relevance of Adam Smith to Today's Problems," Dr. Burns notes that the principle of free enterprise in our day and age traces its roots back to Adam Smith's "Wealth of Nations." Interestingly enough, the "Wealth of Nations" was published first in 1776, the same year as the birth of our Nation, and its impact on the economic thinking of this country ever since then has been enormous. The "Wealth of Nations" marks the beginning of modern economic science, and the principle of free enterprise which it championed is being looked to for guidance by a growing number of nations around the world, as Dr. Burns notes in his speech. The same principle of free enterprise is worthy of serious consideration also by every concerned citizen in this country.

I ask unanimous consent that the entire text of Dr. Burns' speech be printed in the RECORD.

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

THE RELEVANCE OF ADAM SMITH TO TODAY'S PROBLEMS

(Address by Arthur F. Burns)

During the past quarter century, economists have been devoting much of their energy to studies of the process of economic growth. Some have concentrated on the interplay of social, cultural, political, and economic forces that shape the destiny of developing nations. Others have sought to determine along empirical lines what part of the economic growth of industrialized countries may be attributed to improvements in education, what part to increases in the stock of capital, what part to scientific research, improvements of technology, and other factors. Still other economists have developed formal mathematical models to gain insight into the dynamics of a growing economy. The formidable literature generated by this research could be aptly assembled under the title of Adam Smith's treatise: An Inquiry Into the Nature and Causes of the Wealth of Nations.

In thinking about what I might say here today, I was led to reread passages of that celebrated work and to reflect once again on the legacy of Adam Smith to the field of economics. The Wealth of Nations is universally recognized as the first major exposition of modern economic thought. Adam Smith himself is commonly regarded as the father of political economy. Yet it is a striking fact that the principles underlying the growth of national wealth and income, which was the central theme of his book, remained for many years a subordinate issue in the great works on economics.

The Wealth of Nations was, first and foremost, a theory of production. Smith's main interest was in the means by which a nation could use its resources of labor and capital most effectively, thereby increasing its output and improving the lot of its people. He examined in considerable detail also the principles underlying the distribution of output. But while this was a subsidiary theme of The Wealth of Nations, it became the primary concern of the classical economists—David Ricardo, John Stuart Mill, Alfred Marshall, and others. About 150 years elapsed before economists again developed any substantial interest in the determinants of national output or national income; but it is hardly an exaggeration to assert that this has now become the central subject of scientific economics. Schumpter, Mitchell, Robertson, Keynes, Kuznets, Roy Harrod, to name but a few of the great economists of recent times, have concentrated on this vital theme.

The contribution of Adam Smith to the formal body of economic theory is of towering proportions. Yet, it is less significant to the history of mankind than his influence on the ways in which individual nations, both large and small, have organized their economic activities. Smith proposed a bold new venture in national policy—the organization of economic life on the principle of free enterprise. He believed that governmental regulations were stifling economic growth in Great Britain and the rest of Europe; and that the abundant energies of people, particularly the British, would be released if these barriers to progress were swept away.

The importance of Smith's revolutionary ideas to the course of economic development in Great Britain and other parts of the Western world can be best appreciated by recalling the historical setting in which The Wealth of Nations appeared.

The economic policies and practices of England, France, and other European countries between the sixteenth and eighteenth centuries were governed by a loose body of principles known as mercantilism. In its popular conception, mercantilist doctrine is identified with protective measures for seeking a favorable balance of trade and an abundant supply of the precious metals. This characterization is correct as far as it goes, but it is incomplete. In fact, the mercantilist principles expounded in 1767 by another great Scotsman, Sir James Steuart, and widely practiced in England during the preceding two centuries, revolved around a system of governmental regulation of nearly every aspect of economic life—industrial output, agriculture, domestic and foreign trade, occupational choice, apprenticeship, prices, wages, labor mobility, and so forth. The direction of economic activity was considered to be the task of statesmen, who alone could guide the activities of businesses and individuals in ways that promote the national interest.

Mercantilism rendered service in its time by weakening some local monopolies and increasing the mobility of resources within a nation. It was nevertheless a crude economic and social philosophy, as it still is in its modern recrudescences. Smith recognized vividly its practical consequences—an economy of limited enterprise, a vital people caught in a web of governmental controls, a nation missing its opportunity for innovation and greatness. The way out seemed entirely clear to him. Governments everywhere had to stop interfering with the economic decisions of individuals and businesses, so that free enterprise could become the great organizing principle of economic life.

The mercantilist form of economic organization, Smith reasoned, lacked a number of ingredients essential to satisfactory growth of the wealth of nations—ingredients that free enterprise would forthwith supply. Of these, three stood out in importance in his mind.

First, economic rewards had to be com-

mensurate with the market value of the work that individuals performed and the risks they took in investing their capital. Smith believed—as did the mercantilists—that self-interest was a dominate force in human behavior. But he perceived a truth that had escaped the mercantilists—namely, that a system of free enterprise could successfully harness individual motives to achieve national economic objectives.

Second, achievements of the progress of which a country was capable required active competition, including competition from abroad. Active competition, Smith believed, would lead to greater specialization of labor, it would encourage commercial application of technical and managerial knowledge; and, more important still, it would stimulate greater industry among businessmen and workers alike.

Third, a pricing mechanism was needed to allocate resources among competing uses, in accordance with the wants of consumers. Free markets, Smith argued, generate price and wage adjustments which result in a use of resources that is consistent with the prevailing pattern of consumer and business demands, and thus solve problems that governmental rules cannot handle.

This was an exciting new doctrine of enormous significance for economic and social organization in the European states, and also for the emerging nations of North America. Under the influence of the revolution in commerce and industry that got under way during the eighteenth century, many businessmen and artisans had found the intricate governmental regulations of their conduct needlessly burdensome, and they not infrequently reacted by ignoring or circumventing them. Smith's philosophy of free enterprise thus appeared at a time when political leaders as well as men engaged in commerce were ready to reexamine accepted doctrines. The lucidity and dignity of Smith's prose, the authority of his scholarship, and the cogency of his reasoning hastened the appeal of his work to intellectuals and the new merchant class. Before many years passed, *The Wealth of Nations* became the most influential guide to economic reform in his own country. Adam Smith's influence, however, did not stop there.

If my reading of history is anywhere near the mark, developments over the past two centuries have demonstrated beyond serious doubt the essential validity of Smith's theory of production. Where free enterrise has flourished, nations have prospered and standards of living have risen—often dramatically. Where detailed governmental regulation has repressed individual initiative and stifled competition, economic growth has been hampered and the well being of the people has generally suffered.

The outstanding example of economic progress under a system of free markets is provided by the United States. The standard of living enjoyed by the people of my country has been, and still is, the envy of the world. The rate of economic growth in many countries has of late exceeded that of the United States, and thus the disparity of living standards—at least among the industrial nations of the world—has been shrinking. This is a heartening development. Yet, the fact is that per capita output in the United States is still far above that of any other country. For example, the gross national product per person in the United States is some 20 per cent higher than in Sweden or Canada—the two closest nations in terms of per capital output, and it is about twice as high in the more advanced socialist countries—such as the Soviet Union and Czechoslovakia. You may recall that Premier Khrushchev predicted in the late 1950's that the per capita output of the Soviet Union would equal or surpass that of the United States by 1970. This forecast proved to be an idle boast by a political leader who had not yet arrived at a mature understanding of the mainsprings of economic progress.

The standard of living that we enjoy in the United States reflects more than our system of economic organization. Rapid development of the American economy was fostered also by our rich endowment of natural resources and our vast expanse of fertile lands. Our free institutions and opportunities for self-advancement attracted to our shores millions of venturesome individuals from all over the world. The people who came were industrious and highly motivated, and they often brought with them useful technical skills and educational accomplishments. However, other countries also have been blessed with rich natural resources and with people of unusual educational and technical achievements, and yet have not managed to find the path to rapid economic development.

The key to the economic progress of the United States, I believe, is therefore to be found in our institutions, which by and large have permitted anyone in our midst to choose his occupation freely, to work for himself or for an employer of his choice, to produce whatever he chose, to benefit from the fruits of his individual effort, and to spend or to save or to invest as he deemed proper.

Under the economic system that has flourished in the United States, the natural thing for individuals and businesses to do is to plan for the future, so as to be in a position to take advantage of the opportunities that continually become available in a growing and prosperous economy. This feature of a free enterprise system, and its crucial role in fostering economic development, is seldom appreciated by advocates of centralized planning. Planning for economic growth in the United States and other free enterprise economies—unlike that of socialist nations—is a mass activity pursued by literally millions of producing and consuming units, each looking to a better future and striving to attain it. Over the years, our business firms have become accustomed to planning their investments in plant and equipment, their inventories, their advertising programs, their labor policies, their financing requirements. More important still, they now plan on a vast scale the development of new products and new methods of production by conducting extensive research and development programs. Our families, meanwhile, have remained eager to provide for a better life in the future, and therefore find themselves planning for a new home, for a good education for their children, and for reasonable comforts in the years of their retirement. Americans work hard to realize their goals, and they are enterprising enough to search out or to create new opportunities.

The present condition of the economy of the United States thus provides impressive evidence of the essential truth of Smith's theory of production. Individual initiative, properly compensated, has been the dynamic force behind the growth of a mighty nation. And market forces, operating in a competitive environment, have served to harmonize the plans of millions of economic units, thereby fostering the national welfare.

The validity of Smith's views have been reaffirmed time and again during the past two or three decades. By the end of World War II, for example, a large part of the industrial plant of Germany had been destroyed and the confidence of its people shattered by the collapse of the German nation and its division into two separate political entities. The postwar recovery of the economy of West Germany, operating under conditions of free enterprise, has nevertheless been spectacular. Its per capita output is now among the highest in the world, and its products are exported to every corner of the globe. East Germany, on the other hand, installed a centrally-managed system, and its economy floundered for a number of years. Economic growth in East Germany appears to have perked up of late, but its per capita output is still well below that of West Germany.

The postwar record of economic progress in countries such as Israel and Japan, which encourage individual initiative and private enterprise, the Israelis have managed to transform a desert into a flourishing modern nation. Japan is also poorly endowed with natural resources and its large population is crowded into a small area; its economy has nevertheless grown swiftly. Currently, the production of Japan is exceeded only by that of the United and the Soviet Union. Since 1960, the real gross national product of Japan has more than tripled, and it is still rising much faster than in any other major industrial country.

The Japanese economic miracle has received universal acclaim. The achievements of other Asian countries that give large scope to free enterprise—Thailand, South Korea, Taiwan, Singapore, and Hong Kong—are not as widely known. Yet, all these countries experienced average yearly increases in real per capita output ranging from 5 to over 8 percent during the decade of the 1960's.

The Crown Colony of Hong Kong might indeed serve as a monument to Adam Smith, for nowhere in the modern world have his economic principles been followed more closely. You may recall that Smith, in his discussion of the benefits of foreign trade, noted that a nation would be most likely to profit from foreign commerce if its trading partners were rich, industrious, and commercial nations. Lacking geographical neighbors that fit this description, Hong Kong took advantage of advances in transportation and communication that have made it possible to trade profitably on a world-wide basis. In 1972, over three-fourths of Hong Kong's exports—largely manufactured goods—went to Europe and North America. And the value of its total exports apparently exceeded that of Mainland China, whose population is perhaps 200 times as large as that of Hong Kong.

In Latin America, the highest rate of economic growth of any nation at the present time is enjoyed by Brazil, whose economic system has moved closer in recent years to the principles of Adam Smith. Decisions as to the direction of investment are now left largely to the business community; foreign investments are encouraged; individuals are free to choose the line of work that best suits their talents, and to enjoy the rewards accorded by the market to successful performance. This system of economic organization, aided by the great natural and human resources of Brazil, is producing excellent results. The rate of growth of Brazilian production has been 9 per cent or more in each of the past 5 years; last year, in fact, real output in that country rose more than 11 per cent.

Lively competition, individual incentives, and a pricing mechanism to allocate resources are as important to the growth of national wealth now as they were in the Great Britain of the eighteenth century. That fact, I believe, is gaining recognition beyond the boundaries of what we loosely call the Free World. In recent years, the socialist countries of Eastern Europe have begun to reconsider their earlier policy of guiding the course of their complex economies through central planning and detailed regulation of most aspects of economic life. They have begun to ponder whether the production of some unwanted goods or obsolete machines might not reflect the failure of prices to signal changes in consumer or business demands; whether more rapid technological progress might be encouraged by providing industrial managers with stronger incentives for taking risks; whether workers would in-

crease their productivity if more opportunities became available to improve their own lot and that of their families through greater individual effort.

In most of these countries, pockets of free enterprise have indeed remained, and they have provided the socialist authorities with some dramatic examples of the vitality of Adam Smith's theory of production. In the Soviet Union, for example, individuals are allowed to cultivate small agricultural plots and to retain or sell the produce they raise. Yields per acre on these small pieces of land are typically far higher than on the huge and highly mechanized collective farms. In 1962, for example, small private farms constituted only 3 per cent of the total acreage cultivated in the Soviet Union, but they accounted for a decisive part of the meats, milk, eggs, vegetables, and fruit produced and consumed in the country—in fact, for over a third of the country's total agricultural production. The Soviet people have literally been kept alive by free enterprise in their household agriculture, and the significance of this fact cannot have escaped their attention entirely.

In some, if not all socialist countries, doctrinaire adherence to centralized planning and regimentation of economic life is gradually being displaced by a more flexible administration of the economic system. Wider scope for decision making is being given to individual factory managers; monetary incentives related to economic performance are becoming more common; a larger role is being assigned to prices in the allocation of resources. Notable examples of this trend may be found in Yugoslavia and Hungary, where significant efforts have been made in recent years to accelerate economic development by moving toward a more flexible, less centrally-directed form of economic organization. In the Soviet Union, also, a reform of the industrial structure is currently underway, aiming among other things at decentralization of research and development programs.

In the developing nations, too, a trend is evident towards wider acceptance of Adam Smith's theory of economic development. A decade or two ago, many of these countries were seeking to rush headlong into heavy industry, bypassing the development of agriculture and light industry for which their resource base and their technical skills were better suited. Barriers to imports were created to speed industrial development, while one industry after another was saddled with restrictions and regulations that made competition in world markets extremely difficult. Political leaders in these countries had become so fascinated with the thought of rapid industrialization that they not infrequently ended up by creating industrial temples, rather than efficient and commercially profitable enterprises.

Some costly lessons have been learned, and some ancient truths rediscovered, from this experience. Of late, developing countries have been reconsidering the benefits of agriculture and light industry as paths to economic progress. More of the developing countries are now encouraging private foreign investment, and practically every nation is seeking ways to raise productivity, open new markets, and foster a spirit of enterprise among its people.

Policy makers across the world thus keep coming back to the principles enunciated by Adam Smith some 200 years ago. A contemporary reader of The Wealth of Nations cannot escape being impressed with the vigor of Smith's analysis and its relevance to the world of today. Yet, he will also be struck, I believe, by the fact that nations are nowadays concerned with economic problems that were hardly foreseen in his great treatise on political economy.

While Adam Smith was at work on The Wealth of Nations, another enterprising Scotsman, James Watt, was still struggling to perfect the steam engine. Today we split the atom to augment the supply of electricity, and we send men on fantastic voyages to the moon. With the progress of science, the proliferation of industry, and the spread of urbanization, the interdependence of economic activities has greatly increased. Opportunities for conflict between private and public interests have therefore grown in importance. Adam Smith, to be sure, was not unaware that such conflicts could occur. Contrary to a widespread impression, he put fences around free enterprise—for example, by arguing in behalf of certain restrictions on free trade, by recognizing the need for governmental maintenance of roads, harbors, and similar public works, and even by accepting statutory ceilings on interest rates as a contribution to the general welfare. Adam Smith, however, had no need to concern himself with pollution of air or water, or with urban blight, or with depletion of energy sources, or with insistent political pressures for better education, improved health care, more recreational facilities, and a host of other things that have led to extensive governmental involvement in the economic life of industrialized nations.

The business cycle of modern times, especially in nations that practice free enterprise, has given special impetus to the enlargement of governmental responsibilities. Experience over many years had demonstrated that active competition serves to coordinate individual plans and thus enables markets for specific commodities to function, on the whole, in satisfactory fashion. However, experience also taught us that while competition is a good cure for overproduction in a specific market, it is a very inadequate cure when a shortage of demand develops simultaneously in many markets. In such a case, business activity as a whole will slump, the flow of incomes will be checked, and unemployment will spread; in short, the nation will experience a business recession. On the other hand, when demand becomes excessive in many markets simultaneously, the general level of prices will rise and this too will bring economic troubles.

In recent decades, therefore, governments have sought to stimulate the general level of economic activity at certain times, and to restrict it at other times, by a flexible use of their monetary and fiscal policies. Of late, a new phenomenon—a disconcerting rise in the price level even in the absence of excess aggregate demand—has troubled various industrial countries. This development has led some governments to intervene directly in wage and price decisions in the hope of achieving simultaneously both full employment and general price stability.

We thus face problems today with which Adam Smith did not concern himself. Economic life keeps changing, and each generation must face anew the central problem with which he dealt so boldly—that is, how best to draw the line between private and governmental activities in the interest of augmenting the general welfare. As we go about this task, we cannot be blind to the imperfections of market processes or to the abuses of market power by business firms or labor organizations. But we also cannot afford to neglect Adam Smith's warning, of which recent experience provides ample illustration, that governments not infrequently create new problems, besides wasting resources that could have been put to effective use by private citizens or business firms.

In the course of my career, both as a student and as a public official, I have found it necessary to revise my ideas about the proper role of government in specific economic matters. Experience is a demanding teacher, and my respect for it has led me at times to favor governmental actions that I abhorred in my youth. My confidence in the basic advantages of free enterprise remains, however, unshaken. I continue to believe, as Adam Smith argued so cogently, that when a nation's economic activity is organized on the basis of free enterprise, men and women will by and large employ their talents in ways that enrich and strengthen the nation's economy. More important still, it is only by avoiding excessive concentration of power in the hands of government that we can preserve our individual liberties and have the opportunity to seek personal fulfillment with full dignity.

TEST BAN SUPPORT

Mr. KENNEDY. Mr. President, I introduced Senate Resolution 67 on February 20 this year with some 32 other Senators. This resolution calling on the President to take steps to achieve a treaty expanding the atmospheric ban on nuclear tests to cover underground testing as well, represents a melding of Senate Resolution 230, which I had introduced in the previous Congress, and Senate Resolution 273, which Senators HART and MATHIAS had introduced in the previous Congress. In this session, Senator MUSKIE, chairman of the Arms Control Subcommittee and Senators HUMPHREY and CASE, both long-time leaders in the field of arms control, joined as original sponsors of Senate Resolution 67.

Hopefully, the President will use the upcoming summit meeting with the Soviet General Secretary to take a new initiative toward achieving a comprehensive agreement terminating for all time the testing of nuclear weapons.

The resolution, which I will ask unanimous consent to have printed with a list of cosponsors at this time, represents an effort to fulfill the pledge made a decade ago on the signing of the Partial Test Ban Treaty, a pledge to negotiate a treaty banning all testing.

In the aftermath of the SALT I accords, which placed quantitative limits on strategic weapons, the CTB has acquired new relevance as a check on qualitative nuclear improvements.

The resolution sets forth the history of efforts to halt the spread of nuclear weapons including the adoption of the nonproliferation treaty of 1968. Adoption of a Comprehensive Test Ban Treaty by the major powers would be the single most important element in reinforcing the Non-Proliferation of Nuclear Weapons Treaty and reducing the chance of the spread of nuclear weaponry to other nations.

The resolution does not tie our hands in any way as to the kind of proposal that should be put forward at Geneva, but it does affirm Senate support for a new initiative to be taken. New technology in the field of verification makes it both feasible and desirable for a new proposal to be set forth.

The resolution urges, first, that the President propose a suspension of underground testing to the Soviet Union, a suspension which would remain in effect only so long as the Soviet Union respects it. Second, it proposes that a new proposal be set forth to the Soviet Union and other nations for a permanent treaty to ban all nuclear tests.

Besides the firm support voiced during the recent hearings by former Ambassador Averill Harriman, who was our chief negotiator in Moscow for the Par-

tial Test Ban Treaty, of Dr. Herbert Scoville, former Deputy Director of Science and Technology of the CIA for Presidents Eisenhower and Kennedy, and former Assistant Director for Science and Technology for the Arms Control and Disarmament Agency; and Dr. Wolfgang H. K. Panofsky, director of the Stanford Linear Accelerator Co., we have had substantial private support as well.

Therefore, at this time, I would like to announce our receipt of statements in support of Senate Resolution 67 from William C. Foster, who was Director of the Arms Control and Disarmament Agency from 1961 to 1969; from Nobel Prize winners, Owen Chamberlain and Harold C. Urey; from Herbert C. York, former Director of Defense Research and Engineering under Presidents Eisenhower and Kennedy; from George W. Rathjens, former Deputy Director of Advanced Research Projects Administration; Franklin Long, former Assistant Director for Science and Technology of the Arms Control and Disarmament Agency; Leonard Woodcock, president of the United Auto Workers; and from the Arms Control Association; the Federation of American Scientists; the League of Women Voters; the Ripon Society; SANE; the Task Force for the Nuclear Test Ban; the World Federalists; the American Ethical Union; and a wide range of religious groups.

I ask unanimous consent to have several of these statements printed in the RECORD, together with the resolution and the list of cosponsors.

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

S. RES. 67

Resolution calling on the President to promote negotiations for a comprehensive test ban treaty

Whereas the United States is committed in the Partial Test Ban Treaty of 1963 and the Nonproliferation of Nuclear Weapons Treaty of 1968 to negotiate a comprehensive test ban treaty;

Whereas the conclusion of a comprehensive test ban treaty will reinforce the Nonproliferation of Nuclear Weapons Treaty, and will fulfill our pledge in the Partial Test Ban Treaty;

Whereas there has been significant progress in the detection and identification of underground nuclear tests by seismological and other means; and

Whereas the SALT accords of 1972 have placed quantitative limitations on offensive and defensive strategic weapons and have established important precedents for arms control verification procedures; and

Whereas early achievement of total nuclear test cessation would have many beneficial consequences: creating a more favorable international arms control climate; imposing further finite limits on the nuclear arms race; releasing resources for domestic needs; protecting our environment from growing testing dangers; making more stable existing arms limitations agreements; and complementing the ongoing strategic arms limitation talks: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States (1) should propose an immediate suspension on underground nuclear testing to remain in effect so long as the Soviet Union abstains from underground testing, and (2) should set forth promptly a new proposal to the Government of the Union of Soviet Socialist Republics and other nations for a permanent treaty to ban all nuclear tests.

ARMS CONTROL ASSOCIATION,
Washington, D.C., April 27, 1973.

HON. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am grateful for your kind invitation to comment on Senate Resolution 67, calling for a Comprehensive Test Ban Treaty, combined with an immediate suspension of all United States underground testing for so long as the Soviet Union similarly abstains.

I enthusiastically and unreservedly endorse the Resolution. As Director of the Arms Control and Disarmament Agency from 1961 to 1969, as Chairman of the Arms Control Association for the past two years, and as a citizen who has long been concerned about the needless, costly, and dangerous continuation of the nuclear weapons race, I have always viewed the achievement of a Comprehensive Test Ban Treaty as an arms control measure of the first priority. I believe that an immediate end to nuclear testing by the United States and the Soviet Union, even if others do not at once follow suit, is very much in our security interest, and that continued testing is an unwarranted inhibition to progress in SALT and to the durability of the Non-Proliferation Treaty. It provides continued and embarrassing evidence of a lack of commitment to the solemn treaty undertaking we made, both in the 1963 Limited Test Ban Treaty and in the Non-Proliferation Treaty, to continue to work for an agreement banning all nuclear testing. Although adequate verification of a CTB once required on-site inspection, nuclear test detection and identification technology is now such that we can enter safely into a test ban agreement using existing national means of verification, without on-site inspection. The SALT I agreement contains important precedents in this regard. Finally, I applaud the intent of the Resolution to facilitate the conclusion of an early agreement by the immediate suspension of nuclear testing in advance of a formal agreement for so long as the Soviet Union does likewise.

In the remarks that follow I will elaborate on some of the foregoing observations, although it is with a sense that much of what will follow has been said many times before, by myself, by others who have labored in the arms control field with me over the years, and by the many dedicated lawmakers like yourself who have worked to make the world a little safer.

In my view the Resolution provides sound basis for the speedy completion of some long unfinished business.

I commend you and the co-sponsors of this Resolution for your initiative.

Sincerely,

WILLIAM C. FOSTER,
Chairman.

CORNELL UNIVERSITY,
Ithaca, N.Y., March 2, 1973.

Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I strongly support your February 20 resolution which calls on President Nixon to propose to the U.S.S.R. an immediate suspension of underground testing and which urges the President to present a new proposal for the conclusion of a comprehensive Nuclear Test Ban Treaty. The securing of a comprehensive test ban treaty would be a strong additional step in curbing the arms race. It would establish the U.S. and the U.S.S.R. as leaders in an attempt to slow down the development of nuclear weapons. It would aid in wide acceptance of the nuclear non-proliferation treaty. Finally, and not trivally, it would save a good deal of money.

My personal judgment that there is considerable sentiment within the U.S.S.R. for a test ban treaty so that a positive U.S. initiative would have a real chance of bringing forth a positive response from the U.S.S.R. I deeply hope your resolution receives favorable Senate response and stimulates the President into action.

Sincerely yours,

F. A. LONG.

INTERNATIONAL UNION, UNITED AUTOMOBILE AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW
Washington, D.C., April 23, 1973.

Hon. EDWARD M. KENNEDY,
The U.S. Senate,
Russell Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: The UAW strongly endorses the Senate Comprehensive Nuclear Test Ban Resolution and urges all Senators to support it.

The resolution requests the President to propose "an immediate suspension on underground nuclear testing, to remain in effect so long as the Soviet Union abstains from underground testing," and calls upon him to "set forth promptly a new proposal to the government of the USSR and other nations for a permanent treaty to ban all nuclear tests."

The UAW has long advocated a complete, rather than a partial nuclear test ban. In the words of our 1970 Constitutional Convention Resolution on Peace and Disarmament:

"No less important to the development of a peaceful world is the attainment of a comprehensive test ban treaty between the United States and the Soviet Union. Underground nuclear testing, while resulting in no significant nuclear fallout, does contribute to the further refinement of MIRV and ABM capabilities, and thus adds an extra spurt to the race for first-strike superiority. Only a successful conclusion to SALT can, in our judgment, avoid this race for first-strike superiority."

Much has happened since this resolution was passed to confirm our then-high hopes for peace. A decisive Senate vote in favor of a comprehensive test ban will, we believe, continue the already strong forward movement towards a stable and lasting peace in the world.

Sincerely,

LEONARD WOODCOCK,
President, International Union, UAW.

UNIVERSITY OF CALIFORNIA,
May 8, 1973.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for sending me your May 1 statement supporting a Comprehensive Test Ban Treaty (CTB).

I thoroughly approve and applaud your statement.

Sincerely,

OWEN CHAMBERLAIN,
Professor of Physics.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
Cambridge, Mass., Mar. 9, 1973.

Senator EDWARD M. KENNEDY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: I was very pleased to hear of the introduction, by you and some 30 of your colleagues, of the resolution calling on the President to propose to the Soviet Union an immediate suspension of underground nuclear testing, to remain in effect as long as the Soviet Union is testing.

I believe this is one of the most important measures of arms control on the international agenda. Not only will the cessation of underground testing place an effective inhibition on the race for qualitative improve-

ments in nuclear armaments, thereby enhancing the prospects for fruitful results in the next stage of SALT, but it is perhaps the most useful immediate step that we and the Russians can take to promote adherence to the Non-Proliferation Treaty by the technologically advanced nations that have still not ratified it.

I sincerely commend your initiative in this matter. With best wishes,

Sincerely yours,

BERNARD T. FELD,
Professor of Physics.

LA JOLLA, CALIF.,
March 15, 1973.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I have read the resolution which you introduced and the arguments whch you put forward. Needless to say, I am vey much in favor of all efforts to stop this crazy competition between two great countries who have no reason to undertake any kind of war, especially one involving atomic weapons. Surely the leaders of these two countries should understand that any attempt to initiate an atomic war would be disasterous in the extreme. I have been fearing that some accident will occur and a weapon of some kind will land in our country or in the U.S.S.R., triggering off an enormous exchange of atomic weapons. All efforts that can be made to come to an understanding with the Sovet Union in regard to this matter are of great importance, and I must say that I greatly admire your efforts in attempting to accomplish this.

I wish I could get over the feeling that the Russians are exceedingly tricky, and I greatly deplore their lack of publicity in regard to what they are doing. I do hope that the United States does not play a similar game, but, at the same time, I hope our negotiators are careful in view of the secretive character of our opponent. Possibly we give them the same impression. I would hope not.

Many thanks for your letter, and I would be glad to have you keep me informed of all moves of this kind.

With best regards.

Sincerely,

HAROLD C. UREY.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY,
Cambridge, Mass., March 19, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for sending me a copy of your recent (February 20) statement on a comprehensive nuclear test ban treaty, and for soliciting my comments and endorsement.

I concur wholeheartedly with your arguments and am most pleased to endorse the effort.

I wish you well with it.

Sincerely yours,

G. W. RATHJENS.

LEAGUE OF WOMEN VOTERS
OF THE UNITED STATES,
Washington, D.C., March 14, 1973.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Senate Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR SENATOR FULBRIGHT: Over the years the League of Women Voters has backed various arms control measures under its position supporting international agreements aimed at reducing the risks of war. We have endorsed U.S. ratification of the Nuclear Nonproliferation Treaty, the Geneva Protocol on chemical-biological warfare and the treaty to ban nuclear weapons from the seabed.

Consistent with our past support we now wish to be recorded in favor of S Res 67, which proposes an immediate suspension on underground nuclear testing and prompt negotiation with the Soviet Union and other nations for a permanent treaty to ban all nuclear tests.

League support of efforts to reduce the risk of war evolves from an historic League belief that nations must find means other than war to solve world problems. Changing political balances, emerging areas of mutual interest between the major powers, technical advances in the detection of nuclear blasts, and the development of new weapons systems encourage constant conferences on the various phases of disarmament and arms control. Any agreement reached, however, must include safeguards for U.S. national security and the domestic economy. It is generally held that disarmament is a step-by-step process and that any measure to reduce the risk of war is a step of value, not only in itself but also in creating an atmosphere of mutual confidence in which a disarmed world is possible.

We believe that extension of the partial Test Ban Treaty to include underground testing would be an essential step toward ending the nuclear arms race. It would encourage adherence to the nonproliferation treaty by many potential nuclear powers which are reluctant to forgo nuclear weapons development while testing by the nuclear super powers goes on. It would protect our environment from the venting of radioactive materials, contamination of underground waters and other dangers of nuclear testing.

The League of Women Voters supports U.S. initiatives to negotiate a comprehensive test ban treaty and supports these proposals as vital prerequisites to national security and world peace.

Sincerely,

Mrs. BRUCE B. BENSON,
President.

JOHNS HOPKINS UNIVERSITY
SCHOOL OF MEDICINE,
Baltimore, Md., March 12, 1973.

Senator EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for sending me your resolution urging a comprehensive test ban treaty. As long as unrestricted research and development of nuclear weapons continue, the danger of a holocaust does not diminish and international tensions will remain high. A comprehensive test ban seems the only feasible way at the moment for beginning to achieve some stability and, thereby, taking the first significat step toward removing the growing threat to human survival posed by the nuclear arms race. Therefore, I strongly support the resolution.

Sincerely,

JEROME D. FRANK, M.D.,
Professor of Psychiatry.

UNIVERSITY OF CALIFORNIA, SAN DIEGO,
La Jolla, Calif., March 5, 1973.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Thanks for your letter of February 27, which enclosed a copy of your February 20 statement on a Comprehensive Test Ban. I am personally delighted by your actions in the matter and strongly endorse them.

Enclosed please find a copy of an article on the subject published in last November's *Scientific American.*

There are some other elements of the Qualitative Arms Race which deserve attention also. Some of these, especially those relating to ASW, have been discussed recently by Pete Scoville and by Kosta Tsipis (at MIT). Some others are discussed in a paper of mine to be published shortly in the *Bulletin of the Atomic Scientists;* I'll send a copy along as soon as it is available.

Sincerely,

HERBERT F. YORK.

WASHINGTON, D.C.,
April 26, 1973.

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

DEAR SENATOR MATHIAS: As a principal cosponsor of S. Res. 67, you are no doubt aware of the Ripon Society's past support for attempts to encourage negotiations for a comprehensive nuclear test ban treaty.

Last year, in response to a resolution similar to S. Res. 67, Ripon urged the Administration to actively promote negotiations leading to a test ban treaty. In our statement a copy of which is enclosed, we observed "that a more propitious time for agreement upon such a treaty may not easily be found again."

A year has passed since we issued our statement, and we are not any closer to negotiating a test ban treaty. Therefore, on behalf of The Ripon Society, I want to reiterate our strong support for a comprehensive nuclear test ban treaty.

We wish you and your colleagues every success in your efforts to secure Senate passage of S. Res. 67.

Sincerely,

MICHAEL F. MACLEOD,
National Director.

STATEMENT OF THE RIPON SOCIETY

A renewed willingness to actively pursue the negotiation of a comprehensive nuclear test ban treaty would be in keeping with the best of the foreign policies of the Nixon Administration. A successful treaty would be an important complement to a SALT agreement, and a significant item in the list of initiatives which this administration has undertaken, to reshape the Soviet-U.S. relationship, and even in some respects, the structure of world order.

Such a position is possible and in fact easy, for Mr. Nixon to take. Modern seismic technology can detect and identify all but the trivially smallest seismic events, hence the traditional American position that any agreement must include provisions for on-site inspection, can safely be jettisoned, or at a minimum, substantially modified.

A number of benefits are likely to accrue from a comprehensive test ban treaty. Perhaps the most significant, is that it would act as a substantial brake upon the development of new weapons systems and hence upon the arms race. An important point here is that this brake would be applied at the final development and engineering stages and hence would not necessarily inhibit the early stages of research much, if at all.

Beyond its impact upon the U.S.-Soviet Arms Race, a comprehensive test ban treaty could well serve to bring additional nations to ratify the non-proliferation treaty of 1968, and perhaps even serve to inhibit the atmospheric testing of France and China.

A third benefit of substantial significance is the elimination of the environmental risks inherent in continued underground testing. Among these are the accidental venting of radioactive debris into the atmosphere, which has occurred frequently enough to cause substantial concern; the possible contamination of underground water and/or surrounding earth, which can find its way into rivers and streams and thereby raise radiation levels over broad areas; and finally the not insubstantial risk of triggering earthquakes in some areas.

The costs to United States national security are very small or nonexistent. The warhead stockpile is enormous, the technology is highly sophisticated. It is extremely unlikely that any pressing need to test substantially new warhead technology could be warranted in the foreseeable future, and a working agreement might well preclude that need indefinitely. Furthermore, such treaties can be written with an escape clause, as was the 1963 Limited Test Ban Treaty, whereby pressing dangers to the "supreme national inter-

est" can allow for the abrogation of the treaty.

Beyond arguments over the merits of a comprehensive test ban, it is also important to realize that a more propitious time for agreement to such a treaty may not easily be found again.

The strategic parity between the United States and the Soviet Union may well make the Soviets more likely to agree to such a treaty, than they have been on such matters in the past.

We would therefore strongly urge the Administration to initiate active efforts to reach agreement on a comprehensive Test Ban Treaty, as an important and logical part of its foreign and national security policy.

U.S. SAVINGS BOND DRIVE AT SIMPLICITY MANUFACTURING CO., LEXINGTON, S.C.

Mr. THURMOND. Mr. President, I take great pleasure in reporting that the employees of the Simplicity Manufacturing Co. of Lexington, S.C., have once again achieved 100-percent participation in the annual savings bond drive.

This year's participation of each of the 242 active employees of the plant marks the third consecutive year the Simplicity's Lexington plant has achieved 100-percent enrollment.

I commend the general plant manager, my friend R. J. Kronschnabel, and each of the employees who made this feat possible.

Mr. President, the plant manager, Mr. Kronschnabel, reported this achievement to President Nixon in a letter of May 24, 1973. I ask unanimous consent that this letter be printed in the RECORD.

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

POWERED OUTDOOR
MAINTENANCE EQUIPMENT,
Lexington, S.C., May 24, 1973.

Mr. RICHARD M. NIXON,
The President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: During the week of May 14, 1973, the Simplicity Manufacturing Company Plant, subsidiary of Allis-Chalmers in Lexington, South Carolina, conducted its annual U.S. Savings Bond Drive.

During this period we achieved, for the third consecutive year, 100% participation from our 242 employees.

I feel this demonstrates that each of the 242 employees who made this possible understand the importance of supporting America in her effort to maintain "peace with honor".

Sincerely,

R. J. KRONSCHNABEL,
General Plant Manager.

INDOCHINA—THE CONTINUING WASTE OF THE TAXPAYERS' DOLLAR

Mr. SYMINGTON. Mr. President, an article in the Washington Post this morning highlights a major point brought out in the recent report by Messrs. Lowenstein and Moose of the staff of the Subcommittee on U.S. Security Agreements and Commitments abroad, which I have the honor to chair; namely, that, once again, this administration is spending the taxpayers' money without their knowledge.

The report also reveals that the United States is paying Laotian Air Force pilots not to fly; and is paying heavy sums of money to the Cambodian Government for the salaries of troops that do not exist.

As those who have followed the unfortunate development in Southeast Asia are only too well aware, these are but a few in a series of wasteful and unauthorized expenditures characteristic of the utilization of U.S. funds in that area.

First, we discovered that this Government was paying the salaries of Philippine troops sent to Vietnam in its effort to show that our involvement in that conflict was supported by the Philippine Government.

Subsequently, the American taxpayer learned that he was also paying for the brave Korean troops stationed in Vietnam; and also a large clandestine army of Loatians to counter the threat in that latter country.

Because of the casualties taken by that clandestine army and the reported increase in the threat to Laos, it then became necessary for the United States to pay illegally Thai troops to fight in Laos.

These examples are particularly unfortunate in view of our current economic problems here at home as well as the steadily declining position of the dollar in world money markets.

In our opinion, a large part of our current economic troubles can be traced to this tragic involvement in Southeast Asia.

I ask unanimous consent that the article in question, "United States Pays for Phantom War," be printed in the RECORD.

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

FLIGHTS NOT FLOWN, TROOPS THAT DON'T EXIST—UNITED STATES PAYS FOR PHANTOM WAR

(By Laurence Stern)

The Central Intelligence Agency pays combat flight bonuses to Laotian pilots not to fly combat missions. U.S. military aid pays the salaries of Cambodian soldiers who do not exist.

These are some of the Catch 22-style paradoxes of the American military role in Southeast Asia after the Paris accords and after the U.S. troop withdrawals.

They are cited in a congressional staff study on Laos, Cambodia, Vietnam and Thailand in the aftermath of the peace treaty. The report was prepared for the Senate Foreign Relations Subcommittee on U.S. Commitments Abroad headed by Sen. Stuart Symington (D-Mo.).

The report reflects a somewhat relaxed government sensitivity on programs, U.S. dollar expenditures and special international agreements in Southeast Asia that until recently were heavily battened in secrecy.

The matter of the CIA bonuses for the Laotian pilots is a new quirk of the war's twilight period. It results from the Laotian cease-fire agreements with its stricture against military activity.

"We were told that the Lao Air Force wants to comply with the ceasefire but that the military region commanders, especially in the south, continue to call for air strikes," report the authors of the study. Foreign Relations Committee staff investigators James G. Lowenstein and Richard M. Moose.

"In order to encourage the air force not to fly, therefore, the United States is making monthly lump sum payments to pilots even if no combat missions are flown."

The two investigators confirmed from U.S. authorities that while the CIA once financed Laotian flight salaries from its own budget, the money now comes from the Pentagon and the CIA station in Vientiane acts as paymaster.

The phantom battalion problem in Cambodia goes back to the beginning of the large-scale American military assistance program there more than two years ago.

American military spokesmen in Phnom Penh at first made little of the matter. Later there were studies conducted under U.S. auspices. One senior American military official issued cameras to Cambodian commanders in 1971 to verify the existence of their troops, whose salaries are paid out of U.S. military and economic aid. The cameras were never recovered and the issue never resolved.

Now it is reported by Moose and Lowenstein that "there is no greater mystery than the size of the Cambodian government's armed forces." U.S. estimates of the Khmer Republic fighting force vary, in Washington and Phnom Penh, from 150,000 to 275,000, the report asserts.

The chief of the U.S. military equipment delivery team in Cambodia put the effective strength at 275,700. The defense attache's office put it at 261,518. The Joint Chiefs of Staff briefers in Washington put it between 175,000 and 190,000. State Department officials estimated the Cambodian fighting strength at 150,000.

"PHANTOM" SOLDIERS

Cambodia's minister of information told the Senate investigators that when the Cambodian military payroll had stood at 300,000 there may have been as many as 100,000 "phantom" soldiers.

The underlying concern over the phantom battalions of the Khmer Republic is corruption. Generally the salaries of the phantom troops are pocketed by high-ranking Cambodian military officers, a fact that has been acknowledged both by U.S. and Cambodian authorities.

Another twist of the military payroll problem in Cambodia, according to the report, is the nonpayment of salaries to bona fide soldiers.

"One recent example, which was brought to the attention of the chief of the military equipment delivery team by other embassy officials, involved one entire region in which, as of the second week in April, soldiers had not yet been paid for the month of March," the report says.

Whatever the size of the government army in Cambodia, the report says "all analysts agree" within the U.S. intelligence community that the number of North Vietnamese troops still in Cambodia number about 5,000. Of these only about half are targeted against the forces of the Lon Nol government. The burden of the war against the government has been taken up by the Khmer Rouge (Cambodian Communist) movement.

From a paltry force of some 2,000 when the Indochina war spread to Cambodia in 1970 the Khmer Rouge force has grown to a present strength of about 50,000, according to U.S. intelligence estimates cited in the report.

Of Cambodia, the report says: "The Khmer insurgents are growing in strength and confidence and moving from success to success. The Phnom Penh government, although it has the arms, seems to have neither the resolve nor the skill to contain them. If they cannot, their own fate will be sealed and the balance in South Vietnam could be substantially affected."

U.S. FORCE IN THAILAND

In Thailand, the report asserts, the American military presence has stayed at a level of more than 44,000 personnel—the strength to which it was raised during the Communist spring offensive in South Vietnam last year. Previously the U.S. presence was down, by joint government agreement, to 32,000.

At the same time, the level of U.S. mili-

tary aid to the Thais, widely assumed to be in the range of $60 million annually, was more than twice that amount in fiscal 1972, according to the report.

The additional aid was in the form of special and excess U.S. military equipment designed, as one agreement stated it, to "improve the military readiness and capability of the Royal Thai armed forces."

In the past the primary justification given by administration officials for U.S. military aid to Thailand has been the Communist insurgency in the north and northeast regions of that country. The other rationale, rarely stated publicly by U.S. or Thai officials, was that the military aid was a trade-off for the use of Thailand as a staging ground for the air war in South Vietnam and Laos.

The insurgency has made modest but steady inroads, according to the report. Current U.S. estimates put the total number of armed Communist terrorists in Thailand (population: 35 million) at about 7,500. Of these, some 2,000 Communists in the south are targeted at the Malaysian rather than Thai government.

In the new report, administration censors permitted for the first time publication of the number of Thai "irregular" forces deployed in Laos at U.S. government expense to fight the North Vietnamese and Pathet Lao. As of April that number was 17,330, although it went as high as 21,413 in September, 1972.

THAI "IRREGULARS"

In fiscal 1973 the United States allocated $116.7 million to pay for the Thai expeditionary force in Laos; in fiscal 1974 an additional $107 million is being sought to finance the Thai "irregulars."

Publicly the administration has maintained that the Thais in Laos are volunteers, to avoid problems with a Senate prohibition against U.S. financing of "third-country" military operations in Indochina. But the public fiction of the Thai troops as "volunteers" has worn thin.

As Lowenstein and Moose report: "We learned for the first time that in addition to being recruited, encadred, and paid through the Thai [military] chain of command, the volunteers themselves had all heretofore been Thai who had served in the Thai armed forces."

The staff report drew a severely pessimistic picture of the prospects for genuine peace in South Vietnam.

"If the United States thought that the leaders in Hanoi would abandon their lifelong objectives or that President Thieu would be willing to risk the tenuous security won for him by the United States, we may have miscalculated badly," the investigators asserted.

The prospect ahead in Vietnam over the next year is the option that the North Vietnamese may be forced to choose, failing an effective agreement. The report calls it a "kind of warfare somewhere between low-level harassment and a full-scale offensive . . ."

This has been the posture of the war in South Vietnam for most of the quarter century that it has endured.

NEW TECHNOLOGY IN THE FOREST PRODUCTS INDUSTRY

Mr. PACKWOOD. Mr. President, I reported legislation to the Senate from the Committee on Banking, Housing and Urban Affairs that will serve to restrict the flow of badly needed softwood logs and lumber from our shores.

Price increases in the lumber and plywood market in recent months have prompted the committee to recommend that the Senate act favorably and swiftly in considering the Timber Export Administration Act of 1973, S. 1033.

As desperately needed as this legislation is, it is nevertheless but one step in the direction of increasing the supply of wood products flowing to the American homebuying public. Much more must be done by the Congress and the wood products industry to insure that we, as a Nation, never again run so short of wood products that we witness the spiraling price increases that we have in recent months.

I have just returned from a trip home to meet with my constituents and to discuss their concerns. One of the issues that is consistently raised and discussed in Oregon—the biggest lumber producing State in the Nation—is the future of the forest products industry. It is therefore particularly interesting to note upon my return an excellent article published in a recent issue of The Christian Science Monitor discussing the advances in technological research in the forest products industry.

I would like to share the valuable points raised in this article with my colleagues. I ask unanimous consent that the text of this article be printed in the RECORD.

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

U.S. TIMBER SHORTAGE BUILDS, WITH IMPORTS ALREADY 25 PERCENT

(By John W. Forssen)

MILWAUKEE.—The United States faces an end-of-the-century timber shortage which could rise as high as 20 billion board feet, according to the most urgent projections. That's enough lumber to build some 2 million five-room houses.

For a nation which is already importing 25 percent of its housing and construction lumber, is experiencing balance-of-payment deficits on the world market, and is on the threshold of a minerals' and energy shortage which makes the use of substitute materials impractical, research for solutions is no small matter.

One place that search is being conducted is the Forest Products Laboratory in Madison, Wis. And the results while this research unit of the U.S. Forest Service has produced thus far promise to reshape the lumber and construction industries in the years ahead.

Although broad statistics must remain imprecise, researchers there estimate that the volume of waste generated in American consumption of wood products each year is something between 9 and 11 billion cubic feet.

WASTE MEASURED

More precisely, however, they have measured the difference between the volume of wood in a standing tree and the volume of lumber which the tree will ultimately produce.

Under current operating conditions, they have found that about 50 percent of the tree is left in the forest as logging debris at that time of harvest; and, as the log is processed into sawn lumber, as much as 50 percent of that volume may be left on the milling floor as edging scraps and sawdust.

Disregarding harvesting wastes for the moment, laboratory researchers have developed computerized sawing techniques which could increase the present lumber yield in each log by at least 10 percent.

Labeled "best opening face" by its developers, this process involves the addition of a computer device to existing sawmill equipment, which eliminates the imprecision of human judgment in solving the geometric problem of cutting square board from round logs. The computer has the ability not only to sense the size and shape of each log but simultaneously to determine the cutting pattern which will produce the greatest yield of products.

NEW METHODS DEVISED

Another development, nicknamed EGAR for edge, glue and rip, could increase the product yield by as much as 15 percent.

In this process, boards are cut to desired thickness and then glued into panels which can later be sawn to specification. This eliminates much of the waste created by sawing dimension lumber directly from the log; and, because defects such as knots can be redistributed in the gluing process, a greater volume of high-quality lumber can be produced than when defects must be accepted in a random fashion.

One of the most exciting development, however, is a product known as presslam. Like EGAR this process relies on adhesives but, rather than struggling with the problem of extracting squares from circles, presslam has incorporated the shape of the log into its own design.

In this respect, it is like plywood in that it peels the log on a rotary lathe rather than sawing it. The plies are then glued into panels of desired thickness (unlike plywood, however, the grains of each ply are parallel), which may later be sawn into dimension lumber.

Under test conditions, presslam has not only proved itself equivalent to sawn lumber; it has increased the product yield in each log from an average of 45 percent to 70 percent.

NONPOLLUTING PULP MILL?

In other developments at the laboratory, work is progressing on a non-polluting wood pulping process for paper manufacture, the production of structural lumber from woodchips—and even paper—and, most recently, a process to separate plastic films from waste paper in commercial recycling operations.

Altogether, laboratory researchers believe that if presently available technology were applied, the product yield from current harvesting levels could be increased by as much as 400 percent. That represents two-and-one-half times the volume of product demand which is expected to produce a timber shortage at the end of this century.

Laboratory director Herbert O. Fleishcher cautions, however, that "we are not proposing a cataclysmic change in industry practices.

"As important as the research, itself, is the delicate task of balancing technological advance with the capacity of our social and economic systems to accept change with minimal disruption."

"SELECTIVE GENOCIDE" IN BURUNDI

Mr. CASE. Mr. President, in 1972 tribal warfare of the worst possible sort broke out in the small African country of Burundi. Intelligence estimates within the U.S. Government placed the number slaughtered at over 100,000. An intelligence memorandum circulated within the State Department concluded that—

There is no doubt that the Government [of Burundi] is engaged in selective genocide.

The Carnegie Endowment for International Peace has prepared a long study of what took place in Burundi and of the U.S. reaction to the events. Many controversial judgments are made about the role of the State Department, the Congress, and the Government of Burundi. I have no way of verifying or dis-

proving these judgments. However, I believe that the Carnegie study is a serious attempt to analyze events that demand to be analyzed. The loss of human life was appalling and should not and cannot be ignored because it occurred in a country so obscure that few of us even know of its existence.

While I do not necessarily subscribe to every aspect of the Carnegie study, I believe that it merits the attention of the Senate. If competent authorities wish to present another version of what actually happened, I will be glad to bring their views, too, before the Senate.

Mr. President, I ask unanimous consent that the Carnegie Endowment for International Peace's study entitled "Passing By: The United States and Genocide in Burundi, 1972" be printed in the RECORD.

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

PASSING BY: THE UNITED STATES AND GENOCIDE IN BURUNDI, 1972

(By Michael Bowen, Gary Freeman, Kay Miller)

Through the spring and summer of 1972, in the obscure Central African state of Burundi, there took place the systematic killing of as many as a quarter million people. Even among the awesome calamities of the last decade, the tragedy in Burundi was extraordinary in impact and intensity. Though exact numbers can never by known, most eyewitnesses now agree that over a four-month period men, women and children were savagely murdered at the rate of more than a thousand a day. It was, wrote United Nations observers, a "staggering" disaster.

Based primarily on interviews with responsible officials, this report traces the reaction of the United States Government to genocide in Burundi. It is largely a record of indifference, inertia and irresponsibility in the face of great human suffering.

Though the Department of State knew the enormity of what was happening in Burundi relatively early, it relied upon a diplomacy which had little chance of relieving the tragedy—and which some in the government fully expected to fail. Though that failure soon became obvious, policy-makers then stood by for nearly four months while the killing went on. In the process, they rejected out of hand a proposal within the government to examine unusual and critical American economic support of the Burundian regime presiding over the murders. They ignored as well the findings of the Department's own Legal Advisor for African Affairs regarding the obligations of the U.S. Government under international law. They repeatedly misled the Congress, albeit the appropriate Congressional Committees obliged the deception by failing equally their own responsibilities to oversee policy. When the State Department finally decided to review policy in the fall, after the carnage in Burundi had seemingly run its course, there was even doubt that a private diplomatic expression of Washington's "displeasure" had been conveyed honestly to the Burundian authorities. Publicly, the United States Government never spoke out on the horror in Burundi.

Afterward, among those who took part in these events, there was frustration, division, remorse—and the hope that somehow the episode would never be repeated. Yet the policy toward Burundi raises disturbing questions not only about the reaction of the United States to a single disaster, but also about the capacity of government to respond to humanitarian crisis elsewhere.

BACKGROUND: "IN DEAD BODIES DIRECTLY ATTRIBUTABLE . . . ."

The killings in Burundi in 1972 were rooted in a long history of tribal rivalry. The 14% Tutsi minority, a people known widely outside Africa for their exceptional height, have ruled the 85% Hutu majority since the sixteenth century. There has been recurrent violence among the Tutsi clans competing for power as well as between the two tribes. Forty-two years of Belgian colonial control did little to change that pattern of conflict. Though the Hutu held a formal majority in the Parliament, power remained in the hands of a Tutsi monarchy. In the first four years after independence in 1962, the second and third Prime Ministers of Burundi were assassinated and seven governments came and fell in quick succession. Adding to the tension were events in neighboring Rwanda, where the Hutu, in the same six-to-one majority, had seized power and, in 1964, had killed thousands of Tutsi. Though the two tribes then went on to live together peacefully in Rwanda, the incident left in Burundi large numbers of Tutsi refugees whose fate only deepened the alienation between the regime and the Hutu majority.

In 1966, a young Tutsi officer, Colonel Michel Micombero, overthrew the King in a military *coup*, promised an end to ethnic feuds, and released a number of Hutu political prisoners. "He had a reputation as a moderate," said an American official who dealt with Micombero during the events of 1972, ". . . avoiding bloodshed, this was his record." But also on the record were severe reprisals by Micombero against the Hutu following an abortive uprising in 1965, and six years of unrelenting Tutsi dominance under a military regime. In 1972 there remained a deep tribal division in Burundi, the country's 500,000 Tutsi dominating and fearing the three million Hutu. A senior U.S. diplomat characterized it as a "black apartheid" with "constant pressure for change."

Small, poor, landlocked in a remote corner of Africa, Burundi seemed of little interest to the outside world. Communist China sent an embassy there in the mid-sixties, one of Peking's first missions to Africa, presumably to keep a hand close to the instability then plaguing the Congo (now Zaire) which borders Burundi on the west. Burundi did expel an American Ambassador in 1966, at least in part for his help to a Chinese defector. But the Chinese later had their own embassy expelled and returned to Burundi only in 1972.

U.S. relations with Burundi were generally cooler than with most other African states. The 1966 expulsion was also based on the alleged complicity of the American Embassy in the 1965 *coup* attempt. Though never proven, that charge was an outgrowth, as U.S. officials saw it, of a general suspicion by the ruling Tutsi of the historical friendship between American Protestant missionaries and the repressed Hutu. "Since Catholic missionaries were favored by the Belgians," explained on U.S. analyst, "the Protestants had been sent out to the boondocks. . . . This was just an accident of history; we got the nobodies." And according to one policy-maker, there was some reckoning of American interest in the Hutu majority. "We figured that eventually the Hutu were going to run the country, and it just made good sense to stay close to them," the source recalled. "Of course we didn't think then," he added, "that Micombero was going to embark on the final solution."

To overcome this Tutsi anti-Americanism was the main mission, as he saw it, of the U.S. Ambassador to Burundi, Thomas Melady. Appointed by the Nixon Administration in late 1969, Melady was a non-career ambassador and a prominent Catholic layman who had authored books and articles on Africa. He was, as one of his colleagues put it, "painfully aware of what had brought down his predecessors in the Embassy." By all accounts, Melady was successful in improving relations with the Tutsi. "He had quite a lot of contact with Burundian officials," recalled a Foreign Service Officer who saw his cables to Washington, "and he told them every chance he got that the U.S. was absolutely impartial as between Tutsi and Hutu, that their relations were their own affair, and he apparently got through to them."

But the U.S. relationship with Burundi encompassed more than the diplomatic climate between two governments. For years, American importers have been buying almost the entire output of Burundi's single-crop economy—a mild arabica coffee. The implications of those coffee purchases were extraordinary. From 1967 to 1971, for example, the United States consistently bought more than 80% of the coffee crops, thus accounting for more than 65% of Burundi's export earnings. A backward, precarious economy, tied to a crop extremely vulnerable to production and price variations, was nearly totally dependent on the purchases of a single country. Recent attempts to diversify sales with West Germany and Britain had made little headway. And transport difficulties threatened to make Burundian coffee, as a U.S. Commerce Department report warned, "less attractive" to the American purchasers.

Moreover, for the principal U.S. importer—Folgers Coffee, which is the second largest roaster in the United States and controls some 20% of the world coffee market—the $11–$20 million Burundian crop was desirable largely because it was usually available some weeks ahead of competing Latin American coffees. If coffee exports were vital to Burundi, they were of only marginal importance to the buyer. As a U.S. Government expert on commodity trade summed it up, "Burundi's coffee wouldn't make or break Folgers."

Uncertain as this situation was for Burundi, however, the vagaries of the coffee trade did not affect the people of the country as deeply as the figures might suggest. Though no U.S. Government estimates are available, one academic expert judged that an average of little more than $5 a year reaches the roughly 300,000 family growers, who are mainly Hutu. The remaining millions in coffee earnings go to Tutsi who control the internal marketing mechanism in Burundi. "They dominate the government and the boards and even the cooperative," said one long-time observer, "and then if you think of the taxes that flow back, any way you cut it up the money goes to the people in power, and that's the Tutsi." Another non-government expert corrobated this view. "Ultimately, those properly placed with the government, also, of course, Tutsi, get most of the income derived from foreign exchange," he observed. "Virtually none of it trickles down to the Hutu farmers."

But in the spring of 1972, none of this history seemed especially important—and some of it was apparently unknown—to officials in the State Department's Bureau of African Affairs or in the American Embassy in Burundi. And against the larger background of American foreign policy and relations with Africa in general, the trends seemed to be moving steadily away from U.S. concern with countries such as Burundi. The Nixon Doctrine had postulated a reduction of interest and involvement nearly everywhere on the developing world. In the aftermath of the Vietnam experience, there was a clear national aversion to possible foreign entanglements, and a wariness, in and out of government, of what many saw as a moralism in U.S. policy which had drawn the country into the tragedy in Southeast Asia. In Washington's African policy, all this mingled with a long-standing conviction in the State Department

bureaucracy that the United States—seen by Africans as a rich, white outsider—neither could nor should concern itself with internal affairs on the Continent unless invited by the Africans themselves. Moreover, relations with Africa at this point seemed especially strained in the wake of the passage by the U.S. Congress of the Byrd Amendment, allowing unilateral importation of Rhodesian chrome in violation of UN sanctions against the white-minority regime in Rhodesia. Finally, of course, 1972 was an election year, adding still more to these distractions.

So Burundi remained a quiet backwater in international politics. The coffee trade, down somewhat in 1971, was pointing upward, and there were no diplomatic problems. "Relations between us and Burundi," recalled a U.S. diplomat, "had never been better." Then, suddenly, following an attempted *coup* on the night of April 29–30, Burundi plunged into a frenzy of killing.

The precise origins of the events that ignited the slaughter in Burundi are shrouded in tribal intrigue. The Micombero Government claimed an elaborate Hutu plot, perhaps with foreign involvement, aimed at exterminating the Tutsi. Hutu refugees later portrayed a picture of government provocation of the *coup* as pretext for mass reprisals. In any case, what mattered for the United States was that events moved swiftly beyond the suppression of the April uprising, whatever its character. By mid-May, according to one high U.S. official, "we started getting disturbing reports that the government was not just mopping up the rebels, but trying to punish the whole Hutu tribe." There would be some difference within the bureaucracy on the precise extent of the Burundi Government's direct participation in the slaughter. There was no real doubt, however, that the Micombero regime carried out mass reprisals and condoned, or at least failed to stop, much sporadic killing by individuals. "It was clear the government had a hand in it," admitted an American policy-maker, "because the repression was systematic." "They tried to skim off the cream of the Hutu, to kill every possible Hutu male of distinction over the age of fourteen," said another source who followed the cable reports. Later, in September, an American Universities Field Staff report on Burundi, which U.S. officials uniformly judged accurate, would summarize the extermination of the Hutu elite with the following list of victims:

". . . the four Hutu members of the cabinet, all the Hutu officers and virtually all the Hutu soldiers in the armed forces; half of Burundi's primary school teachers; and thousands of civil servants, bank clerks, small businessmen, and domestic servants; At present (August) there is only one Hutu nurse left in the entire country, and only a thousand secondary school students survive."

By the last week in May, the U.S. Government had what one observer in the White House remembers as the most "vivid" reports of "massive" killing in Burundi, including executions by hammer and nails when army units ran short of ammunition. Intelligence estimates in the Department of State now placed Tutsi casualties in the initial *coup* in the hundreds and Huto dead from reprisals above 100,000. "By the end of May," said a key Congressional aide, "we knew it was genocide from officially classified information from the State Department."

The murders went on through June, July and August, and the evidence gathered. The Prime Minister of Belgium had told his cabinet as early as May 19 that the reprisals in Burundi had become "veritable genocide," an assessment duly reported to Washington by the U.S. Embassy in Brussels. By June, the term "genocide," a word used sparingly in the language of officialdom, had begun to appear in internal State Department cables and memoranda. A June 21 telegram from the U.S. Embassy in Burundi, later published in the *New York Times*, reported "selective genocide," and described burial alive, the "summary" slaughter of returning refugees promised safe conduct, and executions not only of the Hutu elite, but also of the "masses of villagers and refugees throughout the country." At about the same time, an Intelligence memorandum circulated within the State Department concluded that, "There is no doubt the Government [in Burundi] is engaged in selective genocide."

In addition to these official reports, chilling eyewitness accounts of the tragedy had begun to appear in the European press late in May and were routinely cabled to the State Department by embassies in Paris and Brussels. Three weeks later, correspondents from the *New York Times* and *Washington Post* were finally admitted to Burundi and filed first-hand stories. Though the reporters were carefully briefed and escorted by the Micombero regime, their dispatches only bore out the picture already formed in official telegrams and other intelligence accumulating in Washington. The Tutsi regime, reported Jonathan Randal of the *Post* on June 11, was "systematically killing the elite of their former Hutu serfs in what can only be termed genocide."

These news stories, added to information already given to Senator Edward M. Kennedy's refugee subcommittee by private sources and in State Department briefings requested by the subcommittee staff, prompted the first (and nearly the last) serious Congressional interest in the Burundi massacres. On June 12, Senator John Tunney (D-Calif.) introduced "Sense of the Senate" resolutions urging a U.S. request for investigations by both the United Nations and the Organization of African Unity. Kennedy, telling the Senate that the Hutu were being "slaughtered at the rate of nearly 3,000 per day," asked, "Should not governments condemn the killings?" Neither the Senate nor the House responded to these statements. Only Kennedy would raise the issue again briefly in the Senate. And after a few days of notoriety in June, Burundi largely disappeared also from the media.

Meanwhile, in the State Department, by June inundated with reports of genocide from numerous sources, including the U.S. Embassy, there was puzzlement that public attention should now flag while the killings continued. "You wonder why this was," said an official looking back on the June events, "in terms of dead bodies directly attributable to the central government, I'm sure the Burundians outdid anyone in Africa."

DIPLOMACY I: ". . . NO REAL RESPONSE"

Almost from the outbreak of violence, then, the United States Government had substantial and constantly growing intelligence on the extraordinary humanitarian crisis unfolding in Burundi. There was evidence, at least for a time, of Congressional concern. But at the same time there would also be equally clear indications of the indifference of other countries, particularly the Africans, toward the disaster. And the policy the State Department now followed from May through July mirrored the indifference.

Although the crisis broke only three weeks before Ambassador Melady was due to be transferred to a new post in Uganda, he directed the initial U.S. response on the scene. Melady used his ambassadorial authority to suspend the United States' $500,000/yr. "self-help" aid program with Burundi, and immediately ordered large amounts of emergency aid, such as vaccines and bandages. "Melady'd had experience with this," a State Department officer noted. "He said get the aid, get it in there, don't worry about assurances, just get it in there. So Micombero had the aid and he had the missionaries asking for it, and he pretty much had to give it to them."

Melady also met personally with Micombero early in May. The U.S. Ambassador reportedly "impressed on Micombero the necessity of avoiding undue bloodshed" and got in return, as would his Belgian and French colleagues, assurances that the killings were over. "He kept getting promises that weren't being kept," one source remembered. Days later, amid still gathering reports of atrocities, Melady was instrumental in drafting a letter to Micombero from the Papal Nuncio on behalf of several diplomatic missions in Burundi. "It was a low key thing, saying we were concerned with their difficulties," said an official who reviewed the *demarche* in Washington, "but he [Micombero] knew what we were talking about, he knows we aren't stupid." Another official, however, remembered the letter as "tactful . . . and it got no real response."

Then on May 25, despite the growing evidence of a major catastrophe, despite Melady's carefully nurtured relationship with the Micombero regime and his experience in the country, the U.S. Ambassador routinely left Burundi, as scheduled earlier, for reassignment as envoy to Uganda. Why the State Department should have taken this extraordinary step—whether problems in Uganda involving the deportation of Asians were deliberately judged more important than the killings in Burundi, whether Melady was the only one qualified for the Ugandan post, or whether the personnel workings of the Department simply proceeded without reference to events—remains one of the puzzles of the Burundi episode. In any case, Melady's departure for his new assignment marked the end, for over three months, of direct initiatives by the United States toward the Government of Burundi. Even when questions arose about the misuse of the American aid—including the suspicion, later confirmed, that relief food and medicines were used to lure Hutu to their deaths—there would be no protest or formal inquiry by the U.S. Embassy. With Melady's departure at the end of May, the Embassy passed to the *Charge d'Affaires*, Michael Hoyt, a career officer with broad African experience who, by all accounts, continued the "vivid" reporting that kept Washington so well informed of the continuing nightmare in Burundi through the summer. It would be Hoyt's June 21 telegram on "selective genocide" that would momentarily revive the Burundi issue in the press when leaked to the *New York Times*.

But by the end of May, American diplomacy shifted abruptly away from direct contact with the Micombero regime to U.S. efforts to involve the Organization of African Unity, various African heads of state, and the United Nations. In a sense, this diplomacy was another routine step for the United States in the face of civil strife in Burundi. "Naturally you try to get the Africans and the UN to cope with this kind of disaster," said one former official, "not only since they're likely to have more influence, but also because we want to encourage an international sense of responsibility in dealing with human rights. The tough choice comes when that doesn't work." That "tough choice" came early in the Burundi crisis. None of the efforts to involve the Africans would be successful. And the failure, on the basis of what the U.S. Government knew about the organizations and leaders involved, might have been expected. In some quarters, it was.

Nearly all its members haunted by common problems of tribalism and national unity, the OAU had by 1972 acquired a long and frustrating history of unwillingness to become involved in the internal strife of member states. It was a history familiar to U.S. officials. "So whenever a problem like that arises," said one U.S. Government expert, "they just keep their hands off." The limits to what the OAU could or would do in Burundi were clear "very early," one U.S.

policy-maker acknowledged. On May 22, OAU Secretary-General Diallo Telli had visited Burundi and publicly declared "solidarity" with Micombero. Then, at the OAU Summit in Rabat in late June, the Organization's Council of Ministers sent Micombero what amounted to a message supporting the repression:

"The Council of Ministers of the OAU has listened with interest to the presentation of your delegation concerning the events in Burundi. The Council of Ministers is convinced that, thanks to your saving action, peace will be rapidly reestablished, national unity will be consolidated, and territorial integrity will be preserved."

As some U.S. officials described it later, the State Department's ostensible reliance on the OAU in the Burundi crisis was at least tinged by some element of cynicism. "The OAU never had a chance of acting . . . and we knew beforehand they would be the last organization to take any member nations to task," said one Foreign Service Officer. "The OAU did nothing," admitted another source, "but it was the main channel of our approach."

U.S. efforts to persuade individual African heads-of-state to intercede in the crisis proved as fruitless as the approach to the OAU had. The State Department asked leaders of the two largest countries bordering Burundi, President Mobutu of Zaire and Prime Minister Nyerere of Tanzania to speak to Micombero. Both did. Nyerere, it seems, addressed the Burundian emphatically enough that, according to a report received in Washington, "Micombero's face was strained when they came out." American policymakers had to content themselves with Micombero's discomfiture, however: the killing continued unabated, despite the conversations.

U.S. officials were not particularly surprised by this failure. They pointed out that Mobutu was anxious to maintain good relations with Burundi, in order to frustrate Zairean rebels who had in the past successfully sought sanctuary there. Mobutu had expressed this anxiety clearly, moreover, in the early days of the crisis. "The quick appearance of Zairean troops [in Burundi] was crucial," explained one analyst. "They pretty much restored the self-confidence of the Burundi Government. Then, when Micombero rather precipitously asked them to leave, they left right away, which surprised us." These same officials observed that Nyerere's vantage point *vis-a-vis* Micombero was scarcely better than Mobutu's. "Nyerere felt like he had too much of a liberal image," one of them remembered. "He was afraid if he sounded off he wouldn't have too many friends left." Further under-cutting Nyerere's position was the fact that one group of rebels in the April 29 attack had "come over from Tanzania, where they'd been accumulating for years."

A similar attempt to persuade President Kenyata of Kenya to denounce the killings got nowhere. "We also went to Kenyatta," observed a senior U.S. official, "but he did nothing, which is usual for him. If Kenya can stay uninvolved, that's the way he likes it."

In any event, the State Department never fully informed the U.S. Embassy in Burundi of the approaches to African leaders on which U.S. policy was supposedly based. "I really don't know which leaders contacted Micombero," admitted a political officer who served in Burundi during the crisis.

Nor, according to those who were there, was the Embassy seriously consulted about the United Nations action, on which Washington came to rely heavily by late June when the futility of other avenues had proved so obvious. Colleagues say Hoyt did not see until his return to Washington in late August the reports of the UN observer teams sent in June.

There are conflicting versions of how the UN became involved. To some U.S. officials, it was a familiar case of Washington having to prod the lethargic UN bureaucracy into doing its job. Other observers saw in the Burundi case a new regime at work in the UN Secretariat in the persons of Secretary-General Kurt Waldheim and Bradford Morse, the newly-appointed American Undersecretary-General. It was Morse, these sources say, who was deeply shocked by the first reports from Burundi and persuaded Waldheim to take the extraordinary step of flying to the OAU Summit to press for UN observer missions to Burundi. "The U.S. certainly didn't do any initiating or persuading with us," said a UN aide. "They were falling over themselves to find out what we had decided to do."

Washington had apparently banked on UN observers constituting what one official described as "a foreign presence that would be likely to halt the massive killings." But when the two missions were limited to only five persons, that expectation evaporated. "We had no illusions about what the UN could accomplish," admitted a high U.S. official later.

At any rate, the UN missions went to Burundi in late June and again at the end of July. And despite solicitous treatment by Micombero's government and the cross-currents of UN politics which kept their reports from publication, their findings were the basis for one of the few statements made in the international community on Burundi bloodbath. At a press conference in Geneva on July 4, Secretary-General Waldheim confirmed that the first UN team had found awful suffering and that the dead might number as high as 200,000. To that announcement, there was angry rebuttal in Burundi and silence among the African states. There was no comment in Washington.

Nor was there an audible reaction elsewhere to events in Burundi. After a brief outcry in the French Assembly stirred by press reports, there would be nothing more from the French Government. In Europe, only the Belgians, the former colonial power, would speak out to condemn the genocide and withdraw all military and economic aid to Burundi. Whether in deference to the African refusal to intercede, or because the slaughter was largely unreported outside the American and European press, no other governments raised the issue in the UN or in any other forum.

Meanwhile, all the futile U.S. attempts to involve others—the lobbying of the OAU, the urgings to African leaders, the talk of a United Nations presence—had consumed deadly weeks in May and June and July, weeks when the trucks loaded with corpses kept passing the American Embassy in Bujumbura, weeks when cables to Washington continued to chronicle an unrelieved tragedy. To the press inquiries in June, U.S. officials replied that they refused to play a "numbers game." There was no exact information on the dead, they claimed. Reports of genocide in Africa had been exaggerated before; why not in Burundi too? To Senator Kennedy in mid-June there were assurances that "the civil strife has ended," though the details composing Hoyt's "selective genocide" cable a week later were reportedly already in intelligence circulating in the State Department's African Bureau.

As days wore on in July, there would be no new initiatives, no new policies to replace the approaches which had proven hopeless in June. Government officials went on assuming that their choices were severely circumscribed. In a case like Burundi, said one high-level official, "you do what you can." And in July, as throughout the crisis, policymakers remained convinced that the United States could only do what other African states approved. For a bureaucracy which conceived its day-to-day job as the maintenance of untroubled relations with African governments, an independent American response to the Burundi killings threatened that mission. "If we'd involved ourselves in this," said an official, "we'd be creamed by every country in Africa for butting into an African state's internal affairs. We don't have an interest in Burundi that justified taking that kind of flack."

Beyond this bureaucratic impulse to avoid a potential clash with one's "clients", however, seems to have been another, equally strong inhibition. Though they rarely articulate it outside official circles, U.S. diplomats apparently saw themselves disarmed in Burundi by the racial overtones peculiar to U.S. relations with proud newly sovereign black states. One senior official explained, "Most of them [Africans] responded to the crisis not on humanitarian lines, but in terms of Africa's image and the political effects of the situation on other African states." A State Department which watched African aid programs dwindling in the U.S. Congress, and which saw a growing public indifference in the U.S. to a region earlier thought important, shared that African concern with "image" and the embarrassment to the whole Continent in the savagery in Burundi. Also, the same State Department might well have felt most acutely the irony of a U.S. position against violence in Burundi when African states were still witnessing the air war in Southeast Asia.

Whatever the mixture of motives—and they were undoubtedly complex—the U.S. Government found reasons in the summer of 1972 to forego any real response to genocide in Burundi. But stifled in the State Department bureaucracy was another option, and quite another view of responsibility.

THE COFFEE OPTION

Two State Department officials were principally responsible for the policy of the United States toward Burundi in 1972. All sources agree that Assistant Secretary David D. Newsom and, under him, the Country Director for Central African Affairs, Herman Cohen, made the crucial decisions. Both were senior career officers in the Foreign Service. Newsom had presided over the African Bureau since the summer of 1969. Newsom's superior, Secretary of State William P. Rogers, was said to have received summary briefings on events in Burundi, and left matters to the African Bureau. And, though they were routinely informed by Newsom and received all cables, members of the White House Staff apparently did not play a decisive role in the Burundi diplomacy. "Our people were not involved," said an aide to Henry Kissinger, and State Department sources confirm that Burundi was thus a rare instance in the Nixon Administration of foreign policy originating and staying with the bureaucracy. When Ambassador Melady returned to Washington late in May, he consulted with Newsom and Cohen before going on to his new assignment in Uganda. Informants on those meetings recall that Melady talked chiefly about internal conditions in Burundi—his surprise at the depth of tribal hatreds now come to the surface and his pessimism about future Tutsi-Hutu relations—but that there was no debate on American policy. There are hints that subsequently Hoyt may have been at odds with policy, if only between the lines of his cables from Burundi. "He recommended more than was accepted," said one close observer. There is no evidence, however, that the Embassy ever openly objected to the posture adopted by Washington.

It was in this setting that the decisions were taken before the end of May to leave the crisis, in effect, to the OAU, a few African leaders, and the UN—and later, through July and August, to persist in that policy though whatever cadres it might have held for relieving the continuing tragedy had obviously been exhausted. Yet at some point

still early in the summer, perhaps the last week in June in the wake of Hoyt's "selective genocide" cable, there was an alternative policy suggested within the State Department—an embargo, or threatened embargo, on the significant American purchases of Burundian coffee. The exact details of that coffee option are still secret and its author anonymous. But it is possible to reconstruct from various sources the actions and results it contemplated and, most telling, how it was treated in the decision-making process.

There were various ways to stop American imports of Burundian coffee. Most of the 80% of Burundian coffee going to the United States is harvested late in the crop year. Marketed under regulations of the International Coffee Convention of 1968 which imposed sales quotas for certain periods, the coffee had been sold only under a formal waiver voted by the buyer and seller member nations of the Convention. As a major coffee consumer with 40% of buyer votes in such cases, the United States would have had the power to veto the annual Burundian request for a waiver when it was made in August 1972. Or, instead of invoking an international embargo restricting other buyers who were party to the Convention, the United States Government might have unilaterally embargoed Burundi's coffee through Presidential authority granted by the Congress. Short of legal action, the U.S. Government might simply have sought to persuade the American importer, Folgers Coffee, to forego purchases of Burundian coffee voluntarily.

Whatever the means of embargo, Washington could have threatened it, or imposed it temporarily, in an effort to pressure the Micombero regime to try to stop the killings. Failing that, the U.S. could have applied an embargo purely to dissociate itself from any material support—in this case, major support—of a regime engaged in massive violations of human rights. As one reader recalled it, the memorandum suggesting coffee sanctions included diplomatic "scenarios" for both a threat to stop purchases and an actual embargo.

Of the potential impact of a coffee embargo on Burundi, knowledgeable sources had little doubt. "It would be devastating, it would be a disaster economically," said a former Ambassador to Burundi. "Coffee's their lifeline," stressed a World Bank expert on Burundi, "they'd go bust." There was skepticism within the State Department, however, that any outside effort could have restrained the Micombero regime in the 1972 murders. "The first consideration of the Government there is always to maintain the Tutsi in power and the Hutu in subjugation. Everything else is secondary," cautioned one policy-maker. Yet the same official confessed that foreign money had influenced Burundi's policies in the past. "Mobutu wanted to put a stop to Burundi's use as a staging area for Congolese rebels," he said, "and he accomplished this by the simple expedient of buying off Micombero. Burundi's a small country and it didn't take much money to make an impression."

But the importance of the coffee sanctions proposed in the State Department was not the specific actions involved, the tactics, or even whether an embargo assured an end to the slaughter. What is most significant is that the coffee proposal simply never received a serious hearing by those making policy. The coffee trade, the main component of U.S. relations with Burundi, had apparently never even been discussed in the early policy-making in May. Then, as one source remembered the unsolicited proposal, "One guy around here suggested that 80% of Burundi's foreign coffee sales are to this country . . ." Even then, presented with an alternative course when every other approach had failed and the human toll in Burundi was continuing to mount, responsible officials seem to have dismissed a change in policy almost instinctively, without examining the facts.

"If we went to Kansas City and asked the company there to stop buying for moral reasons, "argued one senior official, "they'd tell us to go to hell." Though executives at Folgers Coffee routinely decline comment on any private contacts, there is no indication that the Government ever approached the company regarding Burundi. Company managers at Folgers also refused to speculate on what their response might have been in the event of a government request for a voluntary embargo. But commodity experts in the State Department were well aware that the Burundi crop was a marginal purchase for Folgers. One company source emphasized that there would have been no corporate effort to influence a government decision either way. "We don't have that kind of power," said an executive. Moreover, the Nixon Administration would have enjoyed ready access to discuss Burundi with Folgers, had it tried. Bryce Harlow, a former Counsellor to the President and long-time political supporter, is in charge of public and governmental affairs for Procter and Gamble, the parent company of Folgers.

There seems to have been, moreover, a crucial misconception about the potential impact of a coffee embargo on Burundi. "You can't wreck 80% of a country's economy when you don't have a real interest involved," concluded an official. Yet academic experts knew, if the U.S. Government did not, that the coffee trade affected mainly the fortunes of the Tutsi elite and ultimately financial base of the Micombero regime, with little impact on the vast majority of Burundians. And at no point in the crisis, according to those involved, did the Department of State consult the Embassy in Burundi for an assessment of the coffee option, its impact and chances for success. Colleagues said Hoyt learned of the coffee proposal, as of the findings of the UN report, only after he returned to Washington in August.

In the grip of tribal fear and the sheer momentum of the killing, the Micombero Government might well have ignored international pressure, however punishing. Burundi might have found other buyers—despite the uncertainty of supply amid internal disorders. The United States might only have foregone coffee purchases "for moral reasons" without shortening the slaughter. Folgers might have refused to accept a voluntary embargo for strictly humanitarian purposes. In the end, the U.S. Government might have explored and debated all the realities, and decided, in a deliberate fashion, to reject any effort at coffee sanctions. For that matter, Washington might even have concluded, on the advice of the African Bureau, that it was in no position to levy sanctions on Burundi when the Byrd Amendment had unilaterally abrogated UN sanctions against a white majority regime in Rhodesia. But that is scarcely what happened.

Neither the press nor the Congress raised the issue of coffee purchases from Burundi. The only reference to the subject came in a poignant letter to the *New York Times* from a former Peace Corps volunteer in Burundi, Jeff Lang, who was now watching events from Zaire. Published on August 16, the letter said in part:

"* * * What is so disheartening is that these killings could be so easily stopped. Simply publicizing the truth can go a long way, but economic pressure cannot fail. The United States holds the key to the situation as the buyer of 80% of Burundi's coffee, its only cash crop. A country so poor as to execute people with hammer blows to the head in order to save bullets certainly couldn't resist any serious economic sanction against it."

The epitaph on the coffee option was spoken several months later by a high official when asked if he had seen the memorandum. "I am aware that that was suggested," he replied. "I can't say that it was taken too seriously."

THE HUMAN RIGHTS MEMORANDUM

On August 31, 1972, as the carnage in Burundi went into its fourth month, the State Department's Assistant Legal Advisor for African Affairs circulated the memorandum which appears in the appendix of this report. Written, it said, "to meet a need (evident in recent messages to and from the field) for a general awareness of the current obligations of the U.S. Government in the area of human rights,"—or, as one source put it, "to jar some people into thinking about this problem"—the memorandum argued on precedents of international law that the United States had a binding legal responsibility to uphold human rights wherever there were no "overriding political constraints." Though "political realities" might dictate inaction by the U.S. in some cases, and thus "uneven responses" on human rights questions in general, the memorandum went on, "such expediency cannot justify U.S. action reinforcing disregard for human rights, since this would violate the U.S. Government's international legal obligations." The memo concluded that those obligations were "a reality (not just theoretical language) that must be taken into account in devising and executing policy."

Though it never mentioned Burundi specifically, that memorandum was clearly written in response to the African Bureau's policy toward the tragedy. Sources say the author, B. Keith Huffman, wrote it "because he saw a cable going out that he didn't like." The memo does cite as "contrary" to U.S. obligations a "hypothetical example" of a U.S. Ambassador assuring a foreign leader that torture of political prisoners was exclusively his internal affair. And the cable that provoked Huffman may have dealt with similar U.S. indications to Burundi that events were strictly internal concerns. In practical terms, the memorandum suggested only that the United States avoid any statement to Burundi that would tend to "reinforce" human rights abuses. But as with the coffee option, the substance of the human rights memorandum had little bearing on how it was treated in the bureaucracy.

Just as there were no consultations with the Embassy or Folgers on coffee sanctions, at no point in the crisis did policy-makers invite the Legal Advisor's Office to prepare an opinion on whether events in Burundi constituted genocide or any lesser violation of human rights. The human rights memorandum—as the coffee proposal—appeared, unsolicited, several weeks after the first deliberations on policy in May. Written to discuss the legal basis of U.S. actions, it was, revealingly, one of the last policy documents produced in the crisis. About what was happening in Burundi, officials seemed certain without recourse to international law or treaties. "It is not and never has been the policy of the United States Government that Burundi could be fairly accused of genocide," said one authoritative source. His continuing explanation is worth quoting in full:

"Genocide is a specific, legal term with a precise meaning. It boils down to trying to kill a whole people. The Burundi Government didn't try to do that; they couldn't. You can't kill off 80% of your population. Perhaps they engaged in mass murder; they weren't guilty of genocide."

Other officials admitted seeing the human rights memorandum, but regarded it as simply irrelevant, given the diplomatic restraints on U.S. policy. "The OAU didn't see it that way," said one. "If the African countries don't want to get involved, where do we get off

putting our nose in?" demanded another. "The U.S. simply has no real interest involved in Burundi, other than moral indignation, and that's not enough."

There would be no debate in the U.S. Government, in the summer of 1972 or later, on the issue of human rights in Burundi. Throughout the crisis, awaiting confirmation in the Senate with full Administration support, was the International Genocide Convention, which defined genocide specifically as "acts committed with *intent* to destroy, in whole or in part, a national, ethnical, racial or religious group . . ." [emphasis added]—an exact description, by all accounts, of what the American Embassy had been reporting from Burundi since mid-May. The human rights memorandum reportedly reached the desks of the responsible officers in the African Bureau, but apparently left little impression. "Frankly," said one official to whom the memo was given, "I don't recall seeing it. It was obviously an important question, but in dealing with a situation like Burundi you're limited by what is not possible."

Emphatic expressions of one country's opposition to the policies of another, of course, do not occur in a vacuum. Overhanging the actions contemplated by the human rights memorandum and the coffee option was the threat of retaliation by the Burundi Government. That retaliation could have ranged from public protests through severance of diplomatic relations to threats to the lives and safety of the some 150 American citizens in Burundi.

There seemed, in fact, to be a danger to foreign nationals at one point in early May. European radio accounts of the repression which cited English clerics as sources had created such hostility that, as one State Department official recalled, "We warned the Brits that this might cost them a few missionaries." Yet, this soon proved to be an isolated danger. The Burundians took care throughout the repression not to harm foreign nationals. A well-informed Department of State officer affirmed that "the American mission *never* reported that the lives of American nationals were endangered." Further, the United States had before it early in the summer the example of Belgium, which in May publicly condemned the Burundi killings and withdrew substantial military and economic aid. "There was never any indication that our nationals were in danger," a Belgian official noted.

Had it wished to protect the lives of its citizens while maintaining complete freedom of action, of course, the United States could have evacuated the relatively small American community from Burundi as soon as the scope of the reprisals became known. Such a dramatic step was never imagined—the question reportedly received little or no official attention—because the United States at no time considered a response to the crisis which might have required it.

DIPLOMACY II: "DISPLEASURE . . ."

The rejection of the coffee sanctions and human rights argument took place, after a brief indication of interest in the Tunney and Kennedy speeches in early June, amid obvious Congressional indifference to events in Burundi. Despite dramatic press accounts of mass atrocities, the Tunney resolutions received only the most perfunctory attention from the Senate Foreign Relations Committee, which routinely forwarded them to the State Department for comment. On June 23, however, the Committee had an exceptional opportunity to inform itself and the American public on the gathering disaster in Central Africa when Robert Yost, a career officer nominated to succeed Melady, appeared for his confirmation hearing. The transcript of that hearing, against a background of enormous human suffering, might be required reading for all those concerned with the failure of Congress to meet its responsibilities in foreign affairs. (The transcript is attached to this report.) Committee Chairman William Fulbright began the questioning:

FULBRIGHT. We have been hearing a lot about activities down there. Some of them sound very ominous about the civil strife. Could you tell us a little about that?

YOST. Well, sir, this is something that I am obviously going to have to look into very closely when I get there. There have been a number of serious reports in the newspapers. . . .

Senator McGee, Chairman of the Senate Subcommittee on African Affairs, then joined the questioning. Allowing that the trouble had been gathering at least since his visit to Burundi in 1971, McGee offered his assessment of the cause of the violence:

MCGEE. And this is likely to continue with the brutality between them. We saw people whose legs had been cut off because they were the tall ones. They simply wanted to equalize the size. . . .

This elicited from the Chairman the following view of the American response:

FULBRIGHT. Well, if he [Yost] gets into trouble he can go down and Mr. Carter [nominee for Ambassador to Tanzania also present for confirmation] will help him out. . . .

MCGEE. Carter can speak for the tall ones and you can speak for the short ones and we will have a happy compromise. I have no questions.

Neither did anyone else.

In the House Subcommittee for African Affairs, which has monitored closely the policies of the Nixon Administration toward the white-ruled regimes of Southern Africa, there would be no interest in Burundi. Though concerned about a "rational foreign policy in Africa," said a source, the House Subcommittee Staff was, in the summer of 1972, "too busy to watch Burundi." In the only mention of Burundi on the floor of the U.S. House of Representatives, Congressman John R. Rarick (D-La.), a frequent critic of both the subcommittee on African Affairs and the State Department, saw another explanation for the lack of concern. "The usual antagonists of so-called minority rule in Africa," said the Congressman on June 1, "have been conspicuous by their silence as to the mass slaughters of an estimated 50,000 people in the African tribal state of Burundi. Perhaps the reason for the silence is that Burundi is a minority-controlled government favored by the usually vocal opponents of minority controlled governments in Africa."

On June 26, responding to the cable on "selective genocide" which appeared in the *New York Times* the day after Yost's confirmation, Kennedy made his last Senate remarks on Burundi, charging "an effort is being made some quarters to cover up another world tragedy. . . ." Five days later, Kennedy wrote Secretary Rogers requesting information and urging a U.S. public statement on the disaster. The Kennedy subcommittee staff released official reports to the *Washington Post* on August 5 which described "systematic elimination" of the Hutu. And then the issue disappeared from the *Congressional Record*.

The final sequel with the Congress was played out late in August when the State Department formally replied to Kennedy and to the Senate Foreign Relations Committee regarding the Tunney resolutions. The identical letters, attached to this report, told of $150,000 in U.S. relief contributions, but indicated that more relief depended on "adequate guarantees" that it would actually go to the victims. There were references to the Papal Nuncio letter and to U.S. approaches to the OAU and African leaders, with the conclusion only that the OAU "chose not to intervene in what they considered to be the internal affairs of another African state." There was also the implication that the United States had helped initiate the United Nations missions. But the only indication of casualties was the figure 80,000 which had earlier been released by the Burundian Government. When these letters were written to Senators Kennedy and Fulbright, sources say, the State Department had authoritative intelligence that the death toll in Burundi was two to three times that number. The United States had avoided "taking a public position" on the murders, the letters said, "for fear that it might jeopardize the catalytic and supportive efforts we are making." This was sent to the Senators, some sources indicated, at least two months after the last United States approaches to the OAU and African leaders. The Department would "continue," the letters concluded, "to seek opportunities to contribute to the alleviation of human suffering" in Burundi. To that, there would be no further Congressional response.

During July and August, as the letters to Congress only hinted, the situation in Burundi grew steadily worse. The first UN team estimated 500,000 people in need of emergency aid. The exodus of refugees into neighboring countries swelled toward 70,000. Secretary-General Waldheim announced on July 28 that "the proportions of the human tragedy which the people of Burundi are experiencing are staggering." On August 18, the State Department revealed, in an announcement of $100,000 aid contribution for refugees, that Newsom's deputy had seen the Burundian Ambassador the day before. The U.S. official, it was said, "expressed our deep concern over this tragedy as has been done on previous occasions, and our hope that stability soon will be restored in Burundi." At the same time, the various relief agencies involved—principally the International Red Cross and Catholic Relief Services—were continually denied access to various parts of the country, and the Red Cross eventually left in protest.

It was at this juncture, late August-early September, that it was finally decided to "review" American policy toward Burundi. There would be contradictions later about the timing of the review in relation to the course of genocide in Burundi. One senior official claimed that the killings had all but stopped by mid-August. Another explained that the decision to review policy came because of "a conclusion reached here that the repression was continuing, that there was no evidence of national reconciliation." Some sources say the murders went on in great numbers through the autumn. In any event, after inter-agency meetings including the White House Staff, and the approval of Secretary Rogers and ultimately President Nixon, the United States adopted a policy, as officials described it, of "general restraint" toward Burundi. On September 28, 1972, over four months and tens of thousands of lives since the first evidence of genocide in Burundi had been cabled to Washington, the U.S. Ambassador was recalled. The recall was ordered, as one source put it, "to give point to our displeasure." But Yost, who had dutifully reported to Burundi in August, was not then instructed to inform Micombero of the policy change, nor was there ever a public announcement. Instead, Newsom secretly called in the Burundian Ambassador, Terence Nsanz, to tell him that "normal relations were impossible," implying a continued suspension of the aid which Melady had earlier halted anyway. Coffee was not mentioned.

Even after this conversation, there was uncertainty that the private "displeasure" had been communicated to Micombero. Less than two months after his recall, Ambassador Yost was ordered back to Burundi. "We finally sent him back to Burundi to make sure that Micombero got the message," said a high-ranking official, "to make sure that Nsanz hadn't

lied to him which was within the realm of possibility."

The policy review was approved by the President, said State Department sources, only because Secretary Rogers was "able to make President Nixon focus on this in the wake of the Munich tragedy in the context of international atrocities." But if the quiet rebuke delivered to Nsanz, with such uncertain results, was part of a concerted Presidential policy, there was little trace of that in what followed. By the end of the year, the disaster relief office of AID would conclude that: "In human terms, Burundi was the worst disaster to occur in 1972." In the African Bureau, however, there was the expectation that diplomatic business would revert to the familiar pattern. "Our relations are now cold," said an official in February 1973. "After a suitable time has elapsed, we'll seek to normalize them." Another diplomat characterized the ultimate U.S. response to the tragedy in these words: "It depends on what you mean by normal relations. I mean our Embassy's still there, everyone goes to work in the morning, we haven't broken off relations or anything . . . but we expressed our grave concern."

CONCLUSION: ". . . A LOWER THRESHHOLD"

When it was over, there would be a growing sense among some in the U.S. Government who had worked through it that the tragedy in Burundi had been unique in many ways. Not only was the human cost extraordinary, the savagery shocking, the suffering still so deep. It had also been one of those rare episodes in recent American foreign policy in which the ostensible humanitarian concern of the United States had not collided with competing interests. In Bangladesh, the human disaster had been subordinated to Washington's relationship with Pakistan and the tangled secret diplomacy with Peking. In Biafra, relief seemed choked not only by the politics of a civil war, but also by a State Department policy which placed more value on good relations with the regime in Federal Nigeria. Yet there appeared to be no comparable interests in Burundi to weigh against the human factor.

Without these customary rationalizations, the questions left by the Burundi policy seemed all the more disturbing. Why then did the United States persist so long in a futile diplomacy? Why were the coffee sanctions and human rights memorandum so gliby spurned? Why was U.S. "displeasure," when it finally came, so furtive? Why had this nation never spoken out publicly to deplore the murder of a quarter million people?

In part, the answer lies in the fact that international law and the human rights obligations of the United States Government mattered so little in the crisis. There was no procedure, no routine, to insure early consideration in the policy process of the logic and concerns finally thrust before the decision-makers late in August in the human rights memorandum. Those responsible for American policy in a major crisis of human rights seemed basically unconcerned about their country's obligations under international law—while those in the Legal Advisor's Office who were conversant with—and concerned about—such obligations enjoyed no real role in policy-making.

The human rights memorandum had posed perplexing issues. To uphold human rights only where there were no "political constraints" suggested a double standard of international justice for strong and weak nations, with a special burden for African countries. For the Hutu who died by the tens of thousands at its hand, however, the Government of Burundi was strong enough. And to deplore their slaughter was to speak for the weak.

There was also the troubling question of why the United States should have spoken out or adopted sanctions against Burundi when 130 other governments were unwilling to confront the crisis. A nation which saw itself, in Vietnam and elsewhere, too long shouldering an international role alone might be unready to take such a lead. However, the issue in Burundi was never intervention. It was dissociation from a regime committing genocide. Other nations did not supply 65% of the foreign exchange income of that regime. Ultimately, moreover, the question comes back to international law. The United States had solemn obligations, regardless of the compliance of others. But these questions were scarcely pondered by an American government in the summer of 1972.

There was little understanding in State of the U.S. responsibility in Burundi stemming from the coffee trade. The same officials who saw the genocide as mainly a Belgian concern because of Belgian aid to Burundi somehow could not see in the same light the millions of dollars supporting the Micombero regime from U.S. coffee purchases. Again, while the State Department shunned coffee sanctions as "involvement," it could also be argued that an embargo would have accomplished quite the opposite—an end to *de facto* American backing of one side in a tribal conflict. But then, there were apparently critical misconceptions, never recognized or corrected, about the embargo authority available to the United States Government and the real impact of a coffee embargo on Burundi. There was also among key State Department officials, a facile assumption of American corporate insensitivity to human suffering—an assumption that was never critically examined.

There were larger institutional problems mirrored in each of these failures. "Do you know of any official," asked one officer, "whose career has been advanced because he spoke out for human rights?" There is the suggestion in much of what happened in the Burundi policy that initiatives were stifled not only by ignorance, but by the conformity and the personal caution nurtured in a career bureaucracy. Officials who saw the failure of a Nyerere or Mobutu to speak out as "galling" or "despicable" saw no similar outrage in American silence—or if they did, never said so. How different the story might have been, and how much more hopeful, had there been a lively debate within the Government on the coffee proposal and human rights memorandum, or on the UN reports, or the strategy of relying on the OAU, regardless of the decisions finally taken.

But looming over all this was the conviction in the African Bureau that avoiding the disapproval of African states was more important than the human lives or the international legal issues in Burundi. Some in the Government would afterward characterize the policy in terms of this overarching concern with one's "clients"—that Melady "wouldn't sacrifice the good relations he'd built up," or that Newsom wouldn't "blot his copy book with the Africans." Perhaps the one hopeful precedent in the Burundi crisis was the courage of the UN Secretariat to reject such client pressures. Though they might have faced an angry African constituency which can be powerful in the General Assembly, Messrs. Morse and Waldheim did move to send UN missions to Burundi and spoke out honestly on some of the findings.

There seems no easy resolution to this conflict of interests between client governments and human costs. The State Department's concern to avoid any appearance of American paternalism or interference in a foreign struggle, and to spare an impoverished, neglected continent any embarrassment that might further isolate it, may have reflected an authentic sensitivity to the problems of race in world affairs. But the price of this self-imposed inhibition in Burundi was too high. In failing to come to grips with violations of human rights in Burundi, as Congressman Rarick suggested, the United States only further damaged the credibility of its support for human rights among the suppressed black majorities in white-ruled Southern Africa. It was a tragic contradiction to ignore the murder of a quarter million Africans in order to avoid harming Africa.

Perhaps the most serious failure in all this was that the policy-making process in the U.S. Government, and the authority of the President and his senior advisors, offered no redress from decisions taken in the African Bureau. Not only were alternative proposals shunted aside in the State Department. The officials ultimately responsible for American foreign policy left the Burundi crisis to a bureaucracy ensnared in a parochial view of the disaster. A Secretary of State who in 1968, as the human right memorandum reminded its readers, had "strongly urged more involvement by the U.S. Government in international human rights problems" found little to interest him in the Burundi crisis in 1972. The White House also acquiecsed in State Department policy, choosing not to invoke its authority on behalf of considerations of human rights.

With the exception of Senators Tunney and Kennedy, the Congress failed utterly in the crisis. The American press, after the sensation of a few reports, forgot the murders in Burundi. No one was interested in reporting for long, complained *The Economist*, "the dreadful, monotonous statistics of a seemingly endless tribal purge." Those in the Government disturbed by the policy saw here, as in other cases, press coverage and public pressure as a necessary and crucial spur to policy-makers who otherwise simply would not act. "If the press were back here saying, 'Look, there're people being killed,'" said one official, "then you'd have had people here in the Department saying, 'Look, we gotta do something about this.'" There were others in the State Department, however, who saw the press and public opinion here, once again as in other cases, as an irritation. Outsiders always wanted to do more, argued one policy-maker, when they did not understand that the opposition of African states and the Burundi Government made that impossible. For these officials, a greater public outcry might only have reinforced their inertia.

In the spring of 1973, a year after it all started, the United Nations was again receiving reports of genocide in Burundi. "They're still killing them," said one UN official, "only more quietly and slowly." At the end of May, the State Department had intelligence that the Micombero regime was "doubling the size of its army," and charging a conspiracy among Hutu refugees. There were press reports that the Burundi Government was still withholding relief from the victims of the 1972 disaster.

To what his own Disaster Relief Office had called the worst human catastrophe of the year, Secretary Rogers devoted one paragraph in the 743 pages of his formal report on foreign policy for 1972. Weeks later, President Nixon's Foreign Policy Report to the Congress contained a paragraph, reproduced at the end of this report, which observed that "countries have a right to take positions of conscience," and gently chided the Africans for not speaking out. But the United States has still not uttered a single public word to describe the immensity of the crime against humanity in Burundi—or to condemn it.

In the State Department there were rumors of a high-level National Security Council review of humanitarian factors in U.S. policy "in the light of the Burundi and Bangladesh disasters." "In the wake of Burundi," said a legal officer, "there is now a much lower threshold at which the question of effective action . . . is raised." But there would be no easy answers in terms of "thresholds" or in NSC reviews to the failure of the United States in the Burundi crisis. Until human

costs in international affairs come to be as important as any other interest—a difficult and complex change in the people as well as in the institutions of government—it could all happen again.

DEPARTMENT OF STATE,
THE LEGAL ADVISER,
August 23, 1972.

MEMORANDUM OF LAW—U.S. GOVERNMENT'S OBLIGATIONS REGARDING HUMAN RIGHTS OF INDIVIDUALS OUTSIDE THE UNITED STATES

This memorandum is designed to meet a need (evident in recent messages to and from the field) for a general awareness of the current obligations of the U.S. Government in the area of human rights.

Historically, international controversy has been generated by the conflicting principles of international law that one state should not intervene in the internal affairs of another and that states should promote international respect for human rights. This issue is an extremely important one for the African Bureau because of the high incidence of well publicized human rights problems on the continent and the great sensitivity of African nations with respect to actions by other states regarded as intervention in internal affairs.

Beginning with the Atlantic Charter issued August 14, 1941, which asserted respect for human rights to be an Allied goal in World War II, there has been a steady development of the international recognition of international obligations to promote respect for human rights. This development has brought about a corresponding erosion of the concept that a state possessed exclusive discretion over matters relating to the treatment of its own nationals. The Preamble of the Charter of the United Nations notes that we are "determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human persons. . . ." Article I states that one of the UN's purposes is "in promoting and encouraging respect for human rights. . . ." Article 55(c) imposes a substantive international obligation upon UN members (albeit one of nuclear scope) to "promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as a race, sex, language, or religion." In Article 56 "All members pledge themselves to take joint and separate actions in cooperation with the Organization for the achievement of the purposes set forth in Article 55."

Unlike the Charter, the Universal Declaration of Human Rights, adopted by the General Assembly in 1948 with U.S. support, did not purport to impose legal obligations. Rather it constituted an effort to establish goals towards which UN members could strive in pursuit of their obligations under Articles 55(c) and 56 to promote universal respect for and observance of human rights. Despite the non-binding character of the Declaration, it has proven to be the principal authoritative compendium of human rights, with portions of it appearing in the constitutions of over thirty countries and numerous international agreements including the charters of the European Court and Commission of Human Rights and the OAS Commission of Human Rights. It is frequently cited in UN Resolutions regarding South Africa and Namibia. In the latter regard, the U.S. Government has recently called upon American firms doing business in Namibia to conform their employment practices to the provisions of the Declaration. Bilaterally, the U.S. Government cited the Declaration last year in criticizing the Soviet Union's policy of preventing Soviet Jews from emigrating.

A cursory glance at the Declaration shows that its application is not limited to actions and policies of Southern African states. Article 5 states that "No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment." Article 9 says "No one shall be subjected to arbitrary arrest, detention or exile." Article 13(2) states "Everyone has the right to leave any country, including his own, and to return to his country." Article 15 says "(1) Everyone has the right to a nationality, (2) no one shall be arbitrarily deprived of his nationality. . . ." Article 17 states "No one shall be arbitrarily deprived of his property." etc.

Prior to assuming their respective offices, the Secretary of State and the Legal Adviser, as members of the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year 1968, strongly urged more involvement by the U.S. Government in international human rights problems. (See: "A Report in Support of the Treaty-making Power of the United States in Human Rights Matters, October 1969")

Reflective of the recent growth of international human rights law is general agreement within the international legal community that transgressions of human rights are not matters within a state's exclusive domestic jurisdiction and accordingly, that the principle of non-intervention in internal affairs does not bar one state from taking action designed to promote respect for human rights in another. It is recognized, however, that on occasion overriding political constraints may dictate inaction or restraint on the part of the U.S. Government despite certain instances of blatant disregard of human rights by another government. Though such inaction with regard to a human rights disaster in one state would appear to erode the U.S. Government's ability to pronounce convincingly upon human rights problems in another political realities may be expected to produce uneven responses in this area for the foreseeable future. On the other hand while inaction in the face of a human rights crisis might be rationalized on the grounds of political expediency, such expediency cannot justify U.S. action reinforcing disregard for human rights, since this would violate the U.S. Government's international legal obligations. A hypothetical example of this distinction might arise in the event of a foreign leader's severe reaction to American press criticism of his policy of publicly torturing prisoners. Under such circumstances, it would be permissible for the Department, for practical considerations to instruct our Ambassador to dissociate the U.S. Government from American press comment. It would not be defensible however, for the Ambassador to assure the foreign leader that the U.S. Government regarded the treatment of prisoners, however extraordinary as an exclusively internal affair within the foreign state. Since any such assurance would reinforce the inhumane penal policies of the foreign leader, it would be contrary to the U.S. Government's obligations under international law in the field of human rights.

CONCLUSION

The U.S. Government has a legal obligation to promote respect for human rights. Because of the lack of specificity of such obligations, it may be easier in the foreseeable future to determine which actions the U.S. cannot take than those it should take. Nevertheless, one must recognize that legal obligations in this area are a reality (not just theoretical language) that must be taken into account in devising and executing policy.

B. KEITH HUFFMAN,
Assistant Legal Adviser, for African Affairs.

HEARINGS OF THE SENATE FOREIGN RELATIONS COMMITTEE, JUNE 23, 1972, ON THE CONFIRMATION OF ROBERT L. YOST (CALIF.) AS AMBASSADOR TO BURUNDI

CHAIRMAN. Would you state your experience . . . ? Are you related to Charles Yost?

Mr. YOST. No, sir. . . . Served in Army for three years beginning in 1942. Ended up in Europe as a prisoner interrogator. Left Army in 1946 and entered the foreign service that same year. Served at the Embassy in Madrid, in the Counsel General at Antwerp, spent a year at Harvard on Economic Trade, was in Leopoldville from 1953 to 1955, spent three years in the Philippines in Cebu as Consul, three years in Paris on UIS, was with delegation to OECK, and was in Addis Abada for four years as Deputy Chief of Mission.

CHAIRMAN. Have you ever been in Burundi?

Mr. YOST. Yes. For a few hours in 1954.

CHAIRMAN. 1954?

Senator MCGEE. We can't blame it on you then?

CHAIRMAN. We have been hearing a lot about activities down there. Some of them sound very ominous about the civil strife. Could you tell us a little bit about that?

Mr. YOST. Well, Sir, this is something that I am obviously going to have to look into very closely when I get there. There have been a number of serious reports . . . in the newspapers . . . We should know more about the extent and nature of the problems once the mission sent by the Secretary-General of the United Nations completes its look at what can be done there as far as humanitarian assistance to victims of the cities is concerned.

CHAIRMAN. How large is Burundi? How many people are there?

Mr. YOST. Somewhere over three and a half million.

CHAIRMAN. It isn't large geographically?

Mr. YOST. No, sir.

CHAIRMAN. Is it rich agricultural land?

Mr. YOST. The land is very mountainous and virtually all the viable soil is being used for crops.

CHAIRMAN. Are these strifes between tribes?

Mr. YOST. Essentially over a period of time both before and after independence there has been a schism, a strife between principal tribes in the country. The Tutsi, who have been there for several hundred years, who came from the North, are pastoral people, who assumed a dominant position from very early in that time; over the Hutu, who constitute the majority of the population.

CHAIRMAN. And is this strife important politically, is that the source of it, or is it religious?

Mr. YOST. No, it is religious, it is yes, political.

CHAIRMAN. Completely political?

Mr. YOST. Yes, for control.

CHAIRMAN. Control of the government?

Mr. YOST. Yes, sir.

CHAIRMAN. What is its relations with Rwanda today, are they in any way associated?

Mr. YOST. No, they are two independent countries since 1962. They were both administered by Belgium under a United Nations trusteeship . . . and prior to that under a League of Nation mandate. Both were former German colonies.

Senator MCGEE. I don't envy you in what you are walking into. We were the first United States Senators ever to visit Burundi.

Mr. YOST. Yes, I recall.

Senator MCGEE. A year ago. And that was happenstance because we were barred from Uganda since they were in trouble at that time, but we put it to good use in Bujumbura. But then, I mean everyone was walking on eggs, this is going to blow. They didn't mention the short ones out loud and they were afraid this was coming, perhaps longer in this instance than they anticipated a year ago last February. It is a brutal sort of situation.

I gathered from our impression there that the Tutsis, who are the tall ones, are perhaps more gifted in administration abilities and this sort of thing and other advantages they have had, that the short ones have lived close

to the land much longer and have not had the advantage of some educational opportunities or other traits that have helped keep them lower, even though what is their percentage, 85 percent of the population?

Mr. YOST. That is right.

Senator MCGEE. And this is likely to continue with the brutality between them. We saw people whose legs had been cut off because they were the tall ones. They simply wanted to equalize the size; peoples whose ears had been cut off on the other side because they heard too much. It is a sad tragic situation and it is one of the illustrations of a country that is going well economically in terms of having something to live off of, including the Folgers Coffee Co., but it still can't resolve this historic cleavage between these two except by force. So you are going into a hot one.

CHAIRMAN. Well if he gets into trouble he can go down and Mr. Carter (nominee for Ambassador to Tanzania) will help him out . . .

Senator MCGEE. Carter can speak for the tall ones and you speak for the short ones and we will have a happy compromise. I have no questions.

Senator AIKEN. No questions.

CHAIRMAN. Well, I wish you well. That is a very good proposal but you have had your experience in Ethiopia and you are familiar with the area. . .

Mr. YOST. Yes, sir, Ethiopia and the Congo.

CHAIRMAN. Do we have any AID programs in Burundi, that you know of?

Mr. YOST. We have a small AID program there that I believe last year ran in the neighborhood of $400,000. A large part of this is PL–480.

CHAIRMAN. Do I understand that the Folger Coffee Co. owns the plantations?

Mr. YOST. They don't own the plantations, the system works differently, but we take about 80 percent of their coffee export and this is their major export.

CHAIRMAN. Well, do you have anything you would like to advise the Committee about?

Mr. YOST. No, sir.

CHAIRMAN. Give us any advice?

Mr. YOST. No. I am very pleased and delighted at the nomination.

CHAIRMAN. Allright, thank you very much.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of July 31 requesting information about American views and policies in regard to developments in Burundi.

The Administration shares your concern over events in Burundi, a tragedy which the Department of State has been closely following. We have expressed our concern to the Government of Burundi, to other African governments and to officials of the United Nations and the Organization of African Unity. However, we have avoided taking a public position for fear that it might jeopardize the catalytic and supportive efforts we are making.

As we understand the Burundi situation, a rebellion by elements of the Hutu people during the week of May 1 triggered a reaction by the ruling Tutsi who feared losing their dominant position and their lives as the Tutsi had in Rwanda in the early sixties. The subsequent arrests and executions, which the Burundi Government claimed only involved those guilty of revolution against the state, are alleged to have included large numbers of Hutu government leaders, intellectuals, secondary school children, common workers and peasants.

The United States was the first government to extend relief to the victims of this crisis by allocating $100,000 to our Embassy for the purchase of ambulances, food, blankets, medicines and cooking utensils. In addition, our Embassy associated with the Embassies of Belgium, Great Britain, Rwanda, Switzerland, West Germany, and Zaire in supporting the demarche presented to the Government of Burundi by the dean of the diplomatic corps, the Papal Nuncio, calling for a return to peace and an end to reprisals.

Anticipating that the Burundi question would be considered at the June summit of the OAU, prior to that meeting, we discussed the crisis with the governments of Ethiopia, Rwanda, and Zaire and with the President and Secretary-General of the OAU. The members of the OAU, however, chose not to intervene in what they considered to be the internal affairs of another African state.

We consulted with UN officials to ascertain what that organization could usefully do. On June 22, a three-man mission sent by Secretary-General Waldheim reached Burundi to investigate the requirements of humanitarian assistance and also, privately, to assess the general situation and convey a message of concern to President Micombero.

We have not seen the report submitted to the Secretary-General, but we know that the Government of Burundi reported 80,000 dead and estimated that $8 million would be needed for immediate relief requirements. The Secretary-General subsequently issued a statement which noted that "the proportions of the human tragedy which the people of Burundi are experiencing are staggering." With respect to Burundi's request for relief assistance, Waldheim announced that "the United Nations system must be in a position to assure the international community, and donors in particular, that assistance will reach the entire population and benefit the country as a whole."

Partly to satisfy this requirement, the UN sent a second mission in late July. We hope that the mission made it clear to the Government of Burundi that relief aid will have to be equitably distributed. International Organizations have previously had difficulty in securing appropriate cooperation with humanitarian efforts in Burundi. Early in the current crisis, UNICEF and UNDP vehicles were commandeered by the Government for internal security use. The International Red Cross found itself unable to gain freedom of access to all parts of the country and all elements of the population and has withdrawn its staff and supplies. Catholic Relief Services is continuing its operations within Burundi.

The United States is prepared to contribute further to emergency relief in Burundi but there must be adequate guarantees that the relief will benefit directly those requiring it.

In the states neighboring Burundi, the refugee problem has become more acute. The United States has expressed its concern about the refugee problem and about the situation within Burundi to the Governments of Rwanda, Tanzania and Zaire. The Presidents of Zaire and Tanzania subsequently met with President Micombero and the President of Rwanda received Foreign Minister Simbananiye. We hope that these contacts will produce initiatives which will involve Burundi's neighbors and other African states in cooperative efforts to provide assistance and assure peace.

In the meantime, public and private organizations are caring for the refugees along Burundi's borders. The United States has given an emergency allocation of $50,000 to the Catholic Relief Service to help the Burundi refugees in East Zaire and will further supplement the efforts of the asylum countries, UNHCR and other relief agencies as additional needs are identified.

The Department of State will continue to seek opportunities to contribute to the alleviation of human suffering and the restoration of peace in Burundi.

I hope that this information has been responsive to your inquiry. I would be pleased to arrange for an officer of the Bureau of African Affairs to brief you and your staff if you have further questions.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

AUGUST 18, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to respond to your letter of June 15 requesting comments on Senate Resolutions 315, 316, and 317 on civil strife in Burundi.

The Administration has been closely following the recent events in Burundi. As we understand the situation, a rebellion by elements of the Hutu people during the week of May 1 triggered a reaction by the ruling Tutsi who feared losing their dominant position and their lives as the Tutsi had in Rwanda in the early sixties. The subsequent arrests and executions, which the Burundi Government claimed only involved those guilty of revolution against the state, are alleged to have included large numbers of Hutu government leaders, intellectuals, secondary school children, common workers and peasants.

The United States was the first government to extend relief to the victims of this crisis by allocating $100,000 to our Embassy for the purchase of ambulances, food blankets, medicines and cooking utensils. In addition, our Embassy associated with the Embassies of Belgium, Great Britain, Rwanda, Switzerland, West Germany, and Zaire in supporting the demarche presented to the Government of Burundi by the dean of the diplomatic corps, the Papal Nuncio, calling for a return to peace and an end to reprisals.

Anticipating that the Burundi question would be considered at the June summit of the OAU, prior to that meeting, we discussed the crisis with the governments of Ethiopia, Rwanda, and Zaire and with the President and Secretary-General of the OAU. The members of the OAU, however, chose not to intervene in what they considered to be the internal affairs of another African state.

We then consulted with UN officials to ascertain what that organization could usefully do. On June 22, a three-man mission sent by Secretary-General Waldheim reached Burundi to investigate the requirements of humanitarian assistance and also, privately to assess the general situation and convey a message of concern to President Micombero. The mission included a representative of the UN High Commissioner for Refugees.

We have not seen the report submitted to the Secretary-General, but we know that the Government of Burundi reported 80,000 dead and estimated that $8 million would be needed for immediate relief requirements. The Secretary-General subsequently issued a statement which noted that "the proportions of the human tragedy which the people of Burundi are experiencing are staggering." With respect to Burundi's request for relief assistance, Waldheim announced that "the United Nations system must be in a position to assure the international community, and donors in particular, that assistance will reach the entire population and benefit the country as a whole."

Partly to satisfy this requirement, the UN sent a second mission in late July. We hope that the mission made it clear to the Government of Burundi that relief aid will have to be equitably distributed. International organizations have previously had difficulty in securing appropriate cooperation with humanitarian efforts in Burundi. Early in the current crisis, UNICEF and UNDP vehicles were commandeered by the Government for internal security use. The International Red Cross found itself unable to gain freedom of access to all parts of the country and all

elements of the population and has withdrawn its staff and supplies. Catholic Relief Services (CBS) is continuing its operations within Burundi.

The United States is prepared to contribute further to emergency relief in Burundi but there must be adequate guarantees that the relief will benefit directly those requiring it.

In the states neighboring Burundi, the refugee problem has become more acute. The United States has expressed its concern about the refugee problem and about the situation within Burundi to the Governments of Rwanda, Tanzania and Zaire. The Presidents of Zaire and Tanzania subsequently met with President Micombero and the President of Rwanda received Foreign Minister Simbananiye. We hope that these contacts will produce initiatives which will involve Burundi's neighbors, and other African states in cooperative efforts to provide assistance and assure peace.

In the meantime, public and private organizations are caring for the refugees along Burundi's borders. The United States has given an emergency allocation of $50,000 to the Catholic Relief Services to help the Burundi refugees in East Zaire and will further supplement the efforts of the asylum countries, UNHCR and other relief agencies as additional needs are identified.

It is clear from the above that the objectives of Senate Resolutions 315 and 317 have been realized. With regard to Senate Resolution 316, as already noted, the OAU decided not to intervene in what they considered to eb an internal Burundi problem. Furthermore, the United States is not a member of the Organization of African Unity and, therefore, would be in a difficult position to request an investigation by or a report from that body. Since the beginning of the crisis, we have discussed our concerns about Burundi with key leaders of the OAU. These discussions have revealed a concern on their part, but we are not aware of any specific steps being taken by the OAU.

The Office of Management and Budget advises that from the standpoint of the Administration, there is no objection to the submission of this report.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

[From, United States Foreign Policy 1972: A Report of the Secretary of State, by William P. Rogers, p. 465].

INSTABILITY IN BURUNDI

A political unheaval in Burundi from April to October unfortunately contributed a resurgence of the chronic instability that has plagued the central African region for a number of years. A report released by the United Nations in July said "the proportions of the human tragedy which the people of Burundi are experiencing are staggering. The Burundi Government itself has reported that 80,000 persons had died since April 29 and that 500,000 persons are experiencing great suffering." The tragedy in Burundi also sent thousands of refugees into neighboring Rwanda, Zaire, and Tanzania, where the local governments have responded generously with humanitarian assistance aided by U.N. and voluntary agencies. We have been concerned with the dimensions of the tragedy as well as the questions of human rights involved in the events since April 29. We therefore continue to support U.N. efforts to assure that relief assistance for victims of the tragedy is distributed equitably to all who need it, both inside Burundi and among refugees outside. (See section on Social and Scientific Dimensions: Refugee and Migration Affairs.)

African governments regarded the tribal conflict which sparked the tragedy as an internal matter but, privately, several African leaders sought to encourage reconciliation among the deeply divided people.

(From: "United States Foreign Policy for the 1970's: Shaping a Durable Peace"—A Report by President Richard Nixon to the Congress)

There also were serious disappointments in 1972. It would be less than candid not to mention them, for I am sure they were disappointments, too, to Africans who are working for peace and justice on the continent.

The situation in Burundi posed a genuine dilemma for us and for African countries. Non-interference in the internal political affairs of other countries is a paramount and indispensable principle of international relations. But countries have a right to take positions of conscience. We would have expected that the first responsibility for taking such positions rested upon the African nations, either individually or collectively. The United States urged African leaders to address the problem of the killings in Burundi. We provided humanitarian assistance, impartially, to those who needed it in Burundi or who fled. All of the African leaders we spoke to voiced their concern to us; some raised it with Burundi's leaders. But ultimately none spoke out when these diplomatic efforts failed.

In Uganda, the attacks on that country's intellectual class, as well as the expulsion of Asians, were deplorable tragedies. The United States has provided refuge for some of the Asians, whose expulsion, whatever the rationale, had racial implications which do no credit or service to Africa.

While events in these two countries were tragic in comparison with the continent's other achievements, the ability of African leaders to maintain independence and territorial integrity while welding ethnic diversity into nationhood remains an undeniable source of real hope for the future.

SOUTHERN AFRICA

The denial of basic rights to southern Africa's black majorities continues to be a concern for the American people because of our belief in self-determination and racial equality.

Our views about South Africa's dehumanizing system of apartheid have been expressed repeatedly by this Administration in the United Nations, in other international forums, and in public statements. As I said in my Foreign Policy Report two years ago, however, "just as we will not condone the violence to human dignity implicit in apartheid, we cannot associate ourselves with those who call for a violent solution to these problems."

We should also recognize that South Africa is a dynamic society with an advanced economy, whose continued growth requires raising the skills and participation of its non-white majority. It is particularly gratifying that some American companies have taken the lead in encouraging this.

BIOMEDICAL RESEARCH TRAINING GRANT AND FELLOWSHIP PROGRAMS

Mr. KENNEDY. Mr. President, the Federation of American Scientists, which represents over 6,000 leading scientists in this country, held a news conference last Thursday to call attention to the devastating impact of President Nixon's proposed fiscal year 1974 budget on biomedical research in this country. Over nine Nobel laureates raised their voices in opposition to the proposed elimination of NIH research training grants and fellowships.

Mr. President, just 2 weeks ago the Senate restored $100 million to the supplemental fiscal year 1973 HEW appropriations bill for purposes of carrying out this Nation's health programs; $24.1 million of that total was earmarked for NIH research training grants and fellowships. That Senate amendment is now a prime topic of debate in the conference on the supplemental bill. It is my hope that the final measure which emerges from that conference will reflect a continuing commitment to the growth and expansion of our biomedical research training grants and fellowship programs.

I ask unanimous consent for the full text of the letter from the Federation of American Scientists to President Nixon be printed in the RECORD.

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

FEDERATION OF AMERICAN SCIENTISTS,
Washington, D.C., June 6, 1973.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are deeply concerned about recent Federal decisions in the funding of biomedical research. We know that all parts of the Federal budget for FY 1974 are under pressure this year—and perhaps for the coming years—in the absence of a tax increase. Therefore, we cannot and do not expect the funding for biomedical research to rise rapidly in the coming years. But we have a right to expect that the funds which are available to our discipline are allocated in a sensible way.

We have two fundamental complaints about this year's budget. In the first place, the Administration's emphasis on "storming" a few spectacular objectives is tending to disrupt orderly research in other, no less important, areas. Thus, at NIH, where 60 per cent of biomedical research originates, increases for heart and cancer research were up substantially but—in order to keep the NIH budget level—corresponding cuts were made in other fields. This approach to funding basic research—the notion that the "cure" is or may be around the corner and that throwing money directly at the problem will substantially improve the prospects for solution—reflects the standard error of nonscientists in their contemplation of basic research. There would be no harm in this approach if it did not strait jacket other disciplines but, today, it does. And these disciplines may well provide much of the scientific infrastructure necessary for the eventual cures.

Second, the Administration has taken the view that fellowship and training grants should not be offered henceforth. It seems to be arguing on the basis of a free enterprise ideology taken from business that market forces will provide researchers in biomedicine and that they should not be given "careers on a silver platter." But the market for Ph.D.'s is very sensitive to a variety of factors including the very grants at issue. The result of sharp fluctuations in training grants can be to produce wide oscillations in the supply of researchers.

This Nation should not risk disruption of ongoing research—disruption which we cannot afford—for savings that are very small in terms of the health budget, much less the entire budget ($269 billion). The question as to which of the young scientists continue their research, and under what conditions, lies at the very nerve center of our hopes for future biomedical progress. We need only the best, irrespective of their ability to pay. Nor is it only a question of whom to train, since those on training fellowships and post-doctorals are often doing some of their most important work.

We believe there is and will continue to be a most important role for research training and fellowship grants, and call for reconsideration in any future budget. And we ask that funds provided for this purpose by the Congress we used rather than vetoed or impounded.

Respectfully,

*Christian B. Anfinsen, *Max Delbruck, *H. K. Hartline, *Arthur Kornberg, * Julius Axelrod, * Marshall Nirenberg, *William H. Stein, *Albert Szent-Gyorgi, *Edward L. Tatum, Frank H. Westheimer.

P.S. We have attached the names of approximately 3,000 biomedical scientists who have joined in our requests, in conjunction with the 6,000 member Federation of American Scientists.

FAS BACKGROUND

The Federation of American Scientists, founded in 1946, is a non-profit public interest lobby of scientists concerned with problems of science and society.

Unlike virtually all other scientific societies, FAS is not a tax-deductible organization and therefore is free to influence legislation.

Support for the Federation is derived primarily from $15 membership dues. Membership is open to all natural and social scientists and engineers, so that an interdisciplinary point of view can be achieved.

FAS is democratically organized with an elected Council of 26 members. Constitutionally, the FAS Executive Committee (composed of 8 officials) may also issue pronouncements consistent with FAS policy.

Members of FAS participate in several ways: they vote for its officers, respond to questionnaires, suggest ideas to the National office, serve on committees to investigate special issues, and testify before Congressional committees. In addition, FAS has a network of Technical Advisory Committees to Influence Congress (TACTIC)—a grass roots organization of scientists who relay FAS information to their Congressmen.

The 4,500 membership of FAS includes former science-related officials of the highest possible rank from the relevant government agencies, as well as more than 25 Nobel laureates.

In fulfilling its role as a conscience of the scientific community, FAS has worked on a variety of vital issues: disarmament, environment, energy, conversion to a non-military economy, rights of scientists, and many others.

FAS public policy statements are reflected in periodic press releases, in testimony before Congressional committees, and in the monthly *FAS Newsletter*.

GENOCIDE: A THREAT TO ALL HUMANITY

Mr. PROXMIRE. Mr. President, one of the most widely held misconceptions concerning Hitler's 12-year reign of terror is the gross error that the Third Reich's program of planned genocide had as its exclusive victims Jewish people alone.

We could make no more serious historical blunder. The mass murder of almost 6 million Jews by Hitler's henchmen is almost universal knowledge. Civilized man condemns these acts of murderous barbarism and mourns the tortured victims. But how many people realize that during these same years Hitler murdered 7 million Christians as well?

Nazi jargon classified these victims as "Christian subhumans." Russians, Poles, Hungarians, Rumanians, Yugoslavians, and Czechs—7 million of them, whose veins did not flow with "pure Aryan blood," were systematically and sadistically put to death.

The Senate and all people must grasp this fundamental fact: Genocide was not then, and it is not now, an anti-Semitic problem; it is antihuman.

The roots of genocide are obvious: When one group of people make the fatal presumption of judging any other group as mentally, morally, or culturally inferior, is the isolation, subjugation, and ultimately the elimination of the latter group by the former not predictable? This progression, simply stated, is genocide.

This horrendous policy is not merely anti-Semitic and anti-Christian, it is against all of humanity. We in the Senate have the means of affirming this belief, of strengthening the international sanctions against genocide. The Senate can ratify the United Nations Convention on Genocide.

This Convention on Genocide has been before the Senate for over 25 years. An entire generation of Americans has been born and come of age in that time.

The Senate, and the Senate alone, must accept full responsibility for its inaction. We must answer the damning indictment of Thoreau:

None of you could kill time without injuring eternity.

We have already killed too much time and dishonored the memory of almost 13 million fellow human beings. Let the Senate now, in 1973, ratify the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

REMARKS OF SENATOR HUGHES AT THE LUTHERAN GENERAL HOSPITAL'S FIRST INTERNATIONAL SYMPOSIUM ON ALCOHOLISM AND ALCOHOL PROBLEMS, IN CHICAGO, ILL.

Mr. STEVENSON. Mr. President, on April 30, the Senator from Iowa, Mr. HUGHES, spoke in Chicago at the Lutheran General Hospital's First International Symposium on Alcoholism and Alcohol Problems. His subject was alcohol, which he characterized as "the most widely abused dangerous drug in our society." He pointed out that the administration's budget for fiscal year 1974 proposes the phasing out of all Federal support for alcoholism projects now receiving funds from the National Institute on Alcohol Abuse and Alcoholism. As he noted, if this recommendation is carried out, the high hopes for a comprehensive national alcoholism program under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 "will be shattered into a thousand pieces."

In his remarks, Senator HUGHES said that he and congressional colleagues would fight these crippling cutbacks "with every resource at our command." As a cosponsor of Senator HUGHES' bill to extend the 1970 act, S. 1125, I am one of those colleagues who is glad to join Senator HUGHES in his battle to reorder the administration's distorted priorities.

I ask unanimous consent that the full text of Senator HUGHES' remarks be printed in the RECORD.

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

REMARKS OF SENATOR HAROLD E. HUGHES

It is a privilege for me to have the opportunity to keynote this distinguished International Symposium on Alcoholism and to pay my personal tribute to Lutheran General Hospital for its pioneering achievement in the treatment and prevention of alcoholism. I am told that Lutheran's Alcoholism Center for Treatment, Training and Research, opened in 1969, was the first such facility built as an integral part of a private general hospital. Only those who have worked in the field of alcoholism for many years can fully appreciate what a stunning breakthrough this represents. One of the greatest single obstacles to the development of successful alcoholism programs in this country has been the neanderthal attitude of many hospitals and many otherwise competent members of the medical profession.

There has been a rash of funny stories going the rounds this past year beginning with this introductory line: "I have some good news and some bad news for you. First the good news," and so on.

Today I have some good news and bad news for you. First the good news:

In the past year, an impressive array of national commissions, study groups and ranking authorities have placed on the public record a fact that the professional participants in this Symposium have long known—namely that alcohol is the most widely abused dangerous drug in our society and its abuse causes greater loss of life, human misery and economic waste than all other forms of drug abuse combined.

The National Commission on Marihuana and Drug Abuse, in its report on Drug Use in America, concluded that "Alcohol dependence is without question the most serious drug problem in this country today."

It is worth noting that, except for the four members of Congress on that Commission, all members were appointed by the President. As a member of that Commission myself, I can tell you first-hand that this wasn't the conclusion that most of the people on the Commission expected to reach when they first began their study.

Other ranking authorities and agencies, both governmental and private, have publicly recognized the fact that the number one public enemy among the dangerous drugs is not heroin or marihuana, but legal, readily available and lavishly advertised booze.

(Don't read me wrong. I am not a prohibitionist. We have been through the Volstead fiasco. I would gladly put on Carrie Nation's bonnet and pick up her hatchet if I thought this method would work. But it doesn't.)

More of the good news: with the passage of the 1970 Federal Alcoholism Act, we have the foundation in law for the first significant, coordinated national effort in the treatment, rehabilitation and prevention of alcoholism, a widespread illness that Dr. Roger Egeberg once called our country's number one health problem.

Now the rest of the good news:

From private industry, from government employee groups, and from other sectors across the land, the evidence continues to pour in that sound alcoholism programs, competently administered and adequately funded, are working. Whereas with some of the other drug addictions, we are still working largely in the field of the unknown, we know what to do about treating and controlling alcoholism. I am not implying that we have discovered any easy, painless, sure-fire methods, but given patience, determina-

*Nobel laureates.

tion and the professional expertise now available, we can get the job done.

We have also seen some encouraging progress by the newly formed National Institute on Alcohol Abuse and Alcoholism, mandated by the 1970 Act, the first Federal agency with the prestige and structure needed to provide national leadership and coordination in the war against alcoholism.

In addition, voluntary agencies such as the National Council on Alcoholism, the Alcohol and Drug Problems Association of North America and others are sustaining their efforts in the private sector.

End of good news, now for the bad news.

The Administration's budget for fiscal 1974 proposes the phasing out of all Federal support for alcoholism projects now receiving funds from the National Institute on Alcohol Abuse and Alcoholism.

The President has not permitted the Institute to make grants for any new projects during the current fiscal year, and the Fiscal 1974 Budget contains no request for new project funds.

The only Federal funds that would be available either for new projects or for those whose current support is being phased out would be the very limited amounts allotted to the States as formula grants, and the President has recommended no increase in formula grant appropriations.

If these recommendations are permitted to be carried out; then the high hope we had for a national alcoholism program as set up by the 1970 law which was passed unanimously by the Congress and signed by the President on New Year's Eve, will be shattered into a thousand pieces.

I can tell you that I and many of my colleagues in the Congress will fight with every resource at our command these crippling cutbacks that would amount, purely and simply, to the virtual dismantling of our Federal alcoholism effort.

I have introduced a bill that will extend both the formula grant and project grant authority for the Comprehensive Alcoholism Act for another three years, modified by certain amendments that I believe will improve the Act. We have already had hearings on this bill, with the Administration's witnesses testifying in opposition.

Frankly, I don't know what the Administration is thinking of. The entire dollar amount involved in the continuation of this program over the next three years wouldn't begin to finance a single Trident submarine.

This is one area of public investment where it has been proved beyond a doubt that a dollar spent will bring in dividends many times over the amount invested. Moreover, to put it bluntly, the drying up of thousands of seriously sick people who are now compulsively committing suicide and going bankrupt simultaneously would have a restraining effect on economic inflation, rather than adding to it.

I am as concerned about restraining public spending as anyone here.

But it should be understood that in the current battle of the budget, Congress and the President agree that there should be an overall limit on Federal spending. There is no dispute about this.

The point at issue is where and how the money within that overall budget should be spent—where the true national priorities are.

While cutting back on such areas as alcoholism, the Administration's 1974 budget calls for multi-billion dollar increases in military spending and foreign military and economic aid over what was appropriated last year when the Vietnam War was in full force.

Does this tell you anything about the focus of our national priorities?

While we were reeling under the first effects of these proposed budget cutbacks, Mr. Nixon sent to Congress his message on Crime and Drugs.

In their emphasis on harsh punishment for drug offenders and mandatory sentences by Judges, I said at the time, and deeply believe, that these proposals "represent a long voyage into the night of the past—a regression to punishments and sentencing methods that have long since been professionally discredited, so far as deterring criminal acts or correcting criminal tendencies are concerned."

In his message, Mr. Nixon claimed that "dramatic progress" has been made by the Administration in enforcement on the crime and drug fronts.

I simply do not see the hard evidence to sustain this optimistic claim.

But I am even more concerned about the revival of the old, discredited notion that tough law enforcement can alone solve our drug and crime problems.

If we have learned anything by this time, it should be that you don't solve the drug problem by throwing addicts, pot-experimenting kids or even minor pushers into jail. Our jails are sewers of perversion, criminality and corruption. Among the witnesses before our Senate Subcommittee on Alcoholism and Narcotics, we have had persons who have been in every kind of institution, jail or prison our country has to offer. I fail to recall a single one of these witnesses who didn't testify that drugs, from alcohol to skag, were easily available in the prison—often easier to get inside the prison than outside.

As we prepare to fight for the survival of our Federal alcoholism programs, another item of alarming bad news is the compelling evidence we are getting of the sharp increase in alcohol abuse among children and youth.

According to Dr. Morris E. Chafetz, Director of the National Institute on Alcohol Abuse and Alcoholism: "All of our research indicates that some 85 percent of all youngsters have some drinking experience before they reach 18, a surprisingly large segment of them before they even reach their teens. The prime drug problem of youth today is not pot or pills or heroin, it is alcohol."

Another item of bad news, as reported by the Strategy Council, a high level federal government committee on drug abuse matters, is the growing fad of combining alcohol with other drugs to achieve new kinds of "highs." The Council points out: "Excessive use of alcohol is a common problem encountered in heroin addicts treated in methadone maintenance programs and . . . barbiturate addicts often present a history of severe alcohol abuse, concomitant with their primary addictive pattern."

The multiple drug phenomenon is one more danger signal telling us we must strengthen, not dismantle, our national effort to control alcohol abuse.

If my laying these items of bad news on the line gives you the impression I am discouraged about our national effort to combat alcoholism, let me hasten to say that I am not. We haven't lost the war and don't intend to. But we are locked in dubious battle at this time and we need your help.

Congress will take the necessary action to preserve our Federal alcoholism programs—only if public opinion demands it. When budget cutting is in season, funds for alcoholism programs—although representing only a small facet of the overhall budget—are generally the first to get the axe.

I particularly appeal to the tough-mindedness and practicality of you business men. The people who have the sense and the guts to face the agonizingly difficult problems of treatment and rehabilitation are not the visionaries or do-gooders. They are the realists.

Efficient, strict law enforcement has always been needed and always will be needed. But if we are to make real gains in alcoholism, we must deal with the core of the problem—the addiction itself.

To you business and government leaders who are here today, I would like to address a few facts on the basic economics of the alcoholism problem.

It was estimated by the Department of Health, Education and Welfare in 1971 that alcohol abuse and alcoholism drain the economy of $15 billion a year. Of this total, $10 billion is attributable to lost work time in business, industry, civilian government and the military.

A survey conducted three years ago, at my request, by the General Accounting Office, revealed that an estimated $135 to $280 million could be saved annually by the installation of sound programs of alcoholism treatment, rehabilitation and prevention for civilian employees of the Federal government.

Another survey, conducted by the GAO a year later, estimated that at least $240 million was being lost each year in the Armed Services and that at least $120 million of this could be saved annually by installation of appropriate programs.

By far the biggest annual loss and potential savings is to be found in private industry.

According to National Council on Alcoholism figures for 1972, 4.5 million of the nation's 9 million alcoholics are in the labor force.

Only about two dozen of the 100,000 companies large enough to need formal programs are pursuing alcoholism control. The National Council estimates that more than 300 have active programs today but most of them fall short of acceptable standards.

On the other hand, of the relatively small percentage of companies that have pioneered in alcoholism-control work among their employees, it is reported that 60 to 70 percent of workers accepting treatment have been successfully helped.

Consider what this means to a business.

At least one out of every thirteen employees in private industry is an alcoholic. A problem drinking employee will be absent from the job 16 times more than other employees, have an accident rate 3.6 times higher, receive sickness benefits three times greater, file five times more compensation claims, be involved repeatedly in grievance procedures, and function at a third less of the normal work potential.

What business can afford this kind of preventable annual waste?

Obviously the need to save human lives and to alleviate human misery are the prime motivations for controlling alcoholism. But the economic rationale in its own right is overwhelmingly convincing.

If alcoholism were a bacterial illness instead of a chemical illness, we would have taken the necessary measures to control it as we did with tuberculosis and polio.

We have the resources to do the job.

It is time we saw the light.

NUCLEAR TEST BAN TREATY

Mr. KENNEDY. Mr. President, 10 years ago on June 10, President Kennedy spoke to an assembly at American University and announced a moratorium on atmospheric testing which would remain in effect so long as the Soviet Union abstained.

He said that he hoped the moratorium would express concretely to the Soviet Union the commitment of the United States to negotiate a test ban treaty.

Less than 2 months later, that treaty was initialed in Moscow by the chief negotiator for the United States, Averell Harriman, and the parital Test Ban Treaty became a reality.

In this anniversary year, it would be fitting and thoroughly in our interests for a comprehensive test ban treaty to be signed.

For that reason, I introduced a reso-

lution earlier this year along with Senators HART, MATHIAS, HUMPHREY, CASE, and MUSKIE urging the President to take such actions. Some 33 Senators are now cosponsors and the Foreign Relations Committee has held hearings on it and hopefully soon will report it to the Senate for action.

Yesterday, former Ambassador Harriman, in a concise and persuasive article in the New York Times, reiterated the view that now is the right time for a ban on underground testing:

An announcement by President Nixon and Secretary Brezhnev of an agreement for a moratorium in testing pending prompt negotiations for a comprehensive test ban treaty would give new reassurance to the people of the United States and throughout the world that another important step was being taken to reduce the dangers of nuclear disaster and further the cause of peace.

In a parallel statement, the Members of Congress for Peace Through Law today released a study recommending suspension of underground nuclear testing and rapid negotiations for a treaty. The report, which was prepared by the office of the distinguished Senator from Michigan (Mr. HART), parallels Senate Resolution 67 in its conclusions and recommendations. This detailed study clearly analyzes the desirability and rationale for prompt steps to end the 10-year failure by the nations of the world to put a final halt to nuclear testing.

I ask unanimous consent that the article by former Ambassador Harriman and the press release and study by the MCPL, be printed in the RECORD.

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

[From the New York Times, June 10, 1973]

THE RIGHT TIME, THE RIGHT PLACE

(By W. Averell Harriman)

WASHINGTON.—The forthcoming visit of Secretary Brezhnev gives President Nixon a unique opportunity for another important initiative in the control of nuclear weapons. The time is opportune for President Nixon to announce the suspension of all nuclear testing as long as the Soviet Union shows similar restraint, coupled with a proposal for immediate negotiations for a comprehensive nuclear test ban including underground testing. Ten years ago President Kennedy took a similar initiative which resulted in agreement within seven weeks on the partial test-ban treaty.

This treaty included a pledge to continue negotiations to ban all nuclear testing. This pledge was reaffirmed in the nonproliferation treaty negotiated under President Johnson and ratified by President Nixon. Thus three Administrations have undertaken this commitment and so have the Soviet leaders of the last decade as well.

Other countries of the world take this commitment of ours seriously. It is doubtful that we can be successful in persuading certain potential nuclear powers to consider seriously adhering to the nonproliferation treaty as long as we continue extensive underground tests.

For many years—since 1958, in fact—it has been generally accepted that the comprehensive test ban would be in our national interest. The reason given for our inability to reach agreement on a comprehensive test ban has been our inability to obtain Soviet agreement on on-site inspection, once thought necessary to detect violation by clandestine underground testing. Whatever the merits of such a reason ten to fifteen years ago, it is not, in the judgment of experts, valid today.

There are two major reasons for the change. The first results from the continued advances in the field of detection and identification of underground nuclear tests by seismic means and other national means of detection.

Our national capabilities have advanced to a point where the risks of danger to U.S. security interests by clandestine Soviet underground tests is very limited. Any test that might escape detection and identification would be quite small, a relatively small fraction of the Hiroshima bomb and of relatively little importance in its possible effect on the strategic balance. Even with respect to tests of this size, there is sufficient uncertainty so that a potential evader could never be sure that any individual test would not be detected and identified.

The second reason results from the SALT agreements which provide that compliance will be verified by each side by national technical means, that neither side will interfere with the other's national means of verification, and that a standing commission will be established to consider any suspected violation of the agreement. These provisions assure protection to our satellite photography and provide a forum for immediate consideration of any suspicious activity. While one can always point to a possible residue of uncertainty, the risks of undetected violation in the very low-yield range have been reduced to a point where they are far outweighed by the gains from such a treaty by the elimination of tests in the higher-yield range and in contributing in other important ways to our security.

A resolution is now before the Senate, with the support of four Senators from both parties, which proposes first that the President announce the immediate suspension of all underground nuclear testing to remain in effect as long as the Soviet Union similarly abstains, and second, urges the President to set forth promptly a new proposal to the Soviet Government for a permanent treaty to ban all nuclear tests. All other nations would, of course, be asked to join such a treaty.

It seems fitting that President Nixon should follow this advice and take advantage of the Brezhnev visit to initiate discussions on this vital subject.

If we are prepared to abandon the controversial subject of on-site inspections, there are no insurmountable difficulties to overcome, providing both sides are prepared to enter such an agreement at this time. Of course, there are, in this country, those who still demand on-site inspection but the preponderance of scientific judgment appears to be that the risks of conceal evasion are limited and the advantages far outweigh any risks.

The SALT agreements impose quantitative restrictions on nuclear weapons but do not curb qualitative improvements. The SALT II discussions now commencing may in time result in further limitations. In the meanwhile, a comprehensive test ban is the most immediate way to further reduce the dangerous and costly nuclear arms race. With the will on both sides it could be achieved promptly.

An announcement by President Nixon and Secretary Brezhnev of an agreement for moratorium in testing pending prompt negotiations for a comprehensive test-ban treaty would give new reassurance to the people of the United States and throughout the world that another important step was being taken to reduce the dangers of nuclear disaster and further the cause of peace.

CONGRESSMEN RECOMMEND FULL BAN ON NUCLEAR TESTING

A bipartisan group of 53 Congressmen today endorsed a study recommending a U.S. suspension of underground nuclear testing and negotiations for a comprehensive test ban treaty.

The proposals accompanied a report prepared by the office of Senator Philip T. Hart of Michigan for Members of Congress for Peace through Law (MCPL), a six-year-old, bipartisan, bicameral group of Congressmen. Recommendations of the 27-page Hart study are:

Cessation of U.S. underground nuclear testing for so long as the U.S.S.R. refrains from such tests.

Commencement of negotiations on a Comprehensive Test Ban Treaty (CTBT).

Inclusion in CTBT of an 'escape clause' permitting withdrawal of signatories of they find their vital national interests in jeopardy.

Provision for on-site inspection only if it is determined that there is sufficient justification for nuclear explosions exclusively for peaceful purposes.

The recommendations stem from the study's finding that:

"Despite parity in strategic nuclear weapons, the U.S. enjoys a substantial lead over all other nations in nuclear and associated technology as a result of its early and extensive testing program; thus it is in a better position to afford any small risks that might be attendant on a comprehensive test ban treaty."

Further, the study found that the "nuclear stockpiles of the U.S. and the U.S.S.R. are more than sufficient to ensure deterrence" through mutual assured destruction. It also concluded that "the nuclear weapons program of the Peoples' Republic of China poses no significant near-term threat to the U.S." adding that the U.S. could effectively deal with any advances by the PRC in nuclear weapons without continued U.S. underground testing.

A major finding of the inquiry is the determination that "the historical stumbling block to a ban on underground testing—verification—has been overcome by advances in teleseismic techniques, satellite reconnaissance, and related methods of monitoring" by each nation's own resources.

The study concludes that "a ban on underground testing would not only enhance national security by damping the bilateral, qualitative arms race and by creating a climate for multilateral nuclear abstinence; it would have positive environmental benefits by reducing local and general radiation hazards. It might, moreover, have long-range economic benefits in terms of the cost differential between on-going and expensive testing and weapons predicament programs and an on-going program of laboratory research, monitoring, and surveillance."

Senators endorsing the report are: James Abourezk (D-SD), Birch Bayh (D-Ind), Edward Brooke (R-Mass), Alan Cranston (D-Calif), Mark Hatfield (D-Iowa), Hubert Humphrey (D-Minn), Edward Kennedy (D-Mass), George McGovern (D-SD), Charles Mathias (R-Md), Lee Metcalf (D-Mont), Frank Moss (D-Utah), Gaylord Nelson (D-Wisc), William Proximire (D-Wisc), Adlai Stevenson (D-Ill), John Tunney (D-Calif), and Harrison Williams (D-NJ).

In the House, Representatives endorsing the report's recommendations are: Congresswoman Bella Abzug (D-NY), Yvonne Burke (D-Calif), Shirley Chisholm (D-NY) and Patricia Schroeder (D-Colo) and Congressmen Les Aspin (D-Wisc), Bob Bergland (D-Minn), Jonathan Bingham (D-NY), John Blatnik (D-Minn), George Brown (D-Calif), William Clay (D-Mo), John Conyers (D-Mich), Ronald Dellums (D-Calif), Charles Diggs (D-Mich), Robert Drinan (D-Mass), Don Edwards (D-Calif), Joshua Eilberg (D-Pa), Donald Fraser (D-Minn), William Green (D-Pa), Michael Harrington (D-Mass), Henry Helstoski (D-NJ), Robert Leggett (D-Calif), Spark Matsunaga (D-Hawaii), John

Moakley (D-Mass), Charles Mosher (R-Ohio), Tom Rees (D-Calif), Benjamin Rosenthal (D-NY), William Roy (D-Kans), John Seiberling (D-Ohio), Fortney Stark (D-Calif), Louis Stokes (D-Ohio), Frank Thompson (D-NJ), Jerome Waldie (D-Calif), Sidney Yates (D-Ill) and Delegate Antonio Won Pat (Guam).

Assisting Senator Hart in the preparation of the study were the Center for Defense Information and Herbert Scoville, Jr., former science and technology official with the Central Intelligence Agency and the Arms Control and Disarmament Agency.

The report was prepared for MCPL's Military Spending, Arms Control and Disarmament Committee, chaired by Congressman Les Aspin. The committee's Vice-Chairman is Senator Edward Brooke. Congressman John Seiberling is chairman of the entire 140-member group.

Many of the Senators endorsing the report are also co-sponsors of Senate Resolution 67, introduced by Senator Kennedy earlier this year and calling on the President to promote negotiations for a comprehensive test ban treaty. Citizen support for the resolution is being mobilized by the Task Force on a Nuclear Test Ban headed by honorory co-chairmen Benjamin V. Cohen and James J. Wadsworth and co-chairmen Betty Goetz Lall and Mrs. Jo Pomerance.

In introducing the resolution in February, sponsors noted that 1973 "marks the 10th anniversary of the Partial Test Ban Treaty of 1963, but it will also mark the 10th anniversary of our failure to achieve a permanent halt to all nuclear weapons tests."

The resolution is expected to come to a vote on the Senate floor this month. A similar resolution will be introduced in the House in the near future by Congressman Michael Harrington.

Senator Hart's study addresses: the history of nuclear testing, the Plowshare Program of testing nuclear devices for peaceful purposes, the verification problem, the U.S. and Soviet commitments to a CTBT, the testing and stockpiling of nuclear weapons, and the impact on testing of existing treaty obligations.

Comprehensive Test Ban Treaty

(Report by the office of Senator Philip A. Hart)

summary conclusions

1. Both the U.S. and the Soviet Union have been committed to the principle of comprehensive test ban on nuclear testing for over a decade.

2. The effect of existing treaties and accords relating to nuclear testing and strategic nuclear weapons, both offensive and defensive, has been to reduce the need for additional underground testing, to increase confidence in the efficacy of such treaty limitations, and to create circumstances propitious for the conclusion of agreements on still more inclusive controls.

3. The effectiveness of existing treaties limiting nuclear tests and nuclear weapons would, however, be still further enhanced by a comprehensive test ban. Many nations—whether or not they possess a nuclear capability or potential for one and whether or not they have adhered to existing agreements—have reserved judgment on these treaties while waiting for an operational pledge by the U.S. and the U.S.S.R. that their willingness to limit testing and weapons stockpiles is in earnest. A comprehensive test ban treaty has been suggested by many as proof of such a commitment and would thus enhance acceptance of the Non-prolif. eration Treaty and similar limitation agreements.

4. Despite parity in strategic nuclear weapons, the U.S. enjoys a substantial lead over all other nations in nuclear and associated technology as a result of its early and extensive testing program; thus it is in a better position to afford any small risks that might be attendant on a comprehensive test ban treaty.

5. The nuclear stockpiles of the U.S. and the Soviet Union have for some time been more than sufficient to ensure deterrence by assured destruction, since either nation has a redundant capacity to wreak unacceptable damage on the other. Delivery systems have a parallel redundancy. Even without an ABM treaty, technology has not and is not likely to permit the construction of even marginally effective defensive systems. The Soviet Union and the United States have thus reached a level of overall nuclear parity and this has been partly codified in the SALT I agreements, which commit each party to a strategy of mutual vulnerability. Given this condition and the existing stockpiles of the two nations, there can be little or no risk for either nation in a cessation of underground testing, since continued testing offers virtually no prospect of changing the overall balance. Indeed continued testing may incite hitherto non-nuclear nations to embark on their own nuclear weapons programs, thus affecting central deterrent stability indirectly through proliferation of strategic nuclear weapons.

6. The nuclear weapons program of the People's Republic of China poses no significant near-term threat to the U.S., which, even without underground testing, would retain the capacity to deal with a much more sophisticated capacity than the PRC now possesses or is likely to possess. It is possible that a substantial gesture by the U.S. and the U.S.S.R. would damp the nuclear weapons efforts of the PRC. More realistically, however, the U.S. and the Soviet Union each possess a lead over the PRC sufficient to allow them to declare a "pause" in underground testing through a treaty with an escape clause allowing resumption of testing in the event any party felt its vital national interests were in jeopardy. The advantages for international security of such a pause far outweigh any putative risk of "falling behind China," given the narrow base of its nuclear and delivery technology.

7. The historical stumbling block to a ban on underground testing—verification—has been overcome by advances in teleseismic techniques, satellite reconnaissance, and related methods of monitoring. The ease with which a nation could cheat on such a ban and escape detection has been so reduced that cheating could only be contemplated by a regime that thought itself *in extremis*, in which case other signs would suggest the possibility of clandestine testing and the need for stepped-up surveillance. More importantly, the time and the number of tests involved in taking a nuclear weapon system from design to deployment, even one based on known technology, are so great that cheating would have to be on a scale where it would scarcely escape early detection. The discovery of a treaty violation, since it would involve the test phase of weapons development, would still leave ample time for appropriate countermeasures. No single development could upset the strategic balance. Insistence on on-site inspection has thus become unnecessary and would at best provide marginal confidence that violations over a small yield range were not occurring. Present verification techniques allow a very high measure of detection confidence, confidence more than sufficient to permit a viable ban on underground testing.

8. The Plowshare program to find peaceful uses for nuclear explosives has provided such equivocal results that the program is being cut back. After exploring a number of possibilities, such as gas stimulation, harbor excavation and the like, the program has shown only that alternative methods have fewer adverse consequences environmentally, economically, and politically. Since the potential benefits of Plowshare explosions now appear to be marginal, if they exist at all, the program should not be an impediment to a ban on underground testing.

9. A ban on underground testing would not only enhance national security by damping the bilateral qualitative arms race and by creating a climate for multilateral nuclear abstinence; it would have positive environmental benefits by reducing local and general radiation hazards. It might, moreover, have long-range economic benefits in terms of the cost differential between on-going and expensive testing and weapons replacement programs and an on-going program of laboratory research, monitoring, and surveillance. While such savings are in some measure hypothetical, they could be much greater than the savings claimed for the SALT I accords in terms of ABM systems and missiles not built.

recommendations

1. That the U.S. undertake a suspension of underground nuclear testing for so long as the U.S.S.R. also refrains from underground testing.

2. That the U.S. call on the U.S.S.R. to commence new negotiations leading to a CTBT.

3. That the U.S. negotiating position in any such talks not require on-site inspection except as specified below.

4. That the U.S. negotiating position provide for a treaty wtih an escape clause similar to that in the Limited Test Ban Treaty whereby any signatory may withdraw if it considers that its vital national interests are in danger.

5. That the U.S. negotiating position make provision for the possibility that testing for peaceful purposes might become desirable and that such testing be permitted under conditions including on-site inspection by other nations or an international organization.

Senator Hart and his staff wish to express their appreciation to the Center for Defense Information and to Herbert Scoville, Jr., for their assistance in the preparation of this report.

Report on Comprehensive Test Ban Treaty

(Prepared by the Office of Senator Philip A. Hart)

summary conclusions

1. Both the U.S. and the Soviet Union have been committed to the principle of comprehensive test ban on nuclear testing for over a decade.

2. The effect of existing treaties and accords relating to nuclear testing and strategic nuclear weapons, both offensive and defensive, has been to reduce the need for additional underground testing, to increase confidence in the efficacy of such treaty limitations, and to create circumstances propitious for the conclusion of agreements on still more inclusive controls.

3. The effectiveness of existing treaties limiting nuclear tests and nuclear weapons would, however, be still further enhanced by a comprehensive test ban. Many nations—whether or not they possess a nuclear capability or potential for one and whether or not they have adhered to existing agreements—have reserved judgment on these treaties while waiting for an operational pledge by the U.S. and the U.S.S.R. that their willingness to limit testing and weapons stockpiles is in earnest. A comprehensive test ban treaty has been suggested by many as proof of such a commitment and would thus enhance acceptance of the Non-proliferation Treaty and similar limitation agreements.

4. Despite parity in strategic nuclear weapons, the U.S. enjoys a substantial lead over all other nations in nuclear and associated

technology as a result of its early and extensive testing program; thus it is in a better position to afford any small risks that might be attendant on a comprehensive test ban treaty.

5. The nuclear stockpiles of the U.S. and the Soviet Union have for some time been more than sufficient to ensure deterrence by assured destruction, since either nation has a redundant capacity to wreak unacceptable damage on the other. Delivery systems have a parallel redundancy. Even without an ABM treaty, technology has not and is not likely to permit the construction of even marginally effective defensive system. The Soviet Union and the United States have thus reached a level of overall nuclear parity and this has been partly codified in the SALT I agreements, which commit each party to a strategy of mutual vulnerability. Given this condition and the existing stockpiles of the two nations, there can be little or no risk for either nation in a cessation of underground testing, since continued testing offers virtually no prospect of changing the overall balance. Instead continued testing may incite hitherto non-nuclear nations to embark on their own nuclear weapons programs, thus affecting central deterrent stability indirectly through proliferation of strategic nuclear weapons.

6. The nuclear weapons program of the Peoples' Republic of China poses no significant near-term threat to the U.S., which, even without underground testing, would retain the capacity to deal with a much more sophisticated capacity than the PRC now possesses or is likely to possess. It is possible that a substantial gesture by the U.S. and the U.S.S.R. would damp the nuclear weapons efforts of the PRC. More realistically, however, the U.S. and the Soviet Union each possess a lead over the PRC sufficient to allow them to declare a "pause" in underground testing through a treaty with an escape clause allowing resumption of testing in the event any party felt its vital national interests were in jeopardy. The advantages for international security of such a pause far outweigh any putative risk of "falling behind China," given the narrow base of its nuclear and delivery technology.

7. The historical stumbling block to a ban on underground testing—verification—has been overcome by advances in teleseismic techniques, satellite reconnaissance, and related methods of monitoring. The ease with which a nation could cheat on such a ban and escape detection has been so reduced that cheating could only be contemplated by a regime that thought itself *in extremis*, in which case other signs would suggest the possibility of clandestine testing and the need for stepped-up surveillance. More importantly, the time and the number of tests involved in taking a nuclear weapon system from design to deployment, even one based on known technology, are so great that cheating would have to be on a scale where it would scarcely escape early detection. The discovery of a treaty violation, since it would involve the test phase of weapons development, would still leave ample time for appropriate countermeasures. No single development could upset the strategic balance. Insistence on on-site inspection has thus become unnecessary and would at best provide marginal confidence that violations over a small yield range were not occurring. Present verification techniques allow a very high measure of detection confidence, confidence more than sufficient to permit a viable ban on underground testing.

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9. A ban on underground testing would not only enhance national security by damping the bilateral qualitative arms race and by creating a climate for multilateral nuclear abstinence; it would have positive environmental benefits by reducing local and general radiation hazards. It might, moreover, have long-range economic benefits in terms of the cost differential between ongoing and expensive testing and weapons replacement programs and an ongoing program of laboratory research, monitoring, and surveillance. While such savings are in some measure hypothetical, they could be much greater than the savings claimed for the SALT I accords in terms of ABM systems and missiles not built.

RECOMMENDATIONS

1. That the U.S. undertake a suspension of underground nuclear testing for so long as the U.S.S.R. also refrains from underground testing.

2. That the U.S. call on the U.S.S.R. to commence new negotiations leading to a CTBT.

3. That the U.S. negotiating position in any such talks not require on-site inspection except as specified below.

4. That the U.S. negotiating position provide for a treaty with an escape clause similar to that in the Limited Test Ban Treaty whereby any signatory may withdraw if it considers that its vital national interests are in danger.

5. That the U.S. negotiating position make provision for the possibility that testing for peaceful purposes might become desirable and that such testing be permitted under conditions including on-site inspection by other nations or an international organization.

THE U.S. AND SOVIET COMMITMENTS TO A COMPREHENSIVE BAN ON NUCLEAR TESTING

Both the U.S. and the U.S.S.R. are committed in principle to the completion of a comprehensive test ban treaty. The Preamble to the Limited Test Ban Treaty (August 5, 1963) states that the parties will seek "to achieve the discontinuance of all test explosions of nuclear weapons for all time," and will "continue negotiations to this end," and that they desire to "put an end to the contamination of man's environment by radioactive substances." This treaty also states in Article I, paragraph 1b, that its provisions "are without prejudice to the conclusion of a treaty resulting in the permanent banning of all nuclear test explosions, including all such explosions underground, the conclusions of which, as the parties have stated in the preamble to this treaty, they seek to achieve."

This commitment to work toward a comprehensive test ban is again stated in the Preamble to the Treaty on the Non-Proliferation of Nuclear Weapons (July 1, 1968). The Preamble recalls "the determination expressed by the parties to the 1963 treaty banning nuclear weapon tests in the atmosphere and in outer space and underwater . . . to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time, to continue negotiations to this end."

Not only is the U.S. obligated by these two treaties to work toward a comprehensive test ban, but this commitment has also been explicitly stated by President Nixon. On March 18, 1969, President Nixon, in a message to Ambassador Smith of the Arms Control and Disarmament Agency, said: "The United States supports the conclusion of a comprehensive test ban, adequately verified. In view of the fact that differences regarding verification have not permitted achievement of this key arms control measure, efforts must be made toward greater understanding of the verification issue." More recently, on February 23, 1971, President Nixon said in a message to the Conference of the Committee on Disarmament in Geneva:

The General Assembly has requested this committee to continue as a matter of urgency its deliberations on a treaty banning underground nuclear weapon tests. It also called attention to the need to improve worldwide seismological capabilities in order to facilitate such a ban. The United States will continue to support these efforts, particularly those designed to achieve a greater understanding of the verification issue.

THE IMPACT ON NUCLEAR TESTING OF EXISTING TREATY OBLIGATIONS

Perhaps the realization of the futility of pursuing nuclear defensive programs was the prime motivation behind the SALT I ABM Treaty. Looking to the future, it is apparent that the point of diminishing returns has been reached in nuclear weapons technology from the standpoint of altering the military threat situation and thereby increasing national security. As long as both countries continue to act and react and also meet the demands of their respective defense establishments for more and more weapons systems to maintain the momentum of defense contracting and spending, the technical improvements of one side will tend to nullify those of the other. Vast sums of money representing scarce natural resources will continue to be devoted to an effort yielding little or no gain in national security. This is the inevitable result of continued reliance on technology alone as the answer to the complex question of national security.

The effect of Treaties and Agreements on the need for testing must be considered as a part of the overall question of maximizing national security. The DOD, prior to the achievement of the SALT ABM Treaty and the Interim Agreement on Offensive Systems, argued that nuclear testing is necessary to improve the penetration characteristics of U.S. missile forces to counter further Soviet ABM deployment. They maintained that continued development of special output weapons (enhanced X-ray and Neutron bombs) have their major application in ABM warheads, although they will not solve the problem of developing an effective ballistic missile defense. Improvements in yielded-to-weight ratios would result in more sophisticated MIRVs, again required essentially to negate ABM systems. Additional advances in low fission weapons, in savings in special materials, and in new geometries all bear on the effectiveness of tactical nuclear weapons. A large segment of the future test schedule would be devoted to improved strategic offensive and defensive systems. Since the signing of the Limited Test Ban Treaty for 67% of testing has been devoted to such systems. There is little real need for the improvements available in view of the recently completed SALT Accords and past treaties to which both the U.S. and U.S.S.R. are parties.

Those treaties and agreements that bear on the test ban issue are: the Partial Test Ban Treaty (1963), the Treaty Banning Nuclear Weapons in Outer Space (1967), the Non-Proliferation Treaty (1968), the ABM Treaty (1972), and the Interim Agreement on Offensive Systems (1972).

The Partial Test Ban Treaty did not prohibit deployment of nuclear weapons in any way. It did bar the testing of nuclear weapons in the atmosphere, underwater and in outer space. Furthermore, tests are banned in any other environment if such explosion causes radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted. The effect initially of the Treaty was to slow down the technical pace of developments in nuclear weapons technology by making it more difficult to conduct tests.

However, with the development of large diameter drilling techniques and other capabilities the U.S. and the U.S.S.R. have been able to circumvent the original impact of this treaty to a large extent. Only full-scale operational systems tests are now infeasible with underground testing.

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies (1967) prohibits the placing in orbit around the Earth of any objects carrying nuclear weapons . . ., the installation of such weapons on celestial bodies, or the stationing of such weapons in outer space in any other manner. Again, the need for research by underground tests on nuclear weapons systems to be deployed in outer space is largely invalidated.

The Non-Proliferation Treaty requires that nuclear weapon parties undertake not to transfer to any recipient nuclear weapons or to assist any non-nuclear weapon state to manufacture or acquire nuclear weapons. The non-nuclear weapon state parties agree not to receive nuclear weapons from any other nation or to manufacture nuclear weapons on their own.

Lastly, and perhaps most important of all arms agreements, the ABM Treaty and the Interim Agreement on Offensive Systems must be considered. The ABM Treaty limits both the U.S. and the U.S.S.R. to only two ABM sites with 100 launchers and interceptors per site. The MIRVing of ABM interceptor missiles is banned. The Offensive Systems Agreement limits the numbers of fixed, land-based ICBM launchers and SLBM launchers to specified quantities. In achieving this treaty both superpowers have obviated the need for continued testing since the DOD has justified the need for future tests largely on the basis of an improved Soviet ABM and offensive developments now prohibited by the force of the SALT I Accords. It simply makes little sense to continue to test and develop improved systems whose deployment is strictly forbidden or severely limited. No amount of R&D and testing would conceivably turn a 200 launcher ABM system into an effective defense against the thousands of offensive warheads permitted under the SALT Agreement. Similarly, the freeze on ABM deployment removes the basis for the DOD arguments on improving systems such as Poseidon and Minuteman III for defense penetration. These systems are more than adequate to overwhelm any existing Soviet ABM deployment under the ABM Treaty or any ABM which could be deployed within many years after the abrogation of the Treaty.

Some might argue that continued R&D is needed as a sort of insurance against Soviet violation of the accords. A case in point is the maintenance of the capability to resume atmospheric testing in the event that the Soviets abrogate the Limited Test Ban Treaty. Over the years, as the possibility of a Soviet violation or abrogation declines, so the need for maintaining this sort of costly posture also decreases. The DOD has done precisely this in reducing the test readiness program gradually since the Limited Test Ban Treaty was signed.

The same logic should apply to the ABM accords. The actual need for continued testing for ABM-related defense programs should be phased out over a period of several years. The alternative of intensifying the level of testing and R&D in general and viewing the SALT Accords as strictly a quantitative arms limitation would seriously undermine strategic arms control efforts. A safer, less costly, and more stable course would be to begin qualitative arms control by the speedy completion of a Comprehensive Test Ban Treaty.

A HISTORY OF TESTING

The first U.S. nuclear test was conducted on 16 July 1945 and the Soviets followed four years later with a similar test in August 1949. Since these early and historic events both countries have continued to test nuclear devices for a variety of nuclear weapons systems, to collect data on the effects of nuclear weapons, and to a much lesser extent to conduct nuclear explosions for peaceful purposes. Some significant developments in this period include the development of thermonuclear explosives by the U.S. in November 1952 and followed shortly by the U.S.S.R. in August 1953; the observance of a three-year test moratorium by both powers from November 1958 to September 1961; and the completion of the Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water on August 5, 1963; and the acquisition of nuclear weapons by three other states—Great Britain (1952), France (1960), and China (1964). Since the Limited Test Ban Treaty went into effect, both the U.S. and U.S.S.R. have continued extensive nuclear testing underground. The British have conducted only two tests jointly with the U.S. in the underground environment since signing the Treaty. France and China have refused to become parties to the Limited Test Ban Treaty and continue to test in the atmosphere. A total of at least 851 nuclear tests were conducted by all nuclear weapon states as of 1970.

The contribution to this total by each country is shown in Table No. 1.

TABLE 1.—*Number of tests conducted, 1945–1970*

Country:	
U.S.A	539
U.S.S.R. (greater than)	242
U.K	25
France	38
China	11

In terms of total test numbers it is seen that the U.S. has conducted a far larger number of tests than all the other nuclear powers combined and should therefore possess the greater amount of knowledge concerning nuclear phenomena.

A word of caution, however, must be given on the numbers of reported tests used in this report. The U.S. AEC policy is not to announce publicly all U.S. tests. The AEC figures for Soviet tests are generally lower than those given by the Swedish Research Institute for National Defense (FOA) for Soviet Testing. Apparently the AEC wishes to conceal the U.S. capability for detection and discrimination of foreign nuclear tests and to deny the Soviet complete information on the frequency of U.S. testing. Hence the figures used are considerably lower than the true number of Soviet ones and slightly lower than the number of U.S. tests. Nevertheless, the publicly-announced figures are probably a reasonable representation of the actual relative test activity of the two countries. Where Swedish and U.S. AEC figures differ, the higher one has been used, since the U.S. has not announced all tests.

It is instructive to divide the history of testing into two periods, the first being the years before the signing of the Limited Test Ban Treaty and the second covering the elapsed time since the Treaty when testing has been restricted to the underground environment. The total number of tests in the pre Limited Test Ban Treaty era for the U.S. was publicly announced to be 310. Soviet testing for the same period has been estimated to be only 163 by the FOA. The U.S. apparently tested about twice the number of devices the Soviets did in the same period. Since the Limited Test Ban Treaty went into force, the U.S. has publicly announced some 241 tests for the U.S. and only 61 for the U.S.S.R. FOA figures for Soviet testing are higher but somewhat incomplete. They indicate a number of 93. Both countries have continued to test vigorously in the only medium permitted under the Limited Test Ban Treaty. However, the U.S. appears to have actually increased its testing rate relative to the U.S.S.R. Prior to the Limited Test Ban Treaty, the U.S. tested at about twice the rate of the U.S.S.R. Since the Limited Test Ban Treaty, the U.S. rate for testing appears to have risen to three times the Soviet effort.

It is clear that the U.S. has consistently maintained a much greater test program to achieve a more sophisticated and broader nuclear weapons technology. The U.S. in this eight-year period has tested 234 devices, compared to 298 tests from 1946–1963, a 17-year period. The Soviet Union, which does not announce its tests, has tested since 1963, 54 nuclear weapons, according to U.S. reports. Its testing record in the previous comparable period was 124 tests.

The U.S. has a much wider test experience in the low (less than 20 kt) and Low-Intermediate (20–200 kt) yield range of nuclear weapons. This greater test experience should translate into more technically effective weapons in this yield range that incidentally is thought today to be of paramount importance for tactical nuclear systems. The Soviets had conducted prior to 1963 several tests with yields above 20 MT while the U.S. has never tested above 15 MT. Except in this very high yield range, for which the U.S. has had no military requirement, the U.S. has had much broader test experience and probably therefore more sophisticated weapons designs.

THE TESTING AND STOCKPILING OF NUCLEAR WEAPONS

Throughout the history of testing, the goals have always been to develop improved nuclear weapons for the military, to understand the effects of such weapons on civilian and military targets, and to a very small degree to find peaceful uses for nuclear explosions. The greatest effort has been to develop strategic and tactical nuclear weapons for our military forces. The development program for a nuclear warhead generally takes about three years if the design is based upon well-known technology. As many as 20 to 30 undergound tests may be conducted to accomplish this development. Over the full history of the U.S. nuclear weapons stockpile, about 50 basic types or models have been introduced into the stockpile. The present stockpile contains about 25 basic models. The yields of these weapons range from a fraction of a kiloton up to around 25 megatons for U.S. weapons. The total number of delivery vehicles is in the tens of thousands and there is more than one warhead per delivery vehicle in the stockpile. The U.S. ACDA had put the total number of American warheads at 40,000 in 1962. Unofficial estimates of the actual number of warheads in the 1960's range from 50,000 to 200,000. The total megatonnage represented by these weapons has been stated by Dr. Herbert York, former Director of Defense Research and Engineering, to be 20–40 thousand Megatons in the beginning of the 1960's. The trend in recent years for the U.S. has been toward greater numbers of lower yield warheads so that the overall megatonnage of the U.S. stockpile may be declining. Such reductions, which are designed to increase the efficiency of the U.S. stockpile, do not however appreciably affect the well-known levels of over-kill now in existence.

Both countries have continued to rely on nuclear weapons as the principle means to insure national security. The diversity and duplication of the stockpiles are such that neither side possesses a capability to strike first and effectively destroy the other side's ability to render an unacceptably damaging second strike. Thus, the term mutual assured destruction has come to describe the post-war military situation.

The continued testing and deployment of new nuclear weapons will doubtless improve the technical capability of these stockpiles

but probably will never result in one side achieving a superiority to the extent it could launch a first strike with impunity, as long as both sides continue to test. There can be no net increase then in the national security of either state through continued reliance on technology alone. With the above stockpiles already in existence, it is reasonable to ask why there is a continuing need to test.

The Department of Defense has stated that the continued progress in nuclear weaponry cannot be made without further testing. The two pillars of science are theory and experiment. Theoretical predictions of nuclear device performance must be verified by experimental testing. Since the temperatures, pressures and radiation fluxes of nuclear explosion environments cannot be duplicated in the laboratory, underground tests are required for continued experimental measurement of theoretically predicted improvements. The DOD foresees the following technical possibilities on the horizon that require testing:

1. Improvements in materials for missile design.
2. Yield to weight ratio improvements in re-entry vehicle size ranges of Poseidon and Minuteman III.
3. Special Output Devices.
4. Lower Fission designs.
5. Special Geometry.
6. Reduced use of Special Materials (Enriched U,Pu239,T).
7. Improvements in the lifetime of stockpiled weapons.
8. Improvements in weapons safety.

It is important to look at the progress already made throughout the history of nuclear testing and ask whether these improvements will really make a significant impact on the military situation and improve the national security of the U.S. The development of fission weapons increased the destructive power which could be delivered on a target by a factor of more than 1,000. The availability of thermonuclear weapons increased this capability still further. Now, however, one is approaching the limits of the energy that can be achieved from any known physical reaction. Therefore, while some improvements are to be expected, there will probably be no fundamental changes in yield to weight ratios of nuclear weapons with continued testing.

It is undoubtedly true that without testing since 1963, programs such as Poseidon and Minuteman III would not have been as effective technically as they are today. This is true for Soviet systems developed in the same time frame. However, as long as both superpowers continue to test and apply this testing experience to update their stockpile of nuclear warheads, the technical effectiveness of their force structures will improve somewhat but will have the tendency to cancel each other out in opposing stockpiles. The over-all military and national security situation is not likely to change or destabilize.

Consider for example the changes since the 1950's in the nuclear situation. Both powers shifted reliance from free-fall nuclear bombs delivered by jet-powered aircraft to nuclear warhead re-entry vehicles delivered by ballistic missiles. Delivery times have been shortened from hours to minutes, yield to weight ratios have been improved by about 10^2 but the overall military situation is still such that, given a nuclear war, the result will be assured mutual destruction of both societies, now guaranteed further by the limits on defensive systems in the ABM Treaty.

Despite massive efforts to find a technical solution to the offensive nuclear threat, neither side has been able to alter the inherent advantage of offensive systems in the nuclear age. A technically effective defensive system would have to be greater than 99% effective since the level of destruction inflicted by only 10% of each nation's offensive forces would be unacceptable.

THE TESTING OF NUCLEAR DEVICES FOR PEACEFUL PURPOSES: THE PLOWSHARE PROGRAM

The peaceful uses of nuclear explosives must be dealt with in concluding a comprehensive test ban treaty. There are generally three types of peaceful application for nuclear explosions. Two have economic or industrial applications; the third is primarily concerned with basic scientific research utilizing the unique nuclear environment produced by nuclear explosions. Under the terms of the Non-Proliferation Treaty, the U.S. is committed to make available to non-nuclear weapon States party to the Treaty nuclear devices so that they may partake of the potential benefits of these peaceful applications.. The crucial point here is that the obligations involved only potential benefits. If indeed, as is probably the case, the applications for nuclear explosions turn out to be too troublesome and of marginal utility to be of any real benefit then of course such peaceful nuclear programs may be cancelled without violation of the treaty commitment.

The two industrial programs are nuclear excavation for large scale earth-moving projects and nuclear underground explosions for natural resource stimulation and recovery. In the excavation scheme a nuclear device specially designed to reduce fallout is emplaced at a relatively shallow depth in the earth and detonated. The resulting explosion ejects a large volume of earth and bomb direct debris into the atmosphere ultimately to form a crater of specified dimensions. This scheme has been considered at various times for harbor formation in remote and unpopulated areas, for construction of a sea level canal across the Isthmus of Panama, and the creation of passes through mountain ranges for railroad tracks.

The underground engineering applications call for the detonation of a different type of device at much greater depths that do not produce craters. These explosions are supposed to fracture large volumes of rock underground for the purpose of stimulating uneconomical gas fields and recovery of oil from shale deposits. Other underground applications are the creation of underground storage facilities for fuels and waste disposal and perhaps the stimulation of geothermal heat sources for electric power production.

As these programs, known collectively as Plowshare in the U.S., proceed, it is important to remember that the experimental testing is broken down into two phases. One involves Plowshare device development for the particular intended application and its associated constraints, the other involves the actual use of the currently existing prototype device in application tests to determine whether the treaty pertaining to that particular scheme is borne out by experience. The device development tests for the underground engineering applications are carried out at the Nevada Test Site to check improved designs, while the actual application experiments are conducted off the site at marginally productive gas fields with devices already proven at the Test Site.

If Plowshare application programs are permitted under a comprehensive test ban, then adequate controls must be fashioned to take care of the potential risk that a country might test a weapon under the guise of a Plowshare application program. Furthermore, if Plowshare device development tests are permitted at all under a comprehensive test ban, then the advances made in good faith by a party to the Treaty in Plowshare design could in several areas contribute to the improvement of its nuclear weapons technology. Some of the goals of Plowshare device design have been low fission, reduced activation of soils, minimum diameter, and the hardening of the device to withstand shocks. All of these are applicable in improving nuclear weaponry as well.

If Plowshare device development tests are banned to avoid nullifying the intent of the treaty, then existing designs will have to be relied upon for all Plowshare applications. These designs then would be frozen and all the limitations involved with them would have to be tolerated or the use of these designs would be severely curtailed. Proposals have been made to stockpile Plowshare designs in this manner. The chief objection to this is that the technology of the peaceful devices would be frozen at a level insufficient for most applications.

Presently device development for excavation explosions has been halted. No development shots have been conducted since 1970. In that same year the Atlantic-Pacific Interoceanic Canal Study Commission concluded that neither the technical feasibility nor the international acceptability of nuclear canal excavation had been established at that time. In the underground engineering device, development tests have to be done yet to harden this device for multiple sequence shots for optimum gas stimulation application.

It is apparent that both types of devices have not reached the point where they could be stockpiled and used with any real benefit. Postponing the completion of a comprehensive test ban until such time that these devices are ready to be stockpiled could result in a long and probably infinite delay and irrevocable damage to prospects for an international halt to nuclear testing. The dilemma posed by the Plowshare program could be avoided if in fact the actual applications themselves were shown to be generally of marginal utility. The entire program could then be scrapped and a truly comprehensive test ban could be completed. The past history of U.S. and Soviet Plowshare programs is presented below to show that serious problems exist with all of the proposed applications.

The U.S. excavation application program was halted in 1970 when the last device development test for the excavation type device was conducted. The earliest shots occurred in 1962 at the NTS (Nevada Test Site) and involved .4 kt detonation was such that doses of .1 R would be received at distances of 100 miles from the crater. The peak year of activity for the excavation program was 1968 in which three cratering experiments were conducted. The dose received at 150 miles was reported to have been reduced to a value of .1 R as compared to over 1 R in 1962. However, these improvements apparently were simply not good enough since the Canal Commission issued its report in 1970 and stated that neither the technical feasibility nor the international acceptability of nuclear canal excavation had been established at that time. Since 1970, no money has been appropriated for excavation activities. Other projects that were once considered and later abandoned include Project Chariot, a harbor creation plan for Alaska; a similar project to excavate a harbor at Cape Keraudren, Australia, and one to excavate a railroad pass through mountainous terrain in the U.S. In considering any of these excavation schemes it is important to remember that Article I of the Limited Test Ban Treaty prohibits "any other nuclear explosion" in any environment if such explosion causes radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted. Therefore, even if excavation applications that might one day reduce fallout to an acceptably safe level are realized there would still be an obligation not to conduct such tests if they violate the treaty.

The underground engineering program has suffered similar setbacks over the years. The

list of projects proposed and later cancelled is quite large. These include: Project Cloop—a plan to recover copper ore; Project Ketch—a plan to create an underground gas storage facility in Pennsylvania; Projects Bronco and Utah—both concerned with oil shale recovery; and Wagon Wheel and WASP—both conceived as gas stimulation projects. Only the gas stimulation program is being actively funded and maintained by the AEC. Two stimulation experiments have been conducted and a third—Rio Blanco—is planned for the future.

It has been estimated by the AEC that gas stimulation technology could meet 10% of the gas shortage projected over the 1975–1985 period. The economic analysis was favorable only on the assumption that the current price of gas at the well head would rise to more than 30¢ per 1000 cu ft in the future. The radiological implications are that only .5 millirem per year would be received by consumers. This projection is based upon the assumption that the gas from the nuclear-stimulated wells is diluted with gas from other sources at least tenfold before it is shipped to the consumer. The full application program to realize the above-stated results would involve the detonation of 4000 nuclear explosions of yields up to 100 kt each in 1000 wells over a 20-year period. The gas formations to be stimulated are located in the Rocky Mountain area of Colorado, Utah, New Mexico, Wyoming, and Arizona. The potential for seismic effects in addition to radiological effects from such widescale application of nuclear explosive stimulation is large. The Rocky Mountain area does contain areas of high natural rock stress and it has been established by experts that a series of earthquakes in the Denver, Colorado area was caused by the injection of liquid waste products via a single well into the fractured granitic basement rock. It appears that the natural crustal balances in the area are extremely sensitive. In addition, there is the problem of damage caused to structures from the shot itself. The actual damage caused by Project Rulison to manmade structures in the vicinity is $93,000. This event was only 40 kt, much lower than the planned 100 kt devices for future stimulation. Finally, the use of 4000 devices in the program represents a huge investment of highly enriched uranium at a time when projects indicate a shortage of uranium for the nuclear power program. Is it worthwhile to expend irrevocably on the order of 120,000 kgs of U–235 to recover the gas that in turn is to be used as an energy source? Why not simply utilize this Uranium in power reactors and shift the burden from natural gas to nuclear power reactors to avoid the shortage?

Table No. 2 shows the continuing decline in the U.S. Plowshare program since 1966:

TABLE 2.—U.S. PLOWSHARE PROGRAM 1966–73 TESTS BY PROGRAM APPLICATION

Year	Budget	Total tests	Underground engineering	Excavation	Scientific research	Device development
1966	15.1	4	0	0	1	3
1967	13.4	3	1	1	0	1
1968	18.1	4	0	3	0	1
1969	13.2	2	1	0	1	0
1970	14.3	1	0	0	0	1
1971	7.6	1	0	0	0	1
1972	7.1	1	1	0	0	0
1973	6.8	?	?	?	?	?
1974	3.8	?	?	?	?	?

In conclusion, it appears that the Plowshare programs are indeed of very limited potential, when benefits are weighed against costs. The excavation program has been halted without achieving technically suitable devices for application. Nor have ways been found to overcome the social, political and international problems associated with these applications. There have been no scientific research Plowshare shots since 1969. The underground program has been limited to but one application since 1971. This last existing program of gas stimulation has many technical, economic and safety problems associated with it. On balance the entire program does not seem important enough to impede the completion of a comprehensive test ban. No provision for continued Plowshare device development need be contained in the comprehensive test ban, since the chances of weapons application are too high and the potential benefits of these devices as peaceful explosions are quite low. The subject could, however, be re-examined after 5 to 10 years' experience with a comprehensive test ban.

TECHNICAL OBSTACLES TO THE ACHIEVEMENT OF A COMPREHENSIVE TEST BAN: THE VERIFICATION PROBLEM

The chief obstacle to attainment of a comprehensive test ban has been the problem of adequate verification of the terms of the proposed test ban.

The Soviet position on verification of the comprehensive test ban is that adequate means exist at the national level alone to monitor its terms. The U.S. negotiation position has never abandoned the need for on-site inspection of events that failed to be identified by seismic means alone. The two countries were closest in principle in 1963 when the Soviets offered to permit 2 to 3 on-site inspections per year within the Soviet Union. At that time, the U.S. steadfastly maintained that several were necessary, later quantified at 7. Agreement on the issue was never reached and the Soviets on October 16, 1963, withdrew the offer to permit on-site inspections.

Regardless of the value and role of on-site inspections, it is clear that seismology will play a crucial role in monitoring a comprehensive test ban. The improvements in seismology since the signing in 1963 of the Limited Test Ban Treaty are reviewed below, together with current estimates on the validity of on-site inspection techniques. Other means of monitoring possible violations are presented. These developments show that the capability to direct a would-be violation have vastly improved since 1963, and that the U.S. should drop its insistence on on-site inspections as a part of any comprehensive test ban. A reasonable compromise solution could be the adoption of verification provisions similar to those in the ABM Treaty.

Seismic detection and discrimination systems for underground nuclear tests are based upon the observed phenomenon of energy coupling and signal propagation that occurs when a nuclear device is detonated underground. These signals or seismic waves are propagated both through the earth (Body waves) and along the surface of the earth (Surface waves). There are two kinds of surface and body waves; the Body waves are designated P-Body and S-Body to refer to the longitudinal or compressional wave and the transverse or shear wave respectively; the Surface waves are designated as the Love wave and the Rayleigh wave; these refer to the transverse and longitudinal waves that propagate through the surface of the earth. Earthquakes also generate seismic signals throughout the world, and locally at the site of the measuring station there is always a problem of meterological and cultural noise to contend with when attempting to detect and identify signals.

In order to act as an effective test ban monitor, any detection system must be able to detect and identify nuclear explosions and tell them from earthquakes and other seismic noise down to low yields that would be militarily insignificant. The U.S. Government has conducted Project Vela Uniform since 1959 to investigate nuclear test detection and discrimination by seismic means. Expenditures have amounted to about $250 million. According to the DOD, the results of this program are that the U.S. has: improved its capability to detect nuclear explosions; established both an empirical and a theoretical understanding of seismic location and identification problems; developed an ability to discriminate between seismic signals from earthquakes and other seismic noise down to low yields that would be militarily insignificant. The U.S. Government has conducted Project Vela Uniform since 1959 to investigate nuclear test detection and discrimination by seismic means. Expenditures have amounted to about $250 million. According to the DOD, the results of this program are that the U.S. has: improved its capability to detect nuclear explosions; established both an empirical and a theoretical understanding of seismic location and identification problems; developed an ability to discriminate between seismic signals from earthquakes and explosions down to a few KT; and clarified the complex relation between yield and seismic magnitude. Nevertheless, they conclude that an adequate seismic monitoring system cannot be built on the basis of nationally-owned territory and that the possibility of a determined violator evading the U.S. seismic verification system is non-negligible. Finally, the DOD has claimed that a need exists for on-site inspection to deter violations by increasing the chances of being caught and to clarify the nature of seismic events that will be large enough to detect but sufficiently small that positive identification of source cannot be made.

On-site inspections would, in the Pentagon view, also establish the nuclear or non-nuclear nature of low yield explosions and enhance international confidence in any cases where earthquakes were misidentified as explosions. In effect, the DOD is saying that about nine years of research at a cost of $250 million has not resulted in a basic change in the U.S. negotiating position.

The magnitude of the seismic signal propagated through the earth is an indication of the energy released in a nuclear explosion. It is a logarithmic quantity and the measurement is made on both the body and surface waves, designated mb and Ms respectively. Earthquakes have a very much larger surface wave magnitude for a given body wave magnitude than do underground explosions. For example, an earthquake of body magnitude mg of 4.0 would have a surface wave magnitude of 4.0 or greater, while for a deep explosion of mb=4.0, the surface wave magnitude might only be 3.2. This difference provides a powerful tool for discriminating between earthquakes and explosions. It is important to note that the magnitude associated with a given nuclear explosion depends greatly upon the type of material in which the device was detonated, as well as the yield of the device itself. In general, hard wet rock will give a much higher signal for a given yield than will dry porous material such as alluvium. The dependence of mb for various yields on the shot medium is shown in Table No. 3.

TABLE 3.—BODY WAVE MAGNITUDE AND SHOT MEDIUM

MB	Granite	Tuff	Alluvium[1]
4.0	1	2	10
4.7	10	20	100
5.3	100	200	1,000

[1] Alluvium does not exist at sufficient depths to contain without visible surface effects an explosion greater than about 10 kt.

An observed magnitude of 4.0 would correspond to 1 kt in granite or up to 10 kt in alluvium. As the magnitude of the seismic events of interest declines, the number of earthquakes observed each year increases. Therefore, as the detection threshold is lowered the discrimination or identification

problem becomes more burdensome. Beyond some point the noise level is such that the actual signal is masked and no capability to detect or discriminate exists. The Director of ARPA (Advanced Research Projects Agency), Dr. Lukasik, has testified that for shore period signals body wave magnitudes in the area of 3.5 to 3.7 may represent the minimum practical detection threshold for teleseismic distances (beyond 1700 km). Now this corresponds to about .5 kt in hard rock or several kt in alluvium. Testing restricted to these yields would be of no military significance.

The DOD has testified that the present level for unambiguous seismic identification of underground explosions for the Eurasian land mass is mb=4.75. This represents 10 to 100 kt depending upon the shot medium and is a capability based upon national means of detection on a worldwide network. However, alluvium is not available at a depth to avoid leaving a visible crater from an explosion much greater than 10 kt. More important is the estimate of a presently attainable goal for the near future. Dr. Lukasik has testified that in principal teleseismic identification of explosions below mb=4.5, perhaps to 4.0 appears an attainable goal. A more emphatic statement of future operational capability based upon existing theory and experimental data from deployed seismic arrays appears in the unapproved version of the Woods Hole Conference of Seismologists of July 1970. This was deleted from a later summary of the report but is the general conclusion of most scientists involved. (See testimony before the JCAE October 27–28, 1971.)

"Adequate data were presented on Ms:mb values to establish that discrimination by Ms:mb is on the average as well done at mb=4.0 as at mb=5.50. . . ."

This means that seimic detection and identification is now possible down to yields of 1 to 10 kt if the proper network is deployed. With such systems deployed at teleseismic distances there would still be some events each year that would not be identified on the basis of seismic discriminants alone. These so-called anomalous events might number about 25 according to the DOD but most of these would be of the order of only a few kilotons.

Various evasion schemes have been suggested and investigated by the DOD in order to assess the chances of a successful clandestine nuclear test under the comprehensive test ban treaty limitations. These include conducting a fully tamped shot in a low coupling medium, cavity decoupling, hiding a shot in an earthquake signal, and multiple shots detonated to simulate an earthquake signal and mask a test of one of them.

Conducting a fully tamped shot in a low coupling medium is the least expensive and desirable technique of all. It merely involves testing the device in a dry porous material rather than in wet hard rock. This results in a lower seismic signal being transmitted for a given yield by about a factor of 10. It is important to note, however, that testing in alluvium, a dry porous material, normally produces a subsidence crater of large dimensions that would be readily detectable from the air unless the alluvium deposit is sufficiently deep to prevent collapse of the cavity produced and the subsequent surface effects. Dry deposits of deep alluvium are very uncommon. There is reason to believe that these deposits do not exist in the U.S.S.R. in depths that would allow tests of more than 1 to 2 kt. Therefore, assuming the Soviets actually desired to test in violation of the comprehensive test ban at levels below the attainable identification level of 10 kt in alluvium, they would be limited to yields well below 10 kt in employing this scheme.

Cavity decoupling involves the detonation of a nuclear device in a large underground chamber that has been either mined out or created by a prior nuclear test before the treaty went into effect. The large volume of space between the device and the walls of the cavity serves to decouple the energy and hence the magnitude of the seismic signal transmitted to the earth. ARPA has estimated that up to 50 kt could be tested in a cavity. U.S. experience in decoupling cavities is limited to one nuclear test. The Sterling event, with a yield of only .38 kt, was fired in the 110 foot diameter cavity created in a salt deposit by the 5 kt Salmon event. The observed decoupling factor was about 70 ± 20, much lower than the theoretically predicted value of 120. Scientists on the project claim that the predicted value was based upon a mined cavity whereas the experimentally observed number corresponds to the shot-created cavity actually used.

Whether better agreement between theory and experiment for a mined cavity can be expected has not been demonstrated. There is some question as to the validity of extrapolating the results of .38 kt shot up to yields of 50 kt to conclude that clandestine tests could be conducted. Finally, the cost of mining such cavities to conduct decoupled tests has been estimated to be about 20 million for conventional mining techniques and about 9 million for solution mining techniques. The 300-foot diameter cavity required for a 5 to 10 kt explosion would take four years to complete and incidentally not all of the techniques necessary for the operation have been developed. Estimates of this sort are notoriously too low so the 20 million figure must be considered to be a rock bottom number that would in theory fully decouple a 5 to 10 kt shot. By comparison a moderately complicated test at Nevada runs about 2 to 3 million dollars for the entire test.

The estimate above for cavity construction does not include all the other costs normally associated with testing. The evader would also have to contend with a large volume of material removed from the ground in forming the cavity. It is almost certain that this aspect of the operation could be detected by aerial reconnaissance. Of course if an evader attempted to create a large cavity using a nuclear explosion prior to the completion of a comprehensive test ban treaty then presumably the event would be recorded by seismic means and the area could be watched by aerial reconnaissance for future suspicious activity.

Concealing a shot signal within the signal produced by a near simultaneous earthquake located either nearby or at great distances is yet another scheme to mask the tell-tale signal of a nuclear test. If the earthquake is large and distant, the DOD estimates that tests of up to 100 kt could be conducted clandestinely. However, earthquakes of this magnitude occur once every one to two years and the device would have to be emplanted in the ground and be ready to be fired at a moment's notice. The entire operation would probably have to be automated and under computer control in order to respond quickly to take advantage of the randomly-occurring large seismic transient signals of the big earthquake.

It may be doubted whether a political leader of a country would be willing to turn over the control of testing to politically less-sensitive technicians and their computers. Imagine for a moment the possible consequences of a randomly attempted clandestine test being conducted at such a politically delicate time as a summit conference. Detonations following nearby earthquakes would in the opinion of the DOD be limited to about 50 kt and the frequency of such events would increase to perhaps 15 per year. The would-be evader would be constrained to test only in seismic areas using this mode and intensive surveillance of these areas could reduce the chances of success of this type of operation. Finally, an evader would always run the risk that computer processing of data from stations in different parts of the world would disclose the clandestine test.

ARPA has claimed that computer studies show the feasibility of detonating multiple nuclear shots at different depths, spacings and yields in proper sequence to simulate the signals typical of earthquakes. One of the devices so set off could be fired for the purpose of conducting a test of a new design. No experiments have been conducted to verify the theoretical computer calculations that predict the feasibility of tests up to 100 kt by this method. It is interesting to note the willingness of the DOD to rely upon extrapolated data and theoretical calculations when it suits their purposes only. They have predicted the successful decoupling of 50 kt based upon data from a .38 shot and have concluded that hide-in-earthquake and simulation schemes would work at up to 100 kt without testing. On the other hand, it was impossible, according to the DOD, to rely on the data from 1 mt shot in designing the 5 mt Spartan warhead. Here extrapolation was too dangerous and the Cannikan test had to be conducted.

It is important to note that the above schemes were discussed assuming that only teleseismic or distanly located recording stations make up the surveillance network. It has been estimated that the use of close-in unmanned seismic stations would greatly reduce the chances of the success of these schemes and this factor will be discussed below.

Previously, it was reported that the DOD has still adhered to the position that on-site inspections are a necesary part of any comprehensive test ban agreement. Yet over 20 projects for on-site inspections have been studied and of these only two appear to be of some use. These are visual inspection and radio-chemical analysis. Even these two methods might be defeated, according to the DOD, by a carefully conducted clandestine test at sufficiently deep burial. The added deterrent value of on-site inspections is at best marginal. In a realistic situation a challenged country that had actually violated the treaty would probably not permit on-site inspection to take place at the actual site of the clandestine test. The option to demand an on-site in this situation would serve then to confirm the suspicions of the challenging country. If the originally-suspicious event that precipitated the challenge to inspect was indeed an earthquake then an inspection would perhaps restore the confidence of the international community. Throughout the discussion of the concept of on-site inspections and monitoring in general, it must be borne in mind that the probability that a country would actually choose to violate the treaty systematically by conducting secret tests on a scale large enough to be militarily worthwhile is probably quite low. It has become customary to include clauses in arms control treaties allowing a party to withdraw from the commitment if it believes that its supreme interests have become jeopardized by extraordinary events. A country desiring to resume testing would probably consider this a more politically advantageous route to follow in making the decision to test again.

In 1963, seismologists had a very inferior level of understanding of the problem associated with detection and discrimination. The criteria then thought to be of value in discriminating earthquakes from explosions were first motion analysis, depth of focus of the event measured, and complexity of the signal observed. Today it is realized that first motion analysis and wave complexity are not very good techniques for identification of events. Depth of focus was only crudely applied in 1963 and has since become a very important factor in identification of events. Virtually all earthquakes occur at depths beyond man's drilling capacity. Hence if the depth of focus can be accurately determined all earthquakes may be properly classified.

Another discriminant for relatively shal-

low earthquakes and explosions that was not fully appreciated in 1963 was the Ms:mb technique. It has been found that earthquakes have much larger ratios of Ms:mb than do explosions and this technique is being developed extensively. Another technique under consideration today involves examination of the spectral content of the signals to aid in identification. In general the theoretical level of understanding of the problem is rather complete today. Signal to noise problems remain but they are solvable.

The results of these recent developments in the field of seismic research are that teleseismic or distantly located networks of seismic stations of high quality can now be deployed with existing technology to monitor a test ban treaty down to yields as low as 1 to 2 kt in hard rock with high reliability. Estimates of the number of anomalous events that would fail all discrimination techniques range from a few to about 25 events per year. The identification of these events by other means will be discussed below.

The use of unmanned seismological observatories (USO) was first considered by the Berkner Panel in 1959 as a supplement to the Geneva system of manned control posts that were to be a part of a world-wide test ban monitoring system. In 1962, three Soviet and three American scientists submitted a joint paper on the use of automatic seismic stations that would substantially reduce the need for on-site inspections by decreasing the number of unidentified events and improve the location of epicenters. On December 10, 1962, Ambassador Tsarapkin made a specific proposal calling for 2 to 3 USOs within the Soviet Union at three particular locations. Later in the month Premier Khrushchev repeated this offer in a letter to President Kennedy when he also accepted in principle 2 to 3 on-site inspections per year. These proposals indicate a past willingness by the Soviets to accept posts for the collection of close-in seismic data on events originating within the U.S.S.R. This close-in seismic data would increase the capability of the over-all teleseismic system to identify those events it has already detected. It would also provide otherwise unobtainable information on evasion attempts by giving close-in signal measurements not detectable at teleseismic ranges. However, even without these, verification is considered by most scientists to be adequate to protect our security.

In addition to the developments in seismology since 1963, there have been significant improvements in other national means of technical data collection. For example, it has been estimated that the new generation of photographic reconnaissance satellites introduced in 1971 could come close to approaching the atmospheric limit on ground resolution of six inches to one foot. These developments are the chief reason why there is no provision for on-site inspection in the SALT Accords. If national means of monitoring are sufficient for the SALT Accords they presumably would be of some use in verifying a comprehensive test ban. These satellites could certainly replace the role of visual on-site inspection that was cited by the DOD as one of two useful on-site inspection techniques.

CONCLUSIONS: THE STRATEGIC, POLITICAL, ENVIRONMENTAL AND ECONOMIC BENEFITS OF A COMPREHENSIVE TEST BAN

Strategic and political factors

A Comprehensive Test Ban Treaty would halt a major phase of the qualitative aspect of the nuclear arms race. It would also represent actual movement by the superpowers toward nuclear restraint that would increase the chances of world-wide acceptance of the Non-Proliferation Treaty. There would be significant net savings in the money now being expended in the testing and production of new nuclear weapons. The continuing destruction of testing environments and the risks associated with radioactive venting and other adverse ecological impacts would be eliminated. The treaty could add to the pressures already mounting on France and China to cease or curtain at least their atmospheric test programs. In general, the event would contribute to improved international relations and be of monumental symbolic importance since it would signal the end of a quarter century of testing and the concurrent reliance on the terror of nuclear weapons alone to deter war.

The critical dependence of new nuclear weapons development on continued testing has been demonstrated. The DOD admits that about 25 tests are usually required to develop a new warhead even when the design is based upon relatively well-known nuclear technology. A ban of further testing would slow the rate of increase in or actually freeze the level of experimentally-verified knowledge concerning nuclear weapons and their effects. This would inhibit qualitative improvements in nuclear-related elements of weapons systems that are beyond safe extrapolation estimates. Since both the U.S. and U.S.S.R. would suffer the same constraints under an adequately verified Comprehensive Test Ban Treaty, the present mutual deterrence posture would be permanently stabilized in these areas. The way would be open for further agreement on other qualitative and quantitative arms control measures.

The proliferation of nuclear weapons continues to be a growing threat to international security and peace despite the entry into force of the Non-Proliferation Treaty in 1970. As of May, 1972, only half or some 78 of the countries of the world are parties to the Non-Proliferation Treaty. Taken together with the increasing spread of nuclear reactor technology throughout the world, which makes large amounts of Plutonium available for weapons manufacture, the situation is indeed critical. Estimates of the amount of Plutonium to be produced by nuclear reactors in 1980 are as high as 130,000 kgs per year. Only a few kgs of Pu are needed to manufacture a 20 kt Nagasaki-type weapon. Furthermore, once these Pu fission bombs are developed then a country could also attain a thermo-nuclear capability as well. Attempts are being made now on the international level to safeguard as much of this plutonium as possible. If only a few percent of the estimated Pu production is diverted for weapons use each year, it would mean that a few hundred bombs per year could be manufactured. The reasons given by countries for not becoming parties to the Non-Proliferation Treaty vary but some are directly linked to the failure of the U.S. and the U.S.S.R. to achieve a comprehensive test ban treaty. Conclusion of a comprehensive test ban by the superpowers would remove this objection to the Non-Proliferation Treaty and heighten the chances of acceptance of the Non-Proliferation Treaty, or at least the chances that new nations will not acquire nuclear weapons.

Those non-nuclear weapon countries that have not signed the Non-Proliferation Treaty and who are considered to have the capability to develop nuclear weapons within a short period of time are India, Israel, Argentina, Brazil, Pakistan, South Africa, and Spain. The other near-nuclear countries that have actually signed but not yet ratified the Non-Proliferation Treaty include Japan, Australia, Belgium, Egypt, Federal Republic of Germany, Italy, Switzerland, and the Netherlands.

To illustrate how a comprehensive test ban could further the goals of the Non-Proliferation Treaty consider the objections of India. In 1965, India put forward the requirement that there be tangible progress towards disarmament, including a comprehensive test ban, before India would sign the Non-Proliferation Treaty. Since then, India has criticized the Non-Proliferation Treaty for the apparent imbalance of obligations between nuclear and non-nuclear weapon states that are party to the treaty. To correct this, India has demanded a stop to the vertical proliferation among the already existing nuclear weapon states partially achieved by a comprehensive test ban. This position is in fact a strong one since although there is technically mutual contractual consideration present in the obligations of the Non-Proliferation Treaty as between nuclear and non-nuclear states, the promise given by the nuclear states not to give nuclear weapons to any other state in reality is not something that the non-nuclear weapon states had to bargain for. The nuclear weapon states party to the treaty would probably never want to transfer nuclear weapons to non-nuclear states anyway. For example, the U.S. is specifically forbidden by the Atomic Energy Act of 1954 from doing this sort of thing. This reluctance by India to sign the Non-Proliferation Treaty is probably the chief reason why Pakistan has refrained from signing.

Other countries have expressed similar objections to signing the Non-Proliferation Treaty. Although Israel's reservations about signing the Non-Proliferation Treaty stem from its dispute with the Arab countries, it, too, has criticized the discrimination inherent in the Non-Proliferation Treaty. Japan and Brazil have also voiced similar objections about the Non-Proliferation Treaty and the lack of concrete disarmament measures by the nuclear weapon states. The signing of a Comprehensive Test Ban Treaty by the U.K., U.S., U.S.S.R. (and others perhaps) would be a direct evidence of steps by the nuclear powers in the direction of nuclear restraint and would serve to answer these charges of discrimination and thereby widen the chance for world acceptance of the Non-Proliferation Treaty. Furthermore, some nations might find it politically necessary to sign a comprehensive test ban even though they had failed to ratify the Non-Proliferation Treaty. Such an action would in most cases preclude their acquisition of nuclear weapons, since a test would almost always be required to prove the utility of weapons designs.

ENVIRONMENTAL FACTORS

The extent to which a comprehensive test ban treaty would limit the adverse environmental effects of nuclear testing would depend on the number of signatories among the nuclear weapons states. Adherence to a CTBT by the Peoples' Republic of China and France would put a virtual end to the hazardous, periodic contamination of the atmosphere by radioactive bomb debris from above-ground testing. Adherence by the U.S., U.K., and the U.S.S.R., a more likely possibility for the immediate future, would end the continuing short- and long-term destructive effects of underground testing, which, like atmosphere testing has adverse, although less serious, consequences for both the local and the general environment.

Despite massive efforts to contain underground explosions fully, the radioactive venting of bomb debris still occurs, in addition to the creation of subsidence craters up to 200 feet deep and 2000 feet across above the detonation point. In the eight years since the signing of the ITBT, 22 tests have leaked radiation from the test site. In addition, some 50 tests have resulted in radiation leaks detected only on the test site grounds. Taken together, these leakages constitute venting of radioactivity in some 30% of the underground tests conducted by the U.S. The accumulated test experiences has not solved this problem.

As recently as December, 1970, the Baneberry event released radioactivity that was detected in central and northern Nevada and in most of the western United States. Although these vents have not resulted in off-site exposure to the public in excess of estab-

lished radiation limits, the chance of an event doing so in the future cannot be ruled out. Moreover, the accumulation of long-lived radioactive matter in the atmosphere, where it is additive to natural radiation and subject to fallout effects, remains inadequately understood in its long-term consequences.

The containment of most of the bomb debris underground in the U.S. and Soviet testing programs results in the contamination of soil and ground water in the immediate vicinity of the detonation. Groundwater containing radioactive tritium and possibly other radioactive nuclides does flow and the probability of the spread of contaminated water must be considered.

The National Academy of Science and National Research Council report of the Advisory Committee on the Biological Effects of Ionizing Radiations, dated November, 1972, stated that "No exposure to ionizing radiation should be permitted without expectation of commensurate benefit." The commensurate benefits of further nuclear testing for either military or peaceful applications has not been decisively established. In fact, the decreasing rate of return from testing for nuclear warhead technology and the lack of clear-cut results from Plowshare-type tests seems to argue the converse.

It has been observed that large yield underground tests trigger earthquakes. The largest observed associated earthquake was of body wave magnitude 4.5. These associated "aftershocks" are typically 1 to 2 magnitudes less than the explosion itself. However, the Commission appointed by the White House to study the issue concluded that there is no basis for eliminating the possibility of a large explosion triggering a severe earthquake that would cause serious damage beyond the test site.

Lastly, the close-in ground shock effects of tests have been known to destroy local wildlife. The AEC environmental statement on Cannikan predicted that 20 to 200 sea otters would be exposed to overpressures severe enough to ultimately cause death. A recent survey after the shot on the island convinced some biologists that the test killed as many as 1000 sea otters. The discrepancy between prediction and observation after the shot indicates the inability of the AEC to accurately estimate the actual environmental effects of underground testing consistently.

ECONOMIC FACTORS

The cessation of nuclear testing could also result in significant long-term savings in nuclear defense expenditures. Table #4 outlines the total amounts of money spent by the AEC and DOD on the U.S. test program since 1962. The failure to conclude a comprehensive test ban in 1963 has cost the U.S. taxpayer an additional 3 billion dollars for nuclear testing alone. Of course, it must be noted that some of the roughly one-quarter of a billion dollars that currently is devoted to testing would have to be diverted to the maintenance and deployment of an adequate worldwide teleseismic network to monitor a Comprehensive Test Ban Treaty. However, estimates for such seismic networks are in the neighborhood of 130 million dollars for deployment and 20 million dollars per year for repair and data analysis. After the initial expense of deployment is met, a potential net savings of over 200 million dollars a year could be realized, depending on how much is deemed necessary for continued laboratory research.

TABLE 4.—U.S. NUCLEAR TEST PROGRAM FUNDING

[In millions of dollars]

Year	AEC	DOD	Total
1962	182.2	108.8	290.0
1963	122.0	111.0	244.0
1964	206.5	44.0	451.0
1965	214.8	59.0	274.0
1966	201.6	64.0	266.0
1967	193.2	61.0	254.0
1968	242.7	60.0	303.0
1969	304.8	63.0	368.0
1970	246.5	61.0	308.0
1971	212.5	74.0	287.0
1972	189.9	72.0	262.0

THE CRASH OF THE TU-144 SST

Mr. PROXMIRE. Mr. President, the crash of the Russian SST in Paris last week was an enormous tragedy. But it served to point up the very serious problem of safety—yet another obstacle that stands in the way of successful SST development.

The New York Times this past Saturday pointed out how technological programs often have a momentum of their own—a momentum that carries them forward without adequate consideration of the consequences that can flow from such developments. The consequences in the case of the SST include not only the diversion of resources into a project with limited social value, and the potentially serious environmental dangers, but also the tragic loss of life that ensues when these planes meet with disaster.

I am more convinced than ever that if this country embarks on development of an SST, it must be undertaken wholly within the private sector and funded entirely by private capital.

I cannot support, for instance, the supersonic transport development work which NASA proposes to fund in the coming fiscal year. Here is how NASA plans to spend money on this program:

[In millions]

Propulsion	$6.5
Structures and materials	7.4
Aerodynamics	3.3
Stability and controls	4.7
System studies	5.7

The NASA Appropriation Subcommittee will be marking up the bill for fiscal year 1974 in a few weeks. I intend to ask the subcommittee to delete the $27.6 million request for further supersonic transport development work at that time.

Mr. President, I ask unanimous consent that the editorial from the New York Times for June 9, 1973, be printed in the RECORD.

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

. . . BUT SST?

The fatal mid-air explosion of the Soviet Union's TU-144 supersonic transport a few days ago is a tragic reminder that technological developments have a momentum that can carry them down undesirable paths. The efforts of four of the leading industrial nations to develop S.S.T.'s were initiated without adequate consideration of consequences. The motivations were economic and nationalistic. But the consequences included diversion of precious resources into projects with limited social value and possibly serious environmental dangers.

The American project was suspended chiefly on economic grounds, but also with warnings of serious health hazards ringing in Congressional ears. The Soviet and Anglo-French programs have continued unabated.

Early this year a committee of the National Academy of Sciences in Washington assessed the danger to life on earth that might arise from an increase in ultraviolet radiation penetrating the atmosphere because of S.S.T. effects on the upper air. It concluded that enough was known "to warrant utmost concern over the possible detrimental effects on our environment of the operation of large numbers of supersonic aircraft."

There is, of course, no certainty that large numbers of S.S.T.'s will ever take to the air. Their flight over inhabited regions is doubtful because of objections to their sonic boom. The very long-haul traffic for which they are best suited is small in volume.

But if few are to fly, the enormous sums spent on their development are hard to justify. Perhaps, in the long run, the most valuable contribution of the S.S.T.'s will be the realization by industrialized nations that—as in the arms race—the fact that something can be done does not necessarily mean that it should be done.

REMARKS OF SENATOR ALLEN BEFORE THE DISTRICT OF COLUMBIA DIVISION, UNITED DAUGHTERS OF THE CONFEDERACY, AT ITS ANNUAL COMMEMORATION OF THE BIRTHDAY OF JEFFERSON DAVIS

Mr. ERVIN. Mr. President, on Saturday, June 9, 1973, the junior Senator from Alabama (Mr. ALLEN) in tribute to Jefferson Davis, President of the Confederate States of America, addressed the District of Columbia Division of the United Daughters of the Confederacy, at its annual commemoration of the birthday of Jefferson Davis, in Statuary Hall in the Capitol of the United States.

I ask unanimous consent that a copy of Mr. ALLEN's speech be printed in the RECORD.

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

JEFFERSON DAVIS—THE MOST MISUNDERSTOOD MAN IN HISTORY

Madam President-General, members of the District of Columbia Division of the United Daughters of the Confederacy, distinguished guests, and friends:

I am honored to have been invited to participate with you in the celebration of the 165th birthday of Jefferson Davis. I assure you it gives me great pleasure to pay my respect to his honored memory.

You know, Jefferson Davis occupies a high place in the affections of the people of Alabama. We have an almost possessive attitude toward him and take pride in paying tribute to his memory.

We can't claim him as a native son—we must concede that honor to Kentucky where he was born on June 3, 1808 (the fifth son and tenth child of Samuel and Jane Davis). Neither can we claim him as a former member of Congress or United States Senator from Alabama—we must concede that honor to Mississippi.

On the other hand, we recall with pride that it was in Montgomery, Alabama, that the Confederate States of America came into being and thus became known as the "Cradle of the Confederacy."

You will recall that the first Congress of the Confederate States convened in Montgomery, Alabama, on February 4, 1861. At this Congress a provisional Constitution, patterned on the United States Constitution, was adopted with the provision that it should remain in effect for one year, or until such time as a permanent constitution should be adopted. Under its provisions, the President and Vice President were to be elected by the seven States which had by then seceded from the Union and had sent delegates to

Montgomery for the purpose of forming a government of the Confederate States. Under the provisions of the Constitution, the President and Vice President were to be elected by the votes of each State with each State having one vote. Jefferson Davis was elected to the office of President and Alexander Stephens to the office of Vice President. The States of South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana were originally represented and delegates from Texas arrived on February 8, 1861.

President Davis was administered the oath of office on February 18, 1861, and Montgomery remained the capital of the Confederacy until May 21, 1861, when the Congress passed a resolution to adjourn to meet again on the 20th day of July at Richmond, Virginia.

It is interesting to recall that in the procession preceding the inaugural ceremonies and just as the President's carriage swung into position, a band under the direction of Herman Arnold led his musicians up the avenue to a tune that had never before been played by a band. The band leader had orchestrated the music only a week before. It was a minstrel piece entitled, "I Wish I Was In Dixie's Land," which had only recently been published as sheet music arranged for pianoforte. It was an instant hit and still is.

But the association of Jefferson Davis with Alabama does not end here. President Davis chose L. P. Walker, of Huntsville, Alabama, as his first Secretary of War. It was Walker who sent from Montgomery a series of messages to General G. T. Beauregard which authorized firing on Fort Sumter. Bombardment of Ft. Sumter began on Friday, April 12, 1861, and signalled the beginning of armed conflict between the government of the Confederate States of America and the Federal Government. Ft. Sumter was surrendered the next day without the loss of life on either side as a result of the bombardment. There are those who entertain an opinion that the War Between the States might well have been avoided had General Beauregard not fired on Fort Sumter. I question this judgment for many reasons, not the least of which is that the Federal Government had seized numerous forts in other States of the Confederacy and had given every indication of maintaining them. In many instances, these forts commanded strategic seaports, which represented a life line of foreign trade without which the Confederate States could not have even begun to survive. Furthermore, the seizures were provocative and unjustified in the judgment of such men as Stephen Douglas, who by no stretch of the imagination could be thought of as a secessionist. On this point, Stephen Douglas said:

"I take it for granted that . . . whoever holds the States in whose limits those forts are placed is entitled to the forts themselves, unless there is something peculiar in the location of some particular fort that makes it important for us to hold it for the general defense of the whole country, its commerce and interests, instead of being useful only for the defense of a particular city or locality."

Among the forts at issue were Fort Pickens, at Pensacola, Florida, and Fort Morgan in Alabama, both extremely important to Alabama.

But I am wandering. The affection of Alabamians for Jefferson Davis has been perpetuated in many forms. The house in which he resided while in Montgomery has been preserved as a museum close by the State Capital and is visited annually by countless thousands of persons from all sections of the Nation.

I recall as a young boy having visited the White House of the Confederacy; and to this day, I retain a vivid impression of the furnishings and particularly the leather hat box used by Jefferson Davis for the storage and protection of a hat during travel. I do not know why this seemed a curiosity to me at the time.

A short distance from the present site of the White House of the Confederacy, one can visit Alabama's beautiful State Capitol and stand on the precise spot where Jefferson Davis was administered the oath of office. Countless thousands of Alabama school children each year make a pilgrimage to Montgomery to visit the Capitol, the White House of the Confederacy, and the State Archives and History Building. If you have not enjoyed that experience, I highly recommend it.

There is yet another attraction on the Capitol grounds which is popular with visitors. In late April of 1886, the State of Alabama was preparing to lay the cornerstone on the Capitol grounds of a monument to commemorate the memory of those who had given up their lives for the cause of the Confederacy.

Jefferson Davis was persuaded to come to Montgomery for the dedication. There are those who are alive in Alabama who recall this event from memory. When the announcement was made of Davis's visit, cities from throughout the South extended invitations to him to visit their cities. The interest of the press throughout the Nation was aroused to the extent that many northern newspapers sent reporters to cover the event. Jefferson Davis received a fantastic outpouring of love and respect by great crowds at railroad stations on his route to Montgomery. A New York World reporter wrote:

"Half a carload of floral offerings were showered upon him during his trip and thousands of other tokens of love. He was greeted in Montgomery by the boom of cannons and thousands of enthusiastic citizens who mingled cheers with fire works."

Having arrived at Montgomery, Davis was escorted to Room 101 in the Exchange Hotel. By a strange coincidence, it had been just a quarter of a century since Jefferson Davis had occupied the same room on the night before his inauguration. His welcome on this occasion was more demonstrative, if that is possible, than in February, 1861, when William Yancey had introduced him with the memorable phrase, "The man and the hour have met."

From Montgomery, he was prevailed upon to visit Atlanta, where he received an overwhelming reception and from there he visited the City of Savannah, Georgia, with equally impressive results. Newspapers in the North were tremendously impressed by the enthusiasm of Southern people for their defeated leader. The Lowell, Massachusetts Sun wrote:

"Jefferson Davis suddenly emerges from his long retirement, journeys among his people, and everywhere receives the most overwhelming manifestation of heartfelt affection, devotion and reverence.

"Such homage is significant, startling. And it is useless to attempt to deny, disguise, or evade the conclusion that there must be something great and noble and true in him and in the cause to evoke this homage."

The next occasion on which Alabamians were to see Jefferson Davis was a sad one indeed. Jefferson Davis passed away in the early hours of December 6, 1889. He was buried temporarily in New Orleans in the Metairie Cemetery, attended by dignitaries from throughout the South and Nation. Eight Southern governors attended the funeral along with innumerable delegations representing Confederate veterans from every State in the Confederacy, including fourteen Confederate generals. Thirty aged veterans of the Mexican War joined the thousands of marching Confederate veterans as did fifteen Union veterans who then lived in Louisiana.

In May, 1893, the body of Jefferson Davis was removed from the tomb in Metairie and started to its final resting place in Richmond. The L & N Railway had provided a special train. The trip to Richmond was characterized by vast crowds who gathered along the route to bow their heads in silent respect. At Beauvoir, the tracks were strown with magnolia petals and various white blossoms. In Montgomery, Alabama, the body lay in state in the Capitol rotunda for a day.

In summary, Alabamians have an affectionate regard for Jefferson Davis and deep concern that his life and works be preserved and perpetuated to the end that he may receive his just place in the annals of our Nation's history. With this object in mind, I would like to touch briefly on several aspects of his life.

Jefferson Davis believed in the right and justice of the cause of the Confederate States of America. No useful purpose can be served by rehashing the pro and con arguments on the constitutional question of the right of secession. It is useful, however, to remember that national opinions were divided along three separate and distinct points of view. Abolitionists, primarily from the New England States, believed that the abolition of slavery as an end justified a disregard of the law of the Constitution. Unionists could be found in all sections of the country, who sincerely believed that the Union must be preserved at all costs. There were others, primarily in the South, but not exclusively so, who believed in the right of sovereign states to secede from the Union under extraordinary circumstances. These differences of opinion were deliberately cultivated in the political arena, which resulted in a struggle for a numerical majority in Congress. From the standpoint of politics, the issue was quite simple. Two-thirds of the members of both Houses can submit constitutional amendments to the States. Therefore, the political affiliation of new States admitted into the Union became of tremendous importance. The States of the South could clearly foresee a time in the future when they might be subjugated by the dreaded tyranny of the majority unless citizens of the Southern States were permitted to settle in new territories and such settlement depended upon the right to take with them their property including slaves which under the Constitution, were unquestionably a form of property protected by the Constitution. The political struggle was succinctly expressed by Jefferson Davis in a speech in New York several years before secession. He described the impending crisis as:

"A contest upon the one side to enlarge the majority they now possess and a contest upon the other side to recover the power it had lost. . . ."

He pointed out:

"If one section should gain such predominance as would enable it, by modifying the Constitution and usurping new power, to legislate for the other, the exercise of that power would throw us back into the condition of colonies."

The logic of Davis's argument is unassailable. His conclusion was inescapable.

There is fantastic irony in the fact that in response to the overtures by the newly formed government of the Confederate States peacefully to resolve the problems which would inevitably arise on the formation of a new nation, that representatives of the Federal Government would not meet with the Confederate commissioners. The reasons set forth by Secretary of State William H. Seward were that neither he nor President Lincoln could admit or assume that the States of the Confederacy have, "in law or in fact, withdrawn from the Federal Union or that they could do so . . . except with the consent and concert of the people of the United States." Yet, in truth, the Confederate States, which by Seward's argument had not seceded, were treated as conquered provinces following the end of the war and remained as such during the period referred to as the tragic era of Reconstruction.

The fallacy in Seward's argument is so patent that even before secession Horace Greeley in the New York Tribune had said on this point:

"If the cotton states shall become satisfied that they can do better out of the Union than in it . . . we insist on letting them go in peace . . . and whenever any considerable section of our Union shall deliberately resolve to get out, we shall resist all coercive measures to keep it in. We hope never to live in a Republic whereof one section is pinned to another by bayonnets."

Jefferson Davis had often made the point in debate that if the Declaration of Independence justified the secession of three million colonists in 1776, why would it not justify the secession of five million Southerners from the Federal Union in 1861? Not only Greeley, but many Senators upheld this point of view, including Senator Seward who was largely responsible for the secession but who after secession argued from the Senate floor that the Union could not be maintained by force and that, "a Union of force is despotism."

However, it is not my purpose to discuss the issue of secession. The issue was decided by the sword, and history has demonstrated that wars determine not the validity of causes but only which cause shall prevail. When conflicts between nations are submitted to arbitration by the sword, the universal law is that might makes right.

Under this stern principle, it has been said that the result of the War Between the States was decisively determined by the census of 1860 which had revealed the overwhelming might in men and industrial capacity in favor of the Union. I do not fully subscribe to this opinion. Neither do I deny the importance of manpower, wealth, and industrial capacity to win wars.

But we are not here to advocate a lost cause, nor do we wish to revive the spirit of sectionalism. Neither will we criticize nor condemn injustices which were heaped upon the South following the war; nor are we here to defend the character and reputation of one whose character and reputation needs no defending.

You and I are here to honor the memory of one who in the finest traditions of our forefathers consciously offered up his life, his fortune, and his sacred honor in defense of principles, the justice of which he stoutly maintained.

With this object in view, we must recall that most contemporary historians and commentators simply lack the necessary perspective of time to qualify them to take the measure of a truly great man. Jefferson Davis was well aware of the inadequacies and distortions contemporary historians would heap upon him and the cause which he represented. It is to his credit that he was far more concerned with the possibility of distortions of fact concerning events which led to secession than he was of the distortions of his own life and actions.

The life of Jefferson Davis can be compressed into a very few words. He was a soldier, a planter, a war hero in the Mexican War, a brilliant representative from Mississippi, a distinguished Senator, Secretary of War, and the first and only President of the Confederate States of America. How cold and barren are these skeleton facts. In each of these capacities he served with honor and distinction. He was a loving husband and father, a man of impeccable integrity, courage and devotion to duty. Few leaders in our Nation's history are more misunderstood and less known for their virtues than is Jefferson Davis. In this regard, the tide may be turning due in large measure to the definitive biography of Jefferson Davis, by Hudson Strode. This great work was published while Strode was teaching at the University of Alabama.

Jefferson Davis himself has said:

"It is our duty to keep the memory of our heroes green. Yet they belong not to us alone; they belong to the whole country; they belong to America."

FUTURE OF U.S. RELATIONS WITH LATIN AMERICA

Mr. KENNEDY. Mr. President, Secretary of State William Rogers recently concluded a tour of several Latin American nations. Four years ago, a similar tour was undertaken by Gov. Nelson Rockefeller on behalf of the administration. Between those two trips, the interest and concern of this administration for Latin America has been minimal. The low profile advocated by the administration has been indiscernible. As a result, we have lost opportunities to understand and take part in the changes taking place in Latin America.

I would hope that Secretary Rogers' trip heralds a new awareness and concern for events in Latin America. The recent appointment of Assistant Secretary of State Jack Kubisch, a career Foreign Service officer with past experience in Latin America, is at least one promising sign.

But we still await a definition of policy goals and evidence of a commitment to carry out that policy.

In a far-ranging discussion of U.S. relations with Latin America, given last week by the distinguished Senator from Florida (Mr. CHILES) to the Council of the Americas, many of the touchstones of a new policy are eloquently stated.

I would urge my colleagues to examine this statement and I would urge the administration to examine it and hopefully to act on many of its recommendations.

Mr. President, I ask unanimous consent to have printed in the RECORD a speech to the Council of the Americas on June 6, 1973, entitled "Our Relations With Latin America."

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

OUR RELATIONS WITH LATIN AMERICA

My interest in Latin America stems in part from the fact that Florida serves as a gateway to Latin America for many of our companies, so I am happy to have this opportunity to speak with you today. We live in very challenging times in our relations with Latin America, as the topics you are considering in this Conference suggest. In no other part of the developing world has the drive toward development been so clear and at the same time so laced with controversy over the role of private investment. Latin American countries are searching for their separate identities and are exploring many different systems and styles of development. As this has occurred they have become increasingly sensitive about determining their own priorities, controlling their own resources and deciding their own destinies. This is undoubtedly to the benefit of the process of development as nothing will make development efforts falter so much as lack of will. But these factors have made our relations with Latin America more complicated.

The question you have all been facing, I am sure, is: what should be our response. Can we continue to act in relation to Latin America as we have in the past? Should we back off from Latin America altogether? Do we need a totally new approach? Should we keep a low profile? What in the end should we do in the government and in the business community to better relate to Latin America?

The first thing we need to do is to stop thinking of Latin America as if it were one place like the United States. We are talking about more than 25 countries which are as different geographically, economically and politically as can be imagined. My first fact finding trip to Latin America was to Peru and Brazil. These both have military governments. And yet these governments are very different. We need to approach each government in a different way.

Just think of the vast difference between such places as Brazil and Barbados, Mexico and Nicaragua and Argentina and the Antilles. But we go on talking about Latin America as if it were a unified continent or a single nation. In fact Mexico has more in common with Canada than with the rest of Latin America in terms of its relations with the United States. The Caribbean countries, because of their size as much as anything else, have more in common together than they do in relation to South America. The same holds for the Central American Countries.

So we need to look at our relations with Latin America as to what the differences are between types of countries and make our policies appropriate to the differences rather than force fit uniform policies on a region of diversity. This should apply to both our bilateral relations with indivdiual countries and our relations through international institutions with the region as a whole. Such an approach seems to me to be a vital basis for relations with a hemisphere experiencing rapid change, rising nationalism and increasing experimentation in its approaches to development.

Second, these changes occuring in Latin America require not withdrawal and neglect on our part but high level attention and definite policies. Events in recent months have shown that we reap no reward by standing aside as an observer in our own hemisphere. In the OAS Inter American Economic and Social Council meeting in Bogota in February, we found that we had to abstain from the final resolutions of the meeting. How could this be? Are we unable to define our interests and pursue them actively with governments of our own hemisphere to find some basis for common action?

The same thing occurred in Panama in March at the abortive meeting of the UN Security Council. We had to exercise our veto in order to put down a Security Council resolution regarding the Panama Canal. This was a very trying and difficult situation. The UN Security Council is hardly the place to be establishing the terms of agreement between the United States and Panama over the Canal. But again, we were alone—isolated from other nations—appearing to hold a much more negative position on the Canal than we really do.

The whole meeting was staged by Panama to pressure the U.S., which was a highly questionable tactic on their part if they really want to settle the Canal issue on reasonable terms. But the other nations went along with holding the meeting in Panama in order to try to flush out the U.S. on what its policy is toward Latin America in general. It seems to me that if our policy had been more defined and if we were more engaged in inter-American relations, we would not have gotten manuevered into such a difficult position. There would not have been the generalized frustration for Panama to exploit its own propaganda advantage.

So the second thing we need to do is to have an active foreign policy involvement with Latin America. We can no longer afford to stand in the middle of the ball field and be yelled at for doing nothing. We need to

get into this new ball game and play as if we mean business.

What are some of the things we could do which would be in our interests and constructive from the point of view of our relations with Latin America?

First, we need to redefine our role in the Organization of American States, using that institution as a means of pursuing our policies with countries in Latin America. William D. Rogers, a man who carried major governmental responsibility for the Alliance for Progress in the early sixties, has suggested that we withdraw from the OAS and take on an observer status but that we keep the OAS in Washington and continue to contribute to it on a reduced basis. I disagree. By our lack of policy we have already achieved in fact observer status in the OAS. To make this a formal step would be to confirm Latin America's suspicion that we really don't care anymore.

I feel that we need a political forum to work on problems within the Western Hemisphere family without the distractions and posturings which usually take place when other nations outside the region are involved.

Turning to economic policies, we have a number of options to exercise in the way we go about our economic relations with Latin America.

AID

In the area of aid, it seems clear that some significant cut in the foreign assistance budget request will take place in FY 1974. The Chairman of the Appropriations Committee, Senator McClellan has received preliminary budget estimates by the chairmen of the various subcommittees of appropriations. The President's aid request is for $4.4 billion. This has been cut by 30 per cent to $3.1 billion in this preliminary budget estimate.

Now this may not be the final figure but the strong feeling in the Congress is that the American people will not support a major effort in foreign assistance. With great pressure on us to keep total spending down and give priority attention to domestic programs, it is hard to see how this can change much as far as the *amount* of aid is concerned.

The real options are aid for what and through what channels. In my position on the Foreign Operations Committee of Appropriations I have had an opportunity to give some thought to these issues. It seems to me there are a number of things we can do.

MILITARY AID

We can take a close look at military assistance and see to what extent this can be cut and even turned over to military sales. Our whole aid program suffers from the fact that it is a creature of the immediate Post War period and military aid probably is more in need of an overhaul after nearly three decades than other parts of the aid program. Many experts in aid have concluded that the whole rationale for military aid is now obsolete. The President has asked for $652 million in military grant funds for FY 1974. A good test of the real need for military hardware is to place them on a sales basis and see to what extent the purchases remain at the same level of military preparedness. If not, then it is highly likely that military preparedness is not as important to many of the countries now getting military aid as we previously thought.

A second factor which should allow us to reduce military aid is the tremendous stock we now have of excess defense articles. The General Accounting Office in a recent report has informed the Congress that at the end of Fiscal Year 1971 there were about $17.8 billion worth of excess defense articles available. These excess supplies are not now closely enough related to military assistance program requests to Congress, so that much more transfer of military goods occurs than the Congress is aware. The Congress must insist on knowing about these transfers and attempt to reduce military aid by making effective use of excess military supplies.

Whatever military aid we do give I think should be totally separate from economic assistance. Confusing military aid and supporting assistance for security purposes with economic aid for development serves neither program well. We need to be clear about our objectives and relate more tightly different programs to their respective goals.

BILATERAL AID

My own feeling is that we would do better to trim back our bilateral aid to meet the more limited goals of disaster relief and humanitarian assistance. We have gained great respect as a people for our generosity to those in times of acute suffering. I think this is a proper role for our bilateral program. Also we need to have a strong technical assistance program and some limited funds as trigger money to build momentum in certain cases of real importance that can bring in international agencies to keep the ball rolling once we have gotten it started. I have in mind here health, education, population and nutrition, programs which directly affect poor people abroad. Many times but not always these might be part of our relief efforts. But once they begin to acquire an ongoing character our bilateral aid should be phased out and the international financial institutions brought in. The American public simply won't stand for what they see to be a permanent giveaway program. Not even our voluntary agencies should stay on the ground long in a developing country. Our test should be either the program is good enough to pick up momentum of its own or we drop it.

Our aid program has become too bureaucratic, too cumbersome, and too top heavy a way of helping people. It is clear that we need to cut back the bureaucracy, especially abroad. I have been told that we have more than twenty two of AID people in Asian countries who earn over $35,000 a year. We have to bring these people home and put them to work with the limited funds we have on pressing domestic needs.

INTERNATIONAL FINANCIAL INSTITUTIONS

The international financial institutions—the World Bank, the Inter American Development Bank, the Asian Development Bank and the like—have important roles to play. They should be the principal means of channeling the world's financial resources for development. An important part of this is credit for projects in developing countries which pay back the money into them. This kind of credit serves as an important pump priming mechanism to bring in local and foreign capital. These credits and the negotiating process that goes into them often helps countries see their own problems more clearly and take often difficult measures to better their economic situation. This too is helpful for the flow of foreign capital. This kind of development credit is good business. It is not a give away and it helps bring still more resources to the development process.

But clearly these development banks should play a broader role than the commercial banks that work on an international basis. The World Bank should not be a competitor of Chase Manhattan Bank but play a role not fulfilled by commercial banks. These institutions are not just banks but development agencies. They should address their resources to the developing country as a whole and not just to individual companies, agencies, or groups. A significant share of their resources should go into social development projects which benefit the lower income groups in these countries. In this respect the U.S. contribution to the International Development Association (IDA) of the World Bank and the Social Progress Trust Fund of the Inter American Development Bank are important. Also of importance are the instructions we give to our directors in regard to policy decisions made regarding the Fund for Special Operations of the IDB and the regular development lending operations of the World Bank.

Despite the importance of their credit operations, these banks need to keep their broadly developmental focus, especially as we trim back our bilateral aid programs. Development in poor countries is more than simply the commercial activity we know in the United States. There are many cases abroad of adequate economic growth and insufficient social development. As our own resources become more limited we need to make sure that some of the world's development resources work for the world's poor.

OPIC

I have given some thought in the course of the Foreign Operations Subcommittee Hearings to our overseas investment insurance program administered by OPIC. I approached this issue feeling there were some very strong reasons for supporting OPIC as it is one of the useful instruments we have to help our businesses compete with the Europeans and the Japanese in foreign markets. On the other hand, though, it looks as if in some of the more controversial investment disputes that we have had government-to-government confrontation in part because of OPIC insurance exposure. It is not clear that it is in our broader public interest to have this kind of difficulty with foreign nations over matters involving a private U.S. interest.

Now that I have gone into it some with Mr. Mills and his staff it does appear that there are other cases where OPIC has served as a means of resolving investment disputes. I was told of an expropriation case where OPIC insured loans by American banks to a foreign government to pay off an American company for their expropriated holdings. So the role OPIC plays depends on the circumstances, which tend to be fairly complicated.

It does seem to me that as far as future investment and the possibility of their expropriation, OPIC could play a preventive role. One way to do this in future OPIC insurance agreements would be to negotiate with the foreign government a requirement that, in cases of expropriation where no settlement can be reached, the case go to international arbitration. This would give OPIC a second line of defense in case they could not achieve a negotiated settlement on a bilateral basis.

Secondly, we share an interest in this area with the Europeans and the Japanese. It seems to me that we could try to form a consortium with these other governments to see that none of these governments would insure a loan unless the host country agreed to international arbitration. This would put tremendous pressure on host governments because they are looking for investment. Many times expropriation cases achieve an importance which seriously outweigh our national interest. So it often becomes a serious problem in our relations with countries that we would like to get around. But if we alone insist on some international solution it looks as if we are being paternalistic, especially in Latin America. But if that kind of demand is made on behalf of all developed countries then it would be more persuasive and take us off the hook as being the only stern-minded folk around. If we move along these lines, I think OPIC could be the most useful channel to work through in keeping expropriation cases to a minimum and getting better treatment when they occur.

TRADE

I just want to say a few words about trade. Trade is obviously of great importance in our relations with Latin America and it is something we are going to get deeply into

in the Congress later this year. I feel that this is one area where we can indicate to Latin America that the region is of importance to us. This means that we should keep a special watch on the GATT negotiations as they begin and see that the agreements reached do provide access and opportunity for Latin American exports.

Another way to show we mean business with Latin America is to fulfill our longterm promise to implement a generalized system of tariff preferences. In doing this I think we must insist that the Europeans dismantle their special preference arrangements with Mediterranean countries. I don't see any reason why we should give preferences to countries in the Mediterranean who are giving European exports preference over our exports.

If we cannot get better access to the European and Japanese markets, especially in agricultural products, I think we should then look even more to how we can reduce our trade deficits with these two areas by getting some goods from Latin America that we are now getting from Europe and Japan.

Finally, I feel that the Congress must play an active and important role in trade negotiations. Senator Long and Congressman Mills have introduced legislation to establish a Joint Committee on Foreign Trade which would provide a means by which the Congress could send delegates to the negotiation, exercise oversight and make analyses which will enable us to play a real role in setting our trade policy. This seems to me to be absolutely vital. The congress has too often in the past—on war and the budget—given too much authority to the Executive on matters of great concern to the Congress. The Congress must play a significant part in deciding the major questions before us on trade policy.

This is precisely the difficulty now with some of the policy issues before the Congress. I want a strong trade bill. I think we need to give our negotiators at least as much leverage as their counterparts have to get concessions and changes from our trade partners.

But there is now a much larger issue of how our government should operate and what the relationship should be between the different branches of government. For our government to function properly, there has to be respect between the different branches. Each branch must play its role. The Congress is given the authority by the Constitution "to regulate commerce with foreign nations." Yet the Executive Branch must be the one to negotiate trade agreements with other countries. The only way each branch can fulfill its responsibilities in the trade areas is if there is comity between the branches.

The only way we will get the changes we want in trade is if the Executive Branch and the Congress can work together and if the Congress is fully involved in the process. This means that there has to be some change in the way the Executive Branch goes about its relations with the Congress from the way it has been in the recent past on issues of war and the budget. Unless there is some change, I would take the position that we have to wait a few more years to begin trade negotiations even though I think we have some urgent trade problems to resolve with other countries. The Congress can not be in the position again of surrendering power and authority to the Executive without assurances that its own prerogatives are going to be protected.

The Congress has a role to play also in our general policy toward Latin America. The Executive Branch is not giving much attention to Latin America these days. This in itself it seems to me gives those of us in the Congress who feel that Latin America should have a larger place in our foreign policy a role in filling this void created by the Executive.

Our business community has significant interests and challenges in Latin America. It would be both wrong and unwise for the government to abandon any interest in the region at this moment in history.

I thank you for the opporutnity to share thoughts and views with you and I wish you well in an area of, mutual interest and concern.

HOW DID WE LOSE OUR WAY?

Mr. PELL. Mr. President, on Sunday, June 11, 1973, Mr. David Susskind delivered a remarkable speech entitled "How Did We Lose Our Way?" at Roger Williams College commencement day exercises at Bristol, R.I.

The sharpness of his logic, the breadth of his viewpoint, and the depth of his reasoning all made for a truly excellent speech.

Because I thought it so good and because I believe my colleagues might benefit from reading it, I ask unanimous consent that it be printed in the RECORD.

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

HOW DID WE LOSE OUR WAY?

Thirty years ago I graduated from college, and I remember listening with rapt attention as the Commencement speaker welcomed me to the fellowship of educated men. Today I welcome you to the same fellowship, and I want to try to explain the bewildering legacy that my generation of "educated men" has bequeathed to yours:

From the generation that brought you television and computers and leisure and luxury—we have also brought you some stunning sorrows: A President beseiged and hiding from the ugliest political scandal in American history—an administration awash with officials whose capacities for amoral crimes seem infinite—a government, in short, that has shocked us at home and embarrassed us in the world. And there is more tragedy—much more: The shattering catastrophe of Vietnam—a sputtering racial truce at home—the lunacy of an 80-billion dollar annual military budget—the disgrace of 30 million poverty-stricken Americans in a time of affluence—urban ghettos and rural squalor that are an affront to the conscience of man.

Where did we go wrong? How did it happen? What manner of men and women were we to create so much misery and folly?

Let me tell you what happened to us, and maybe it will provide guidelines for you on how not to make a bad job of the world.

Our earliest awareness was of deep depression. As teenagers, we saw vast unemployment—blacks and whites, skilled and unskilled, lower class and middle class—banks failing—savings wiped out—people selling apples in the streets. The inconceivable had happened: the great American system of private enterprise had collapsed utterly. People were numbed and frightened, and for the first time they turned to the federal government to repair the damage and restore morale.

But economic recovery in America was slow and fumbling until Nazi Germany and Fascist Italy combined to rape Europe, and World War II burst forth. My college class graduated into that war, and most of us served several years in what we thought was a "holy crusade" to rid the world of fascism.

Almost immediately after the war, I think we began to make the fatal mistakes which account for your legacy. Having matriculated through depression and war, we turned selfish and inward. We had had enough of national commitment, international peacekeeping, of issues and causes and crusades. We turned to job-getting; we made a fetish of careerism—we accumulated creature-comforts—we stormed suburbia—we thirsted after cars, television sets and country clubs. The things that mattered were our families, a good job, a decent salary, and a respected place in the community. We never questioned the validity and value of the career experience, nor would we dream of questioning the system—the government, the churches, the schools. Our social consciences were clouded and numb. Inequities and injustices did not concern us, certainly not enough to motivate us to action.

What did we do about the ugly realities of the life around us? For the most part, nothing. The average Negro, then as now, was a second-class citizen—poverty-stricken, degraded, disenfranchised, discriminated against in jobs, education and housing. Some of us espoused liberal cliches and made modest contributions to the N.A.A.C.P. and the Urban League—always keeping a safe distance from the Negro himself or any solution to his agonizing problems.

And there were other ugly phenomena. What did we do about the witch-hunting, savage senatorial demagogue who whipped the country into hysterical fear and drove us to looking for home-grown Communists under every bed and bureau? We just cowered in fright and devoured his headlines with unquenchable thirst. If reckless name-calling cost innocent humans their jobs, their reputations and their lives, too bad—it was not our problem.

Were people hungry? Yes. But not our families. Were people despairing? Yes. But no one we knew first-hand.

We failed because, if the truth be told, we didn't really give a damn for our community, our cities and states, our federal government or the world. We were busy making money—"making our place in the world"—bringing up our families—getting our "share of the pie." We talked a lot about God and Christ and democracy—mouthed biblical injunctions about being our brother's keeper—but we did very little about bettering the human condition. And so, our souls began to shrivel, our institutions began to fail us, and our children came to see the horrendous gulf between what we said and what we did; between the pieties we uttered and the apathy we practiced.

In time, the great American society began to come apart at the seams—spearheaded by the Vietnam fiasco, the campus rebellions, and the ugly racial confrontations. And we—and you—continue to pay every day a fearful price for our neglect. our selfishness and our hypocrisy.

Now, you are taking over the world we made, and you give exciting evidence of concern, commitment and involvement. You—the 8 million of you on the college campuses—represent the best and most vibrant hope for mankind in this century.

The few things we did contribute as parents have given you the unique freedom and courage to change your immediate society and the larger world. Because most of you have a sense of financial security, because you have known no want, you tend to reject purely money-grubbing careers. Because you've been given freedom from fear, you can "go for broke" on behalf of your deepest moral commitments—and many of you do.

It seems clear at this point in time that the overwhelming majority of college students have decided to work within the system—governmental and educational—to improve American society. You are probing the very foundations of our system—our schools, our Congress, our presidency, our daily hurting of one another, our churches, parental

hypocrisy—and you are, everywhere—through effective action and example—forcing re-appraisal and change.

And you have helped to accomplish minor miracles.

We came to final peace terms in Paris for a myriad of reasons, but surely one of the most important was the total disillusionment of American youth with the Vietnam war and their unceasing protest against it.

The Negro today is some inches closer to a decent and more equitable life in this country in some measure because of the courageous youthful actions in streets and polling booths and jails.

And, at last, the once rigid educational system has bent to the student demand for participation and involvement and change.

But how will you, today's graduates and students on the campus, guard against growing stale, satisfied and smug? How will you keep your dynamic dissatisfaction with the inequities of society alive and constructive? What can you do to guard against becoming the tired "Establishment" that we became?

Perhaps some brief advice from the generation that "fouled up" can help. First, never cease educating yourselves. Today is not the end of an educational process, but an important beginning. Many of you will go on to graduate from professional schools, and you will, in the main, harness yourselves to demanding professional curricula. But I urge you to continue that other and vital part of education, which is curiosity about life—the everlasting hunger to discover and know more. Translated into specific terms, I mean read the good newspaper, not the shoddy and the sensational. Pursue the good books, not the sexy and flippant. Search out the rare good theatre and films and avoid the stale diet of mediocre comedies and musicals.

All of the media are bombarding you with trivial and the meretricious, but all offer occasional gems of quality and insight. Search for these and savor them, and above all, don't become the middle-aged "nonthink"—handcuffed nightly to the television set and subsisting on a diet of sick escapism.

Second, I recommend that you not merely earn a living, but that you serve for your living. As doctors, lawyers, businessmen, teachers, government workers, whatever—relate earning your livelihood to the human race. Use your professional acumen in your community to give hope and help to the despairing—the hard-core unemployed the welfare recipient, the indigent defendant, the ex-convict, the drug addict. The catalogue of the miserable and the mute is almost endless. Think about giving your share rather than grabbing your share.

Third, be active politically for the programs and the candidates of your choice. In our world of competing bigness, governments—city, state and federal—must perforce be big, but we must prevent them from becoming bloodless, uncaring, arrogant bureaucracies—and we must hold those who govern strictly accountable for their actions.

You must continue to stamp your personalities on the core of society, and the best way to do that is to be involved continually in the decision-making process known as government. It is your absolute responsibility to know the issues and evaluate the candidates—no mean job in this era of obfuscation, double-talk and criminality.

Fortunately, slavish adherence to party politics is disappearing. Millions of voters have seen the wisdom of independence—of voting the man and not the party. My generation and my parents' generation derived foolish pride from calling themselves "life-long" Democrats or Republicans. What nonsense!—for while both parties possess outstanding men, both are rife with fools and hacks and worse—and the philosophical differences between the parties grow increasingly invisible. Be independent in the best sense of the word, and function for the politics of your choice.

Finally, be true to your personal morality. Practice your individual brand with consistency and dedication.

It is obvious to me that the structured institutions of yesteryear have broken down—principally because they haven't proven relevant or effective in solving the agonies of our time. Whether we like it or not, the church, the government and the school have not given young people the answers they have sought so desperately.

Damn few of our sacred institutions had the guts to tell the truth about the war in Vietnam—that it was futile and immoral and unconscionable.

Not many of our churches, labor unions, corporations or politicians were brave enough in the 1930's, '40's, and '50's to lash out against racial discrimination.

And even today—who is working ceaselessly to bridge the widening chasm between rich and poor?

In my view, the traditional disciplines have given way, not to a vacuum of morality, but to a new, highly personalized morality. Young people today know what is right and wrong—they know viscerally the difference between truth and lies—and they recognize the ugly hypocrisy of preaching good and practicing evil. There is no need to define "Credibility gap" to your generation. Therefore, presidents and parents, teachers and ministers—pundits and peers—had better square words with deeds to win your confidence and earn your trust, or you will mark them for fools.

Above all things, continue to grow and change with the years. Deepen your compassion, extend your concern, increase your commitments, and hone your sense of humor. For the ability to launch at oneself is surely one of life's sweet redemptions.

I welcome you to the fellowship of educated men and women—and I hope you create the world we never made.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business having expired, morning business is concluded.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, the Senate will now go into executive session to consider the nomination of Robert H. Morris, of California, to be a member of the Federal Power Commission, which the clerk will report.

FEDERAL POWER COMMISSION

The second assistant legislative clerk read the nomination of Robert H. Morris, of California, to be a member of the Federal Power Commission.

ROBERT MORRIS SHOULD NOT SIT ON THE FPC

Mr. PROXMIRE. Mr. President, I cannot support the nomination of Robert H. Morris for the Federal Power Commission.

The Federal Power Commission occupies a key position in Government at this time. Its function and its jurisdiction encompass broad segments of industry, and touch all of our lives. The Commission will play a key role—perhaps a determinative role—in resolving the energy crisis which we currently face. It will decide how to encourage the exploration of more natural gas, and whether natural gas should be deregulated altogether. According to the Supreme Court, the function of the FPC in regulating natural gas is to "afford consumers a complete, permanent, and effective bond of protection from excessive rates and charges."

The Commission also has a broad mandate from Congress to comprehensively regulate the electric utility industry, and to regulate wholesale electricity prices.

Mr. President, each year American consumers pay more than $30 billion for natural gas and electricity. These two sources account for about 60 percent of this country's total energy usage. There cannot be any doubt about the critical role the Federal Power Commission must play in regulating the energy industry. It must insure that prices charged for these commodities are fair to the consumer. It must insure that these commodities do not run short. It must insure that the interest of conservation are fully protected. And it must insure that industry receives a fair rate of return on its investment.

Unfortunately, Mr. President, in recent years it has been the last of these—a fair rate of return for industry—that has been the watchword at the FPC. The other considerations have all taken a back seat.

The reason for the Commission's pro-industry stance is obvious: the current members of the Commission all came to their posts with strong pro-industry orientation and background, and have continued to hold these views during their tenure on the Commission.

The Chairman of the Federal Power Commission is John N. Nassikas. Prior to coming to the Commission, he was senior and managing partner in the law firm of Wiggin, Nourie, Sundeen, Nassikas and Pingree, where he consistently represented insurance, banking, and utility companies.

Two months after he became FPC Chairman, his strong proindustry bias became evident. The Wall Street Journal noted his "friendliness" toward the industry, and Forbes magazine was even more pointed:

> Too good to last? It is hard to see how the troubled natural gas industry could have a regulator more to its taste than the new Chairman of the Federal Power Commission . . . (He) sometimes sounds more like a natural gas executive expounding about how the FPC should regulate his industry than a man burdened with the actual responsibility of regulation.

Here are some of the key proindustry rulings during the Nassikas tenure:

Permitting, for the first time in its history, price increases for "old" gas—gas which is already flowing and for which production costs have already been reflected in the price contract;

Allowing rate increases as a matter of incentive—as opposed to cost—thereby abandoning the time-tested "reasonable

rate of return" standard that has been in use since the FPC's inception;

Forgiving nearly $400 million in overcharges by the industry.

The FPC's bias has not gone unnoticed by the courts. Six months ago, the U.S. Court of Appeals for the District of Columbia Circuit set aside an FPC decision which sought to justify nonregulation of gas producer rates. The court said:

> Such an approach retains the false illusion that a government agency is keeping watch over rates pursuant to the statute's mandate, when in fact it is doing no such thing.

Nevertheless the pro-industry pattern continues. Just 11 days ago the FPC decided the Belco case. The Commission permitted a 73-percent increase in wellhead rates to go into effect, which resulted in a 48-percent return on equity for the producer. The industry could hardly be upset by such a ruling.

The two other Commissioners that have served during this period, and who continue to serve, are Albert B. Brooke, Jr., and Rush Moody. Both have demonstated that their views parallel those of Chairman Nassikas. Moody, in fact, has repeatedly stated that he does not favor the regulation of natural gas prices at the wellhead.

Mr. President, several weeks ago, the Senate acted favorably on the nomination of William Springer to fill the fourth seat on the FPC. Mr. Springer served in the U.S. House of Representatives for 22 years, during which period he consistently voted to protect the interests of the utility industry at the expense of the consumer. He has advocated deregulation of natural gas by the Commission since 1955, and regularly voted for private industry and against public power on every occasion when the issue came before the House. In 1970, the League of Conservation Voters rated Mr. Springer 0—out of 100—in its analysis of votes on environmental and conservation issues.

Despite this, I regret that the Senate voted to confirm Mr. Springer by a margin of 65 to 12 on May 21, 1973.

Mr. President, it is against this background that we come to consider the nomination of Robert Morris for the last seat on the Commission. Robert Morris has spent the last 15 years with the leading San Francisco law firm of Pillsbury, Madison, and Sutro. During that entire period, his chief client has been the Standard Oil Co. of California. From 1956 to 1964, he spent approximately one-third of this time representing Standard Oil, but he did little or no work in the natural gas area. During the subsequent 7 years, Mr. Morris spent two-thirds of his time on work for the Standard Oil Co., and much of this was focussed on natural gas work, including many regulatory issues coming before the FPC.

Mr. President, the Senate normally should be cautious before it tars a lawyer for representing the interests of his client, to the best of his ability.

However, we are considering Mr. Morris for the fifth seat on a Commission that has already demonstrated a strong pro-industry bias. I believe in this case we have an obligation to bend over backward to insure that the fifth commission is someone who will act for, and look out for, the interests of the energy consumer. We already have four commissioners to look out for industry.

Mr. President, I find it significant that the Consumer Federation of America—an organization some 3 million strong—has taken a strong stand against the Morris nomination. It is also significant that not one of the seven witnesses who appeared on the Springer-Morris nominations when they were before the Commerce Committee in March testified in favor of the Morris nomination. But I think the most compelling case for balance on the FPC was made by the Washington Post in its editorial a few days ago. The Post said:

> The question is not whether the industry's view deserves representation within the FPC. It is whether any other view is to be represented. Mr. Morris' integrity and competence are not in question. But at a time when public confidence in the federal government is not high, the Senate would make a grievious error in awarding still another seat on the FPC to a lawyer who, in his private career, spoke for the oil and gas industry.

Mr. President, I could not agree more. I plan to vote against the Morris nomination tomorrow afternoon. I urge my colleagues to do the same.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, in accordance with the order previously entered, the Senate return to the consideration of legislative business.

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

DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION ACT OF 1973

The ACTING PRESIDENT pro temport. The Senate will now resume the consideration of the Department of State Appropriations Authorization Act of 1973 (S. 1248) which the clerk will report.

The assistant legislative clerk read as follows:

> Calendar No. 166 (S. 1248) to authorize appropriations for the Department of State and for other purposes.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, before moving that the Senate stand in recess for a brief period, I wish to state that there will be a yea and nay vote on the amendment by the Senator from Indiana (Mr. BAYH) today at the hour of 2:45 p.m. Both cloakrooms are to alert their respective Senators.

ORDER FOR RECOGNITION OF SENATOR BAYH FOLLOWING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate reconvenes after the recess, for which I am about to offer a motion, the Senator from Indiana (Mr. BAYH) be recognized for the purpose of calling up his amendment.

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

TIME AGREEMENT ON THE BAYH AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on the amendment by the Senator from Indiana (Mr. BAYH) be equally divided between and controlled by the mover of the amendment, the Senator from Indiana (Mr. BAYH) and the distinguished Senator from Vermont (Mr. AIKEN).

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

RECESS TO 1:45 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 1:45 p.m. today.

The motion was agreed to; and at 12:47 p.m. the Senate took a recess until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Indiana (Mr. BAYH) is to be recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on an amendment which will shortly be proposed by the distinguished Senator from Indiana (Mr. BAYH).

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

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. FULBRIGHT. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is S. 1248, to authorize appropriations for the Department of State and for other purposes.

Mr. FULBRIGHT. Mr. President, this is the second annual authorization bill for the operations of the Department of

State to be presented to the Senate by the Foreign Relations Committee. Periodic authorizations for the Department of State and the U.S. Information Agency were prescribed by a provision in the Foreign Assistance Act of 1971 in order to strengthen the legislative oversight functions of the Congress over the foreign affairs establishment. The wisdom of this requirement is demonstrated as the new authorizing process goes into its second year. The committee believes that this process is a useful one for Congress, the Department of State, and the taxpayers.

I want to express my thanks to the junior Senator from Rhode Island, who assumed the responsibility for presiding at the hearings and for following up on the number of suggestions that developed during their course. The committee is indebted to him for his conscientious work on this bill.

The committee made only a modest reduction of $5,345,500 in the regular budget request for the Department of State. This reduction was made in order to keep the combined authorizations for the Department of State and the U.S. Information Agency, which the committee considered in the same mark-up session, within the total of the executive branch budget request, since the committee added $36,500,000 to the State Department bill for Russian emigrants' assistance. In view of the Government's difficult fiscal situation, the committee felt that the amount added for the Soviet emigrants must be balanced by reductions in other areas. Also the committee firmly believes that the modest reduction would be fully justified, regardless of the additional amount added for Soviet refugees, in the interest of further lowering our profile abroad and to force general belt tightening throughout the Department.

Most of the amendments adopted by the committee were of a housekeeping nature—such as establishing a new Bureau of Oceans and International Environmental and Scientific Affairs in the Department, rank-order listing for promotions, kindergarten educational allowances, reimbursement for detailed State Department personnel, raising the ceiling on certain boundary operations, and the like. However, I do wish to call the Senate's attention to several other amendments which are designed to carry forward the work of restoring the proper balance between the executive and legislative branches over matters relating to war and treatymaking powers and congressional access to information.

A separate war powers bill will soon be debated by the Senate, but it will not address itself to continuing U.S. military involvement in Indochina, which is the subject of the Case-Church amendment in this bill. This amendment, approved in committee by a vote of 13 to 3, will prohibit use of funds for the continued involvement of U.S. military forces in hostilities in Indochina unless specifically authorized by the Congress. It is long past time to call a complete halt to all U.S. military operations in Indochina. Through the power of the purse, the Case-Church amendment will bring this about. Our forces have been withdrawn, our prisoners are home, and there is no legitimate reason for continuing our military involvement there. I hope the Senate will support the Case-Church amendment overwhelmingly.

The treatymaking power of the Senate will be enhanced by the adoption of Senator CASE's two amendments relating to base agreements. The Senate has consistently gone on record in support of the principle involved and approved these same amendments in last year's foreign assistance legislation.

The importance of these base agreements, and why they should be submitted to the Senate as treaties, is exemplified by the statement of Gen. Earle Wheeler in 1968 that the presence of U.S. forces on Spanish soil represented a stronger security guarantee to Spain than anything written on paper. I agree with his practical assessment of the effect of U.S. troops stationed abroad. This makes it vital that the Senate participate in decisions to establish or extend bases overseas and station U.S. forces on them. It does not take much imagination to realize that any attack on a country which hosts U.S. bases and troops will quickly draw the United States into that conflict. The provisions of Senator CASE's amendments serve to complement the thrust of the war powers bill.

The last amendment I wish to discuss concerns access to information, a subject of increasing interest to Congress. Section 11 provides for a fund cutoff if information requested by an appropriate congressional committee or the General Accounting Office, from any of the foreign affairs agencies, has not been furnished within 35 days. The amendment applies to the Department of State, the U.S. Information Agency, the Agency for International Development, the Arms control and Disarmament Agency, ACTION, and the Overseas Private Investment Corporation. It also covers agencies not enumerated which are involved in administering foreign aid programs.

Congress must be able to obtain from executive branch agencies accurate, prompt, and full information if it is to carry out its constitutional responsibilities. Yet time and time again Congress' purposes are thwarted by the failure of executive branch officials to furnish necessary information under a variety of guises; claims of "executive privilege," that the documents are "internal working papers," and a variety of delaying tactics. The amendment recommended by the committee applies only to foreign affairs agencies and specifically exempts communications to and from the President and officers of the agencies involved.

The roots of Congress' right to information lie in our constitution and deep in the history of the British Parliament, and this right is an essential element in the legislature's power of inquiry. Except for the administrative practices of the executive branch, it should not even be necessary to write such a provision of law. I regret the necessity but strongly recommend this provision to the Senate.

The bill before the Senate is a good one, I believe—a progressive step in the the executive branch in foreign policy matters. Even so, it represents only a beginning. For 2 years now, the committee has been urging the Department of State to submit to the Congress a unified budget for all foreign affairs agencies and programs so that we could obtain a total, coherent picture of the costs of carrying out our Nation's foreign policy. To illustrate, the amounts being authorized in this bill for "international organizations and conferences," "international commissions," "educational exchange," and "migration and refugee assistance," represent only part of our total activities in these fields. Additional funds for these activities are scattered in other authorization acts and appropriation bills. The committee continues to consider it important that all these threads be drawn together. It has urged that the Commission on the Organization of the Government for the Conduct of Foreign Policy, which has at last started to function, study this along with a concurrent study by the Office of Management and Budget.

The committee reported this bill to the Senate by a vote of 16 to 0. I hope it will receive a similar endorsement by the Senate.

Mr. President, on June 7, 1973, the New York Times published an article entitled "Indochina: The Moral Difficulties," written by Thanat Khoman, who served as Thailand's Foreign Minister for 10 years and negotiated the original agreements for American bases there.

The article is relevant to some of the things involved in the pending bill, and certainly to our foreign policy.

Let me read two short excerpts to give some indication of what I mean:

* * * Thailand still remains bogged down, neck-deep, in the cold war quagmire because of a massive American military presence and unwarranted use of Thai territory for war operations in Indochina.

A little later on it says:

In my opinion, now is the time for both the United States and Thailand to cast off the cold war shackles and look ahead into the new world of coexistence and peaceful cooperation.

Mr. President I ask unanimous consent to have the entire article printed in the RECORD.

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

INDOCHINA: THE MORAL DIFFICULTIES

(By Thanat Khoman)

BANGKOK, THAILAND.—While Europe basks in the sun of détente and, in the United States, people breathe more easily after the rapprochement with the People's Republic of China and improved Soviet relations—developments which led to the halt of hostilities in Vietnam—Thailand still remains bogged down, neck-deep, in the cold war quagmire because of a massive American military presence and unwarranted use of Thai territory for war operations in Indochina.

Why? Despite the cease-fire in Vietnam and the return of the American prisoners of

war, the United States claims that its continued military presence in Thailand and air attacks launched from Thai territory are necessary to ensure strict observance of the cease-fire agreements. This explanation is likewise dutifully echoed by Thai official circles. The question is whether this contention is admissible on legal, moral and practical grounds.

Under the cease-fire agreements, it behooves the signatories, including the United States, to use the peace-keeping machinery, notably the International Commission for Control and Supervision. Or, violations may be referred to a reconvened peace conference.

By any legal standard, cease-fire violations cannot justify, still less exonerate, international law violations. These have been caused by aerial bombings originating from Thailand by American forces. This matter becomes even more serious for my country since it was not party either to the cease-fire agreements or the Paris conference. The fact that the United States armed forces have been admitted by the Thai authorities on a verbal basis, without written official agreements specifying the purposes, duration and other conditions of their stay, does not entitle them to commit acts of war against third parties with which Thailand is not in conflict. By so doing, they implicate the host country in a de facto state of war without its consent or approval.

Legally, therefore, the United States authorities will probably have to face responsibility for multiple violations, first, against the agreements they have voluntarily signed and, second, for perpetrating acts of war from a neutral state without its approval.

Morally, it is difficult to find valid explanations. American prisoners of war have been safely repatriated. By signing the cease-fire and withdrawing its troops, the United States explicitly recognized the end of its military role in Vietnam and Indochina. This would conform to the policy of disengagement enunciated at Guam. Now the United States can hardly invoke the right of self-defense. No American nationals are in danger. How, then, can the United States justify its current actions, particularly in Cambodia? Nowhere does the American Constitution provide that the United States is duty-bound to ensure the survival or maintenance in power of generals and marshals in various parts of the world. Obviously, the moral basis is sadly lacking.

From the practical standpoint, long years of intensive employment of air power, exceeding even the tonnage of World War II, should clearly indicate that man-made weapons alone are insufficient to decide the outcome of a war in which human beings play a major part. Instead of continuing bombing the United States could more usefully provide assistance to those willing to fight for their survival and independence. If people lack that will, no amount of bombs can save them. In Cambodia, despite sustained bombings, Communist forces are ever closer to their objectives.

As for Thailand, it stands to gain little, if anything, politically, economically or in security. Serving as a launching pad for air war casts a distinct opprobrium on the entire nation. Financially, the figure of $200 million cited without details as American annual military expenditures here is doubtful, to say the least. Anyhow, there are better ways to earn a living than depending on foreign soldiers' spending which brings a sequel of social ills, moral deterioration and economic disturbances.

From the security standpoint, since United States forces play no role in our insurgency problem, they do not enhance our security. On the contrary, their threatening presence and air operations call for reprisals and counterattacks that endanger our well-being. In fact, by embroiling relations with our neighbors, Thailand's position is unfavorably affected without effective help from allies, since existing treaty obligations provide only for "consultation" which may or may not lead to any concrete action. Concerning regional security, if any other country feels that its security is served by having foreign forces stationed on its territory, Thailand should promptly concede the honor.

In my opinion, now is the time for both the United States and Thailand to cast off the cold war shackles and look ahead into the new world of coexistence and peaceful cooperation. Indeed, our two countries have much worthier objectives to work for than just one using the other as a launching pad for dropping bombs or recruiting "mercenaries" for fighting proxy wars. That is why the American Congress, thinking as many of us do in Thailand, adopted resolutions unmistakably expressing views and aspirations which are fortunately shared by a large number of the Thai people.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The Senator from Arkansas will state it.

Mr. FULBRIGHT. Is it now in order to offer an amendment to the bill?

The PRESIDING OFFICER. It is in order.

Mr. FULBRIGHT. I thank the Chair. I send to the desk an amendment, technical in nature, simply to correct an error in the text, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 6, line 22, immediately before "or", insert "on".

On page 11, line 16, strike out "provision", insert in lieu thereof "provisions".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. FULBRIGHT. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

S. 1248

On page 4, between lines 11 and 12, insert the following:

(c) In addition to amounts otherwise authorized, there are authorized to be appropriated to the Department of State for fiscal year 1974 not to exceed $4,500,000 for payment by the United States of its share of the expenses of the International Commission of Control and Supervision as provided in article 14 of the Protocol to the Agreement on Ending the War and Restoring Peace in Vietnam Concerning the International Commission of Control and Supervision, dated January 27, 1973.

On page 2, line 12, strike out "(c)" and insert in lieu thereof "(d)".

Mr. FULBRIGHT. Mr. President, I offer an amendment to S. 1248 to authorize an appropriation of not to exceed $4,500,000 for fiscal year 1974 as the U.S. share in the expenses of the International Commission of Control and Supervision in Vietnam.

This legislation was requested by the administration in a letter to the President of the Senate on May 18. A protocol to the Vietnam cease-fire agreement specifies that each of the four parties to agreement, the United States, South Vietnam, North Vietnam, and the People's Revolutionary Government, shall pay 23 percent of the Commission's expenses and each of the four Commission members, Canada, Indonesia, Poland, and Hungary, will pay 2 percent each.

The executive branch requested an open-ended authorization but estimated that the U.S. share would not exceed $4,800,000 in fiscal year 1974.

The committee discussed this request in executive session on June 4 and approved an authorization of $4,500,000 to be handled as an amendment to State Department authorization bill since this bill contains the general authorizations for U.S. contributions to international organizations and commissions.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. FULBRIGHT. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. 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. BAYH. 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. BAYH. Mr. President, I ask unanimous consent that a member of my staff, Dr. Karl O'Lessker, be permitted the privilege of the floor during the debate and vote on my amendment.

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

AMENDMENT NO. 214

Mr. BAYH. Mr. President, I call up my amendment No. 214.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 14, line 9, insert the following:

SEC. 19. (a) Title VI of the Foreign Service Act of 1946 (22 U.S.C. 981) is amended by adding at the end thereof the following new part:

"PART J—FOREIGN SERVICE GRIEVANCES

"STATEMENT OF PURPOSE

"SEC. 691. It is the purpose of this part to provide officers and employees of the Service, and their survivors, a grievance procedure to insure the fullest measure of due process, and to provide for the just consideration and resolution of grievances of such officers, employees, and survivors.

"REGULATIONS OF THE SECRETARY

"SEC. 692. The Secretary shall, consistent with the purposes stated in section 691 of this Act, implement this part by promulgating regulations, and revising those regulations when necessary, to provide for the consideration and resolution of grievances by a board. No such regulation promulgated by the Secretary shall in any manner alter or amend

the provisions for due process established by this section for grievants. The regulations shall include, but not be limited to, the following:

"(1) Informal procedures for the resolution of grievances in accordance with the purposes of this part shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not resolved under such procedures within sixty days, a grievant shall be entitled to file a grievance with the board for its consideration and resolution. For the purposes of the regulations—

"(A) 'grievant' shall mean any officer or employee of the Service, or any such officer or employee separated from the Service, who is a citizen of the United States, or in the case of the death of the officer or employee, a surviving spouse or dependent family member of the officer or employee; and

"(B) 'grievance' shall mean a complaint against any claim of injustice or unfair treatment of such officer or employee arising from his employment or career status, or from any actions, documents, or records, which could result in career impairment or damage, monetary loss to the officer or employee, or deprivation of basic due process, and shall include, but not be limited to, actions in the nature of reprisals and discrimination, actions related to promotion or selection out, the contents of any efficiency report, related records, or security records, and actions in the nature of adverse personnel actions including separation for cause, denial of a salary increase within a class, written reprimand placed in a personnel file or denial of allowances.

"(2)(A) The board considering and resolving grievances shall be composed of independent, distinguished citizens of the United States well known for their integrity, who are not officers or employees of the Department, the Service, the Agency for International Development, or the United States Information Agency. The board shall consist of a panel of three members, one of whom shall be appointed by the Secretary, one of whom shall be appointed by the organization accorded recognition as the exclusive representative of the officers and employees of the Service, and one who shall be appointed by the other two members from a roster of twelve independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service. If members of the board (including members of additional panels, if any) find that additional panels of three members are necessary to consider and resolve expeditiously grievances filed with the board, the board shall determine the number of such additional panels necessary, and appointments to each such panel shall be made in the same manner as the original panel. Members shall (i) serve for two-year terms, and (ii) receive compensation, for each day they are performing their duties as members of the board (including traveltime), at the daily rate paid an individual at GS–18 of the General Schedule under section 5332 of title 5, United States Code. Whenever there are two or more panels, grievances shall be referred to the panels on a rotating basis. Except in the case of duties, powers, and responsibilities under this paragraph (2), each panel is authorized to exercise all duties, powers, and responsibilities of the board. The members of the board shall elect, by a majority of those members present and voting, a chairman from among the members for a term of two years.

"(B) In accordance with this part, the board may adopt regulations governing the organization of the board and such regulations as may be necessary to govern its proceedings. The board may obtain such facilities and supplies through the general administrative services of the Department, and appoint and fix the compensation of such officers and employees as the board considers necessary to carry out its functions. The officers and employees so appointed shall be responsible solely to the board. All expenses of the board shall be paid out of funds appropriated to the Department for obligation and expenditure by the board. The records of the board shall be maintained by the board and shall be separate from all other records of the Department.

"(3) A grievance under such regulations is forever barred, and the board shall not consider or resolve the grievance, unless the grievance is filed within a period of eight months after the occurrence or occurrences giving rise to the grievance, except that if the grievance arose prior to the date the regulations are first promulgated or placed into effect, the grievance shall be so barred, and not so considered and resolved, unless it is filed within a period of one year after the date of enactment of this part. There shall be excluded from the computation of any such period any time during which the grievant was unaware of the grounds which are the basis of the grievance and could not have discovered such grounds if he had exercised, as determined by the board, reasonable diligence.

"(4) The board shall conduct a hearing in any case filed with it. A hearing shall be open unless the board for good cause determines otherwise. The grievant and, as the grievant may determine, his representative or representatives are entitled to be present at the hearing. Testimony at a hearing shall be given by oath or affirmation, which any board member shall have authority to administer (and this paragraph so authorizes). Each party (A) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition, and (B) shall be entitled to serve interrogatories upon another party and have such interrogatories answered by the other party unless the board finds such interrogatory irrelevant or immaterial. Upon request of the board or grievant, the Department shall promptly make available at the hearings or by deposition any witness under the control, supervision, or responsibility of the Department, except that if the board determines that the presence of such witness at the hearing would be of material importance, then the witness shall be made available at the hearing. If the witness is not made available in person or by deposition within a reasonable time as determined by the board, the facts at issue shall be construed in favor of the grievant. Depositions of witnesses (which are hereby authorized, and may be taken before any official of the United States authorized to administer an oath or affirmation, or, in the case of witnesses overseas, by deposition on notice before an American consular officer) and hearings shall be recorded and transcribed verbatim.

"(5) Any grievant filing a grievance, and any witness or other person involved in a proceeding before the board, shall be free from any restraint, interference, coercion, discrimination, or reprisal. The grievant has the right to a representative of his own choosing at every stage of the proceedings. The grievant and his representatives who are under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to prepare, to be present, and to present the grievance of such grievant. Any witness under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to appear and testify at any such proceeding.

"(6) In considering the validity of a grievance, the board shall have access to any document or information considered by the board to be relevant, including, but not limited to, the personnel and, under appropriate security measures, security records of such officer or employee, and of any rating or reviewing officer (if the subject matter of the grievance relates to that rating or reviewing officer). Any such document or information requested shall be provided promptly by the Department. A rating officer or reviewing officer shall be informed by the board if any report for which he is responsible is being examined.

"(7) The Department shall promptly furnish the grievant any such document or information (other than any security record or the personnel or security records of any other officer or employee of the Government) which the grievant requests to substantiate his grievance and which the board determines is relevant and material to the proceeding.

"(8) The Department shall expedite any security clearance whenever necessary to insure a fair and prompt investigation and hearing.

"(9) The board may consider any relevant evidence or information coming to its attention and which shall be made a part of the record of the proceeding.

"(10) If the board determines that (A) the Department is considering any action (including, but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board, and (B) the action should be suspended, the Department shall suspend such action until the board has ruled upon such grievance.

"(11) Upon completion of the proceedings, if the board resolves that the grievance is meritorious—

"(A) and determines that relief should be provided that does not directly regulate to the promotion, assignment, or selection out of such officer or employee, it shall direct the Secretary to grant such relief as the board deems proper under the circumstances, and the resolution and relief granted by the board shall be final and binding upon all parties; or

"(B) and determines that relief should be granted that directly relates to any such promotion, assignment, or selection out, it shall certify such resolution to the Secretary, together with such recommendation for relief as it deems appropriate and the entire record of the board's proceedings, including the transcript of the hearing, if any. The board's recommendations are final and binding on all parties, except that the Secretary may reject any such recommendation only if he determines that the foreign policy or security of the United States will be adversely affected. Any such determination shall be fully documented with the reasons therefor and shall be signed personally by the Secretary, with a copy thereof furnished the grievant. After completing his review of the resolution, recommendation, and record of proceedings of the board, the Secretary shall return the entire record of the case to the board for its retention. No officer or employee of the Department participating in a proceeding on behalf of the Department shall, in any manner, prepare, assist in preparing, advise, inform, or otherwise participate in any review or determination of the Secretary with respect to that proceeding.

"(12) The board shall have authority to insure that no copy of the Secretary's determination to reject a board's recommendation, no notation of the failure of the board

to find for the grievant, and no notation that a proceeding is pending or has been held shall be entered in the personnel records of such officer or employee to whom the grievance relates or anywhere else in the records of the Department, other than in the records of the board.

"(13) A grievant whose grievance is found not to be meritorious by the board may obtain reconsideration by the board only upon presenting newly discovered relevant evidence not previously considered by the board and then only upon approval of the board.

"(14) The board shall promptly notify the Secretary, with recommendations for appropriate disciplinary action, of any contravention by any person of any of the rights, remedies, or procedures contained in this part or in regulations promulgated under this part.

"RELATIONSHIP TO OTHER REMEDIES

"SEC. 693. If a grievant files a grievance under this part, and if, prior to filing such grievance, he has not formally requested that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part, then such matter or matters may only be considered and resolved, and relief provided, under this part. A grievant may not file a grievance under this part if he has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part.

"JUDICIAL REVIEW

"SEC. 694. Notwithstanding any other provision of law, regulations promulgated by the Secretary under section 692 of this Act, revisions of such regulations, and actions of the Secretary or the board pursuant to such section, may be judicially reviewed in accordance with the provisions of chapter 7 of title 5, United States Code."

(b) The Secretary of State shall promulgate and place into effect the regulations provided by section 692 of the Foreign Service Act of 1946 (as added by subsection (a) of this section), and establish the board and appoint the member of the board which he is authorized to appoint under, as provided by such section 692, not later than ninety days after the date of enactment of this Act.

Mr. BAYH. Mr. President, twice last year the Senate overwhelmingly approved the measure which is now before us in the form of amendment No. 214, which would establish a foreign service grievance procedure. The details of the measure were worked out by our revered former colleague, Senator John Sherman Cooper, and myself, and came to be known as the Bayh-Cooper or the Cooper-Bayh bill, as the case may be. The Committee on Foreign Relations incorporated it in the State Department Authorization Act of 1972 and passed it in that form. But it was then lost in a conference with the other body.

Thereupon, the committee reported it as a separate bill, S. 3722; and on June 22 of last year, as Senators will recall, it passed the Senate by better than a 2-to-1 majority, after extensive debate, and was supported by majorities on both sides of the aisle and by all but one member of the Foreign Relations Committee. The House, however, was unable to take any action on it before the end of the 92d Congress, due to the request by Representative WAYNE HAYS that he be allowed time to hold full hearings on this issue. Those hearings have now been completed.

I recount this brief legislative history, Mr. President, to show that the amendment I ask favorable action upon is a strictly bipartisan measure. The need for it has nothing to do with which party controls the executive branch. It is an attempt to institute long-overdue procedures for guaranteeing to a small but critically important segment of the Federal service due process of law in dealing with employee-management disputes that are altogether outside the realm of partisan politics. In addition, I invite the attention of Senators to the fact that this measure has been thoroughly discussed and passed twice by this body, as I said a moment ago.

The fact that any legislation in this area is even needed is a tribute—if that is the right word—to the tenacity of the State Department in fending off for 27 years a system of grievance procedures acceptable both to the Department's management hierarchy and to the rank-and-file foreign service employees. During that same lengthy time, the Department has not only ignored employee complaints but also has managed to exempt itself from a 1969 Executive order imposing a uniform employee relations code on all Federal agencies. It has now spent more than 2 years sidestepping reforms similar to those which Secretary Rusk recommended back in 1962 but which his subordinates neglected to implement.

I point out, Mr. President, to show that although we are presenting this measure, once again, to the Senate at a time when Mr. Rogers is Secretary of State and happens to be representing the country as a member of a Republican administration, at the time Secretary Rusk, a member of the other party, the Democratic Party, was representing the country as Secretary of State, his subordinates in the State Department refused to carry out the provisions of this particular kind of regulation.

Now, today, after solemnly assuring those of us who are pressing this measure that they would negotiate with the employees' bargaining unit a comprehensive grievance procedure, the Department's management team has adopted a transparent subterfuge of agreeing to negotiate peripheral procedures but refusing to negotiate the implementing legislation which would be sent to Congress. That is simply not good faith bargaining, I contend. And it is all too indicative of the governing attitude within the Department that makes it essential for Congress to impose a long-overdue settlement.

Let me briefly explain what the Bayh-Cooper plan would do.

At the heart of the procedure this amendment would institute is a method for convening an impartial grievance board to hear and act upon a grievance brought to it by an employee of the Department. The method finally agreed upon after considerable negotiation is that there would be a three-member board, one member appointed by the Secretary of State, one by the employees' bargaining unit. The American Foreign Service Association, and the third appointed by agreement of the first two from a slate of 12 previously selected by the Secretary and the AFSA. No officer or employee of the Department, the Foreign Service, the Agency for International Development, or the U.S. Information Agency would be eligible for membership on the Board.

In order to be heard, a grievance would have to be filed within 8 months of the time it occurred, except that there could be a year's grace period for grievances to be brought forward if they occurred prior to the time these regulations are put into effect.

The board would be required to conduct a hearing on any case filed with it, and such hearings would be open unless the Board determined otherwise.

Any grievant, witness, or other person involved in a proceeding before the Board would, in the bill's language, "be free from any restraint, interference, coercion, discrimination or reprisal."

In considering a grievance, the Board would have access to "any document or information considered by the Board to be relevant," including security records "under appropriate security measures."

In cases not relating to promotion, duty assignment, or selection-out of an officer or employee, the Board's determination would be final and binding on all parties. In cases directly involving promotion, assignment, or selection-out, the Board would certify its resolution to the Secretary of State together with its recommendations for relief. Those recommendations would be final and binding on all parties, except that the Secretary would retain the power to reject a recommendation "if he determines that the foreign policy or security of the United States will be adversely affected" and fully documents his reasons for that determination.

Any action taken by the Secretary or the Board would be subject to judicial review. The Secretary would be required to promulgate and put into effect implementing regulations and to establish and appoint members of the Board not later than 90 days after enactment of the pending bill.

Mr. President, those are the major provisions of the amendment now before us. As every Senator will recognize, they are largely a compilation of basic rights of due process: the right to a hearing, to be represented at all stages of the proceeding, to have access to relevant documents, to be able to subpena and cross-examine witnesses, to be free from interference or coercion while presenting a grievance, and finally, to have confidence that after a fair hearing the Board's recommendations will be carried out.

These are by no means unusual or unprecedented rights for Federal employees who have serious grievances. The wonder is that any Americans are still denied them. And indeed it is noteworthy that the employees of State, USIA, and AID are the only civilian career employees who do not now have such rights. Surely the time has come to correct that deficiency.

Mr. President, I have no wish to extend

a discussion that has already taken more of the Senate's time than it should have done.

It seems to me that a resolution by this Government to give civilians who serve our country a hearing on their grievances should have been given a long time ago. The justice of this case is axiomatic.

Let me only emphasize once more that this is a strictly bipartisan solution to a strictly nonpartisan problem. It has nothing to do with which party controls the administration. It has nothing to do with Indochina, the Middle East, or any foreign policy problem other than the morale of the men and women who must work at our foreign policy on a day-to-day basis.

I urge that the Senate now adopt this amendment and move this eminently fair, long overdue and badly needed procedure one important step closer to enactment.

Mr. AIKEN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. AIKEN. Mr. President, in consideration of the State Department authorization bill it is my hope that we can get a bill through which will permit the State Department to carry on its usual and responsible necessary functions without having to resort to continuing resolutions or any other excuses for legislation.

As for the amendment offered by the Senator from Indiana, this proposal was passed last year, I believe, as an amendment to the State Department authorization bill. It was rejected by the House and thrown out in conference. It was then passed as a separate bill and the House refused to have anything to do with it.

As to the merits of the amendment, it probably has some merit. In conference this year we might reach some agreement on what would be a good bill, the fact is that members of the State Department, like other people, resent others getting promotions when they do not get them. They feel that is the basis of the effort being made to change the promotion method of the State Department. This resentment against seeing others promoted when one feels he should be promoted is not something new. In fact, the first incident in American history I have heard of was the resentment of Benedict Arnold when three political generals were promoted over his head. According to what some people have said Arnold might have been better qualified than the three political generals who got the promotions. So we have had that situation ever since in every department of Government.

I do not think we can pass on all departments of Government or on all of the 3 million people who work for our Government, some of whom get promotions deservedly and some who deserve promotions do not get them. I feel it would be much better to take this matter up as a separate bill than to encumber the State Department authorization bill with it at this time, particularly in view of the fact that while it is not absolutely certain, it is almost certain that it would delay enactment of the State Department authorization bill.

With the world in the shape it is in now, we do not want to hinder the State Department and make it impossible for the State Department to carry on its functions, not perfectly, because no agency can perform perfectly, but as near perfectly as possible. I feel that time is of the essence now. I do feel that not only this amendment but certain other amendments also could delay enactment of legislation which this authorization is necessary to let the State Department function as we expect it to do.

Mr. President, I am not going to vote for the amendment. I would not be a bit surprised if a majority of the Senate does vote for it. If the amendment gets to conference those of us who make up the conferees will do the best we can to reconcile the differences, but that will not be easy.

Mr. DOMENICI. Mr. President, will the Senator yield for a moment?

Mr. AIKEN. I yield if I have time.

Mr. DOMENICI. Mr. President, I ask unanimous consent that a member of my staff, Cecil Daniels, be permitted privileges of the floor during the discussion of this bill.

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

Mr. AIKEN. Mr. President, I have no requests for time. I do not know if the Senator from Indiana has or not. I simply wanted to reiterate again that perhaps I am not considering these amendments on their merits or demerits as I should, but I am simply considering them for the basis of getting the State Department authorization bill through or not getting it through. Therefore, I am not going to vote for the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield to the distinguished chairman of the Committee on Foreign Relations.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, for clarification of the record, this amendment is identical with the provisions which the Senate approved on two occasions last year. It was included in the Foreign Relations authorization bill, but the provision was deleted in conference. The House argued that the House Foreign Affairs Committee had not held hearings on the subject but pledged to do so as soon as possible. Later the committee did hold hearings but no legislation was ever reported.

After the provision was deleted in conference, the Committee on Foreign Relations voted to report the provision as a separate bill, S. 3722. This bill passed the Senate by a vote of 56 to 27 on June 22, 1972. The problem of establishing a permanent grievance procedure in the State Department still remains.

Mr. President, to clarify the record a bit, we have voted on it twice. I might say by way of history that about 4 years ago when Mr. Macomber was in the Department I started to offer a provision for what we call a blue ribbon commission to study this matter, along with other problems of the Department. Mr. Macomber and others assured me that they did not need it, that they could do that without a commission or anything else. But nothing happened. They also undertook to do something to provide an adequate and acceptable grievance procedure, but nothing much has happened. I think that is what we live with. They will not do it without any legislation.

The former Senator from Kentucky, Mr. Cooper, was one of the principal sponsors. I expect he did more work on this particular provision than any other member of the committee.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. AIKEN. I wish to advise that as a separate bill I previously supported this proposal. My objection now is that we cannot encumber a regular State Department authorization bill with amendments and proposed legislation which will delay it, continuing normal operations at the beginning of the next fiscal year.

Mr. FULBRIGHT. I do not know whether it will delay it or not. We are going to vote on it in 15 minutes. If the "ayes" carry, it will not delay it here. If the Senator is talking about in conference, that is up to the conferees.

Mr. AIKEN. The Senator was recalling what happened before—after we passed this proposal.

Mr. FULBRIGHT. It had no hearings. They cannot make that argument now. There have been some changes in the House. They voted differently on the Cambodia matter, for example. I do not know what they will do. Unless the Senator is suggesting we have to stand firm for the rest of the year on such a provision—I do not know what the House will do. The arguments made last year will no longer be relevant because they have had hearings. I do not know what their attitude will be.

I do not know how it would encourage any great amount of delay either here or in the conference. It is quite relevant to this legislation. It is quite basic to it. It is germane to it.

This is an old and continuing problem. This provision for appeal is not very complicated. It does not require any amount of money to settle it. It is not a difficult thing to do. They profess that they are doing it, but they do not do it to the satisfaction of people in the Department.

Mr. AIKEN. Mr. President, I yield 5 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, I reluctantly rise to oppose the amendment because I think its essential idea is a proper one. In fact, its propriety is attested by the fact that, after the Senator from Indiana introduced this proposal, for the first time after unseemly delay there was a movement down at the State Department to try to do something about it.

That is the point that leads me to urge that we ought not to accept this amendment today at this particular time.

The two considerations that give me pause in acting on it now is that, aside from the fact that the Senate has made its wishes clear, has affirmed its deter-

mination to move with the Senator from Indiana's very constructive formula and procedure, the Department right now is in the process of negotiating with the American Foreign Service Association on grievance procedures. While those are underway— and I am told from both sides they are making measurable headway—it would seem a bit precipitate again today to renew the affirmation of the Senate on this measure, of which we are already on record.

The Senate's position is known. When they are moving ahead on these procedures, which now have been triggered and motivated and moved ahead by the activitie of the Senator from Indiana—in a very statesmanlike way, I hasten to add—is not the moment to be pressing for another reaffirmation of the Senate's position. It is rocking a boat that has come a long way and which may now be about ready to reach the home port in a constructive new grievance procedure. It is under negotiation.

Mr. President, the other consideration is that the employees are winning most of the new cases that are being tried under the revised and modernized grievance procedure undertaken in the Department, and thus a record in court is already being written—not in court; I withdraw that and ask that it be stricken from the RECORD. I am so moved by Watergate these days that the word "court" keeps coming into my vernacular. But the point is that the employees are winning and writing landmark records under the enlightened grievance procedure.

Because of these two considerations, the one being an ill timing of the repetition of the Senate's action due to the negotiations now underway, and the fact that employees with grievances they have filed are winning most of the grievance cases—something over 60 percent at the present time—I would hope that this body would not act favorably on this amendment.

In fact, I would appeal to my distinguished colleague, who is almost always my leader on questions of statesmanship, to consider withdrawing the amendment at this time. If we want to try it again, that is fine, because I believe in its essential good, but I believe most of its essential good has been to draw the Department into a level of grievance negotiations and procedures that were long overdue. We are getting there, and I think passage of this proposal now will be actually to delay and obstruct rather than contribute to constructive settlement of matters that are even now being heard.

Mr. BAYH. Mr. President, I shall respond only by expressing some difference of opinion with my two distinguished colleagues, my friend from Wyoming and my friend from Vermont. The Senator from Vermont was one of the supporters of this measure last year.

I do not want to rock any boats, but I have been working on this particular issue for 2 years, and despite the fact that we now finally have some movement down at the State Department, we would not have had any if they did not know that there was somebody up here getting ready to ram through legislation.

A constituent of mine from Fort Wayne by the name of Charles Thomas had a perfect record in the department. He had only one thing wrong with him. There was one other fellow in the department with the identical name of Charles Thomas, and this fellow had placed into his file a highly favorable report intended for Thomas No. 1, who, as a result, did not receive the promotion he was entitled to. The State Department admitted there was an error, but did not do anything to rectify it. Would they reconcile it? Would they give justice to Thomas No. 1? No. The poor man tried everything he could. I got in touch with Mr. Macomber, whom I very much respect, but nothing was done. This man got so frustrated, he finally blew his brain out because the State Department, representing this Government, being the spokesman for the U.S. Government, could do nothing for an ordinary, everyday Foreign Service officer.

To have this kind of thing happen and to have no procedure for appeal just makes no sense. There are a number of grievance procedures that cannot be brought.

This boat that the Senator from Wyoming is talking about is moving, but it is moving in circles. Representatives of the American Foreign Service Association tell me they are not satisfied with what is going on.

So I suggest to my friend from Wyoming, to say that both sides are happy with what is going on is not accurate. What is wrong with having this Congress pass a law which requires the State Department to live up to the duty with respect to such procedures which every other agency lives up to? Why should we have one group of U.S. citizens who happen to be Federal employees working for the State Department be second-class citizens? Why do I have to go to the Cameroons, where they are working there in darkest Africa, and explain to them that they should not have the same appeal procedures that every other Federal employee gets?

I think it is important for the Senate to go on record to show that we are still concerned about the matter from the standpoint of procedure. Let us face up to it—we have some of our illustrious colleagues in the other body who are never going to be for any kind of procedure unless the Senate persists. This body has passed this measure twice, showing that we believe in due process. Let us not have the State Department and let us not have the House of Representatives think that the Senate has suddenly stopped caring about U.S. citizens who happen to be serving our country as State Department employees.

Mr. McGEE. Mr. President, would the Senator from Vermont yield me a couple of minutes?

Mr. AIKEN. I yield the Senator 3 minutes.

Mr. McGEE. Mr. President, I want to say that I respect fully the position of the Senator from Indiana, and he puts it most eloquently. There is no one who can claim any credit for having moved this matter except the Senator from Indiana. He has made a great constructive contribution to what was a process that was lagging, in limbo, in the dim, dark past for all too long. But the point is that I am sure my colleague the Senator from Indiana is not looking for credit in this; he is looking for a change in the system. He is not going to get any great crowns of glory back in Indiana, any more than I would in Wyoming, if we bring it about.

It is a matter of conscience. It is a matter of knowing one has brought about the change that is made. And that is happening for the moment. Many Senators petition the Senator from Indiana that we cannot do it today, this instant. If, when this process is finished, these negotiations have been finished, and the cases have been heard through, if there is still a question and we still cannot do it, I am willing to lock arms with my colleague and say in a single voice, a chorus, "Let's make sure it does not lag more."

Therefore I say to the Senator from Indiana that he has already produced more than any other person as in this direction. I sat through hours and hours of hearings on the Thomas case. And that is as sordid and sorry a state of affairs as I expect any grievance group could ever be confronted with, or any administrative machinery could contend with. However, the issue is not how we can prevent that, because it has already happened.

The issue is whether we should risk interrupting the gains we are now making because of the Senator's initiatives. That is why I only ask that it be interrupted for the time being because the negotiations are underway. And I am advised from both sides that significant progress is being made. They are not at the end of the line yet.

Mr. BAYH. Mr. President, if my friend will yield for an observation, he is absolutely right. The Senator from Indiana is not looking for credit on this. This matter is not a burning issue in Indiana. It is a matter of conscience. The same message that my friend, the Senator from Wyoming, is getting from the State Department is the message I have gotten for 2 years. And the State Department employees are not satisfied with what is happening.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired. The Senator from Vermont has 3 minutes remaining.

Mr. AIKEN. Mr. President, my opposition to the amendment of the Senator from Indiana is not based on the amendment itself. I voted for it when it passed the Senate last year. However, it could not become law.

My opposition to the amendment to the bill pending before us is based on my desire not to include in the State Department authorization bill provisions which will prevent the bill itself from becoming law so that the State Department may conduct its normal and necessary functions after the 1st of July, particularly with the world in the critical state it is in today.

Mr. President, I have nothing further.

The PRESIDING OFFICER. The Senator from Virginia has 2 minutes remaining.

Mr. McGEE. Mr. President, if the Sen-

ator from Vermont could yield back his 1 minute, the Senator from Indiana could use the 1 minute of the Senator from Vermont.

Mr. BAYH. Mr. President, I would be glad to cooperate with the Senator from Vermont, and I would even be glad to use his 2 minutes.

Mr. AIKEN. Mr. President, I think in the meantime that we have used up the 2 minutes.

Mr. McGEE. Mr. President, I am just advised that we cannot possibly start the vote until 2:45. If I can conduct a colloquy for another thirty seconds, we will have it made.

The comments of the Senator from Vermont and the Senator from Wyoming are not addressed to the substance or the merits of the suggestion of the Senator from Indiana, but are addressed against attaching it to the pending bill.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. McGEE. Mr. President, I am advised that I cannot yield because the time has just expired.

Mr. BAYH. Mr. President, I just want to pose a question and not make a statement.

The PRESIDING OFFICER. A few seconds remain.

Mr. BAYH. Mr. President, how would the Senator from Wyoming determine the temper of a Senate which defeats a measure which passed the Senate twice, the last time by a two-thirds majority?

Mr. McGEE. Mr. President, the most graceful thing to do would be to withdraw the amendment. The Senator can do that and it would serve the best of all worlds for all time. Otherwise the Senate would have to vote it down for the purposes of this particular bill.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Indiana. 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. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL), and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Colorado (Mr. DOMINICK) is absent on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 52, nays 24, as follows:

[No. 190 Leg.]

YEAS—52

Abourezk	Hart	Pastore
Baker	Hartke	Pearson
Bayh	Hatfield	Pell
Beall	Hathaway	Proxmire
Bible	Huddleston	Randolph
Biden	Inouye	Ribicoff
Brooke	Johnston	Schweiker
Burdick	Kennedy	Scott, Pa.
Byrd, Robert C.	Magnuson	Sparkman
Cannon	Mathias	Stafford
Case	McGovern	Stevens
Church	McIntyre	Stevenson
Clark	Mondale	Symington
Cranston	Montoya	Talmadge
Eagleton	Moss	Tunney
Ervin	Nelson	Weicker
Fulbright	Nunn	
Gravel	Packwood	

NAYS—24

Aiken	Curtis	Mansfield
Allen	Dole	McClellan
Bartlett	Domenici	McClure
Bennett	Fannin	McGee
Buckley	Fong	Scott, Va.
Byrd, Harry F., Jr.	Goldwater	Thurmond
	Hansen	Young
Chiles	Helms	
Cotton	Jackson	

NOT VOTING—24

Bellmon	Haskell	Muskie
Bentsen	Hollings	Percy
Brock	Hruska	Roth
Cook	Hughes	Saxbe
Dominick	Humphrey	Stennis
Eastland	Javits	Taft
Griffin	Long	Tower
Gurney	Metcalf	Williams

So Mr. BAYH's amendment was agreed to.

Mr. BAYH. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. FULBRIGHT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. 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. HARTKE. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on an amendment which I will submit later this afternoon which is now at the desk.

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

Mr. HARTKE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. McGEE. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McGEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, add the following new section:

HOUSING SUPPLEMENT FOR CERTAIN EMPLOYEES ASSIGNED TO THE U.S. MISSION TO THE UNITED NATIONS

SEC. 19. The United Nations Participation Act of 1945, as amended, is further amended by adding the following new section at the end thereof:

"SEC. 9. The President may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code, grant any employee on the staff of the United States Mission to the United Nations designated by the Secretary of State who is required because of important representational responsibilities to live in the extraordinarily high-rent area immediately surrounding the headquarters of the United Nations in New York, New York, an allowance to compensate for the portion of expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses incurred by typical, permanent residents of the metropolitan New York area with comparable salary and family size who are not compelled by reason of their employment to live in such high-rent areas."

Mr. McGEE. Mr. President, the amendment I am offering to S. 1248, the State Department appropriations authorization bill, is aimed at strengthening our participation in the United Nations.

My amendment would allow housing compensation for employees of the United Nations who are forced, by the nature of their assignment, to live in the Metropolitan New York, N.Y. area. At present, no member of the U.S. Permanent Mission to the United Nations is allowed any living allowances whatsoever, even though New York City is known as the inflation capital of the Nation.

Last fall, I had the privilege to serve as a congressional delegate to the 27th General Assembly of the United Nations. During my tenure in New York City, I was very impressed with the quality of the members of the U.S. Permanent Mission. However, I was also concerned that it was becoming increasingly difficult to expect these individuals to serve for any length of time in New York because of an economic hardship to themselves, and it is becoming increasingly difficult to attract qualified individuals to serve as members of the mission because of the prohibitive living costs of the area.

This has become a very serious problem in our ability to staff the U.S. Mission with the best people we have to offer. We are now being forced to select people for critical positions at the United

Nations with an eye toward whether or not they can afford to live in New York City—in other words, that they have an independent source of income.

Mr. President, I find this to be a very serious set of circumstances when an individual's personal wealth becomes the overriding consideration as to whom we can attract to serve as a member of the U.S. Mission.

As an example of what I am talking about, our current Ambassador to the United Nations, Mr. John Scali, has had 11 refusals thus far this year in his efforts to attract qualified, knowledgeable, and aggressive personnel to serve under him at the U.N. This seriously damages our effort at the U.N. when we are forced into this predicament.

Mr. President, I would now like to briefly discuss the dilemma with which we are confronted on this issue.

Most of our Foreign Service personnel are assigned to serve at USUN on a 3-year-assignment basis. This policy is fairly consistent with the need to have adequate length of tours to operate within the environment of the U.N. system.

One of the big problems is that it forces much of our personnel into short-term leasing arrangements unlike permanent people who reside in New York all the time and are able to get some rent-controlled housing on long-term leases, or those who can take advantage of lower costs by actually buying property.

Another factor the personnel have to take into consideration is that during the General Assembly period, the late hours of duty and mandatory attendance at so many of these activities, means our personnel have to live in close in order to be able to function in an efficient manner in which they can carry out the interests of the U.N.

Now, we are only talking about a very limited number of Federal employees which would be covered by my amendment. Because of the special type of activity which we have at the United Nations, we really cannot compare it with other services in the New York area.

The situation has now reached the crisis stage where I think remedial action is necessary to prevent the situation from endangering the effective functioning of the U.S. mission.

For example, if we think the cost of living in the Washington, D.C., area is high, let me give you some examples of New York as a comparison. The cost of living during April in New York was 18 percent higher than in Washington. In April, rental costs were 39 percent higher in New York than in Washington, and taxes were 26 percent higher.

I am told that a number of our Foreign Service people are drawing on their personal savings and are even sometimes going deeply into debt in order to carry on the activities required of them in the jobs that have to be accomplished at the mission.

There is another item I would like to point out. I am also told that other governments benefit enormously from assigning officers for two and three tours of duty in New York, sometimes consecutively. However, most of our own officers cannot afford to stay for any length of time, assigned to New York. I remember when I was on the U.S. delegation, I observed a continuous training of new officers with no previous experience in the special intricacies of diplomacy which I am certain has its effect on matters affecting the mission's operations.

I should also like to point out that the vast majority of New York-based Federal employees consider it their home area and are able to adjust their living style without thought of where they may be posted some 2 to 3 years from now, or how they must meet their job responsibilities over and above the normal 8-hour work day. This, I found, was an extreme hardship on some employees when, in many cases, we were meeting well beyond the hours that employees are normally discharged from their duties.

I hope that with my amendment, we will be able to correct a situation which has gone on too long and which may seriously affect the effectiveness of our U.S. Mission to the United Nations in the future, unless we can provide some relief to these dedicated officers.

I know all of my colleagues share my concern over the rich politician buying his way into a position. My amendment affords Congress the opportunity to begin remedying this problem. I do not view the United Nations as a second-rate effort on the part of the United States. I believe it should be an effort that requires the United States to staff its mission in New York with the best and most qualified personnel available. Therefore, instead of making the United Nations the premier hardship post in the Foreign Service, the Senate should move to correct this inequity by approving my amendment.

Mr. President, this amendment is offered by myself, and on behalf of the distinguished Senator from Rhode Island (Mr. PELL), also a member of the Committee on Foreign Relations. The amendment addresses itself to the problem that he and I both encountered while we were serving at the United Nations, he some 3 or 4 years ago, and I just this last year. That was the cost of living in New York City for American career personnel assigned to the American mission who must serve there for 2 to 3 years. This procedure requires that they have to take short-term leases for housing and the result is, they get no advantages in terms of rental rates.

I can personally attest to staff members there on the mission, whom I interrogated at some length, who were forced to pay a disproportionate percentage of their pay for representational expenses.

The burden of this amendment derives from the experience that I had first-hand with members of the American mission at the United Nations who had literally to accept substandard housing in order to survive in the U.S. environment there on the east side of New York City on their basic rate of pay. It is an arbitrarily high rate of day-to-day existence and this is a small attempt to try to adjust that inequity which takes its toll not from the Ambassadors who serve there but rather from the career personnel who are serving on the ambassadorial staffs.

Nearly every government since has an even more acute problem there, but this petition of mine applies only to the career personnel of the American mission who are suffering hardship because of that discrepancy.

My amendment would simply provide that they receive an adjustment for representational expenses only—not for pay—in proportion to the amount that they receive for pay, the going rate for rentals, and representational expenses on the East Side of New York City where most of them are compelled to live for other logistical reasons.

A small amount is at stake. The estimate is about $100,000. The figure cannot be an exact one because the size of the mission fluctuates a little bit depending on which major problems are on the agenda of the Assembly that year.

Thus, there is a little latitude there of as many as five or six people, and even though it is a small percentage, a small amount of money, I would make petition that it is very important in the interest of our lower staff personnel who work at the United Nations mission for the United States in New York City.

So, Mr. President, I was wondering whether the chairman of the committee would be willing to consider this amendment as a part of the pending bill.

Mr. FULBRIGHT. Mr. President, I think it is a relevant amendment. I only regret that it was not offered before, so that we could have made up some guidelines, as to a limitation on the amount. I have no idea how much would be involved. If I correctly understand the Senator, he is talking about more than representation; he is talking about rentals.

Mr. McGEE. The rental allowance, right, as well as representational expenses.

Mr. FULBRIGHT. This normally is handled by regulations of the Department of State. The trouble is, this is an assignment within the United States.

Mr. McGEE. They do not get the same allotment that they would get if they were serving overseas.

Mr. FULBRIGHT. It should be attended to. The only trouble is, at the moment, there are a number of things to be done about it. For instance, it should have been submitted to the committee so that we could have in the record what it contemplates and how much it would cost——

Mr. McGEE. Yes.

Mr. FULBRIGHT. I would assume there would have to be some restrictions on it.

I wonder, if I accept the amendment and we take it to conference, whether the Senator, would, in the meantime, prepare us some data to be used at the conference to set up the proper limitations on how much it would cost, and so forth?

Mr. McGEE. I will be prepared to do that and I assure the Senator that I take the responsibility for the oversight of not having submitted this amendment

to the committee during markup. Senator PELL and I were guilty of letting it get caught between the two of us, as it were. I thought he was going to initiate it, and we had discussed it rather carefully, and I discovered at the last minute that he thought I was going to initiate it. The result was that it was not initiated at the time. So it is our fault—my fault, in particular. I am trying to atone for the inadvertent oversight on my part. I was in the State of Wyoming for some commencement addresses when the markup was held, and I thought it was being covered at this end of the line.

The sum is small, and I would be glad to assemble for the chairman of the committee the relevant data as it would be projected from the known and existing personnel load at the United Nations.

Mr. FULBRIGHT. With the understanding that we can get that material in time for the conference—and I am sure the Senator can get it—I will accept the amendment; and in conference with the House we will do the best we can to get a reasonable adjustment of this matter.

I realize the problem—everybody does—and I think some kind of adjustment should be made, because this is a unique assignment, as the Senator has said. In any foreign country, they have the authority to adjust this.

I would be perfectly willing to accept the amendment, with that understanding.

Mr. McGEE. I will see that the Senator gets all the relevant data.

Mr. FULBRIGHT. We need to know what it will cost and what they have contemplated, and it will be incorporated in the amendment in conference.

Mr. McGEE. That is correct. I pledge that.

Mr. PELL. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. PELL. Mr. President, I particularly congratulate the Senator from Wyoming for offering this amendment. I think it is particularly significant that he is also chairman of the Committee on Post Office and Civil Service and hence is aware of the ramifications of this amendment, which is drafted in such a way that it is pinpointed toward the problem of which we are speaking.

This is a very real problem, and here I speak as a former professional diplomat, myself. The general reputation as to what happens when an individual is assigned to the United Nations or the U.S. Mission of the United Nations is that he must have a private income in order to be able to fulfill that assignment. That obviously is wrong and not as it should be, and this amendment will correct this inequity.

I congratulate the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Wyoming yield?

Mr. McGEE. I yield.

Mr. HARRY F. BYRD, JR. Would the Senator indicate briefly what this amendment would do?

Mr. McGEE. All the amendment would do would be to provide that in terms of the American Mission at the U.N. in New York, an adjustment in their cost of living for representational expenses be allowed for that group, for the reason that the costs of living on the East Side of New York—in other words, in the environs of the United Nations—are arbitrarily higher than the allocated costs for Foreign Service personnel elsewhere in the United States. They are not eligible, because they are in the United States, to receive the same rate of allowance as would be made to them were they serving in Paris or London, where the costs are likewise high.

It is estimated that this total would probably come to less than $100,000 for the entire mission. It might come a few dollars more than that, depending upon the number of people in that particular mission assignment. But they have no bargaining position there for rent for example. They have to take short-term leases on apartments, which means at the higher rates. They do not get the advantage of long-term leases due to their 2- and 3-year assignments.

Mr. HARRY F. BYRD, JR. Would this establish a precedent that could be detrimental for the future?

Mr. McGEE. The language in the amendment is drafted carefully and specifically to apply to the U.N. only, so that it has no precedent-establishing propensities. Not only that, but nowhere else in the Foreign Service could this parallel bail them out in some other part of the world.

Mr. HARRY F. BYRD, JR. Would it be a precedent that could be cited by military personnel as to why they should have special consideration?

Mr. McGEE. I asked our counsel on the Committee on Post Office and Civil Service about that, and I was advised that because of the language in the amendment, there is no chance for it being used as a parallel or precedent-setting incident.

Mr. HARRY F. BYRD, JR. I understand that the language of the amendment will apply only——

Mr. McGEE. Only to the United Nations mission.

Mr. HARRY F. BYRD, JR. But the precedent could be used—or could it be used in the future—for other personnel, perhaps military personnel or personnel of other departments?

Mr. McGEE. The counsel to the committee advised that he thought there was no language that would permit a parallel drawing of this in its own right, that a case would have to be made in the other instances. They could cite this, I suppose—one could cite anything he wishes in order to make a case—but in terms of jurisdictional judgments, this would offer no parallel in that respect.

Mr. PELL. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. PELL. I think the amendment is drafted to bring specific reference to representational problems, and there would not be the necessity for representation for the FBI or the IRS people in Chicago. The military already have adequate means to supplement their allowances when they are there. At the mission, one can see that from the cars that are available. Allowances are available to them.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. McGEE. Mr. President, if there are no other questions, we are prepared to vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming (putting the question.)

The nays appear to have it.

Mr. McGEE. Mr. President, I ask for a division.

The PRESIDING OFFICER. All Senators in favor, please stand and be counted.

All Senators opposed, please stand and be counted.

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

The PRESIDING OFFICER. The ayes appear to have it.

Mr. ALLEN. Mr. President, I suggested the absence of a quorum before the announcement was made.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGEE. 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. McGEE. Mr. President, may we return to a voice vote?

The PRESIDING OFFICER. The question is on agreeing to the amendment. [Putting the question.]

The amendment was agreed to.

Mr. GOLDWATER. Mr. President, I would like to ask a question of the distinguished Senator from Arkansas. As I understand it, the so-called war powers limitation bill has been agreed on by the Senator's committee. Is that correct?

Mr. FULBRIGHT. That is correct.

Mr. GOLDWATER. Can the Senator tell me when it might be reported to the calendar?

Mr. FULBRIGHT. It has been agreed on but not reported yet.

Mr. GOLDWATER. Can the Senator give me an idea when it might be reported to the floor?

Mr. FULBRIGHT. I think it will be out before the end of this week. Some minority views or additional views are being prepared. It is being held for that purpose.

Mr. GOLDWATER. Can the Senator tell me if he knows of any intention to introduce that as an amendment to the present bill?

Mr. FULBRIGHT. I do not know. I would be very surprised if it were offered as an amendment to this bill.

Mr. GOLDWATER. I thank the Senator.

Mr. FULBRIGHT. I would not propose and I would not look for it being done that way. It stands on its own feet as a separate bill.

Mr. GOLDWATER. I thank the Senator very much.

AMENDMENT NO. 211

Mr. HARTKE. Mr. President, I send to the desk amendment No. 211, as modified, and ask that it be called and stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. HARTKE) proposes an amendment No. 211, as modified.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears no objection, and it is so modified.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment, as modified, will be printed in the RECORD.

The amendment as modified, ordered to be printed in the RECORD, is as follows:

On page 14, after line 8, add the following new section:

RESTRICTIONS ON ILLICIT OPIUM PRODUCERS

SEC. 19. (a) No foreign assistance shall be furnished by the United States Government under any provision of law (other than under chapter 8 of part I of the Foreign Assistance Act of 1961, relating to international narcotics control) to Afghanistan, Pakistan, Burma, Thailand, or Laos.

(b) If the President finds that any of the foreign countries referred to in subsection (a) of this section has taken adequate steps to prevent the production, transportation, and sale of illicit opium and its derivatives, he may ask Congress to waive the restrictions of such subsection (a), and if Congress concurs, the restrictions shall not apply to that country.

(c) For purposes of this section—

(1) "foreign assistance" means any tangible or intangible item provided by the United States Government (by means of gift, loan, credit sale, guaranty, or any other means) to a foreign country; and

(2) "adequate steps" means such steps as the enactment of public criminal laws, establishment of a viable agency to prevent the production, transportation, and sale of illicit opium and its derivatives, vigorous enforcement of the public laws, and full cooperation with all United States departments and agencies involved in the interdiction of the supply of illicit opium and its derivatives into the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. 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. HARTKE. Mr. President, the Senator from West Virginia (Mr. RANDOLPH) has long been associated with this type of legislation. I recall his earlier efforts to have enacted legislation to achieve the objectives of my amendment. I ask unanimous consent that his name be added as a cosponsor of my amendment.

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

Mr. HARTKE. Mr. President, I am today raising an amendment to the State Department authorization of appropriation bill to prohibit foreign assistance to those countries which refuse to take adequate measures to end illicit opium production.

Mr. President, section 481 of the Foreign Economic Assistance Act authorizes the President to suspend military and economic assistance to those nations which he determines have not taken adequate steps to suppress dangerous drugs. The President fully embraced this responsibility on September 18, 1972, when he proclaimed:

Any government whose leaders participate in or protect the activities of those who contribute to our drug problem should know that the President of the United States is required by statute to suspend all American economic and military assistance to such a regime. I shall not hesitate to comply fully and promptly with that statute.

Apparently the President feels that there are no nations which continue to be lax in their control of heroin and other related hard drugs. He most certainly must not suspect that some governments are completely ignoring drug traffic. Congress, however, knows better. The existing situation demands application of those sanctions outlined in the Foreign Assistance Act if we are to be conscientious in our effort to end the drug problem in America.

Congressional study and journalistic research have brought forth incontrovertible evidence that a number of governments are simply not complying with the requests of the U.S. Government to vigorously suppress drug traffic. Yet no action has been taken by the President. In fact, the White House denies that its program of piecemeal efforts is insufficient, claiming that there have been "important breakthroughs . . . and huge seizures." These huge seizures amount to confiscating 29 tons of opium in Laos, South Vietnam, and Thailand. In the face of the total production of illicit opium in this area, the seizures amount to only 3 or 4 percent.

Congress gave the power to terminate economic and military assistance to the President only because we know that customs agents and border patrols cannot singlehandedly reduce the smuggling of heroin. A General Accounting Office report stated, in reference to customs operations, that—

Although these efforts may deter amateurs and small-scale smugglers, they have not had and probably cannot have any real impact on the organized groups engaged in large-scale heroin smuggling.

Customs does act as a strong deterrent, but it simply cannot stop the main bulk of heroin from reaching the streets of America, addicting our citizens, filling the coffers of organized crime, and accounting for nearly half of the crimes committed in our cities. Profits in the drug trade are enormous. A $100,000 investment by stateside financiers can yield $2 million within 6 months. Ten or 15 tons of heroin, originally costing $5 million will take a turnover for American dealers of $9.8 billion. With profits as high as this, as long as there is a source and a reasonably safe route of transit, there will most assuredly be successful smuggling of heroin into the United States to feed the veins of American addicts.

The logic behind section 481 of the Foreign Assistance Act was to stop heroin at its source. Perhaps the flaw in our legislation has been that the President alone is left to decide whether or not a government's cooperation has been adequate. As we know many of the countries in violation, this amendment lists them as offenders and automatically removes American economic and military assistance from them. It leaves the President to bear the burden of proof—proof that these countries are not in violation of our foreign assistance guidelines—before he can resume assistance to them.

Gen. Lewis W. Walt, USMC, retired, as head of a special task force on the world drug situation, indicated that Southeast Asia is providing 10 or 15 percent of the total drug traffic coming into this country. Because of its tremendous potential, however, Southeast Asia could eventually replace Turkey as the largest producer of opium in Asia with approximately 400 tons. Laos, however, accounted for nearly 100 tons, and Thailand for almost 200 tons annually. According to the State Department, heroin imports from Southeast Asia's "golden triangle" to the United States doubled from 1969 to 1971. These countries not only produce opium, but are also the homes for many of the laboratories which convert opium into the more valuable and much deadlier commodity—heroin.

General Walt went on to say that:

We know as a certainty that a lot of opium entering the illicit market is grown in the "golden triangle," or in Turkey, Iran, Afghanistan, Pakistan, and Mexico.

Iran stopped opium production in 1955, but it was soon resumed, in 1969. Iran itself has a large addict population and this action was taken to stop traffic from Afghanistan and Pakistan as well as other economic reasons. The Iranian representative to the United Nations Narcotics Commission said, "Our economic situation has been so alarming we have been forced to take a unilateral decision" to resume production. The Shah has stated that Iran will end production when its neighbors do.

Afghanistan, however, continues to supply Iran with large amounts of smuggled opium. Pakistan too, is a major smuggler of illicit opium, feeding markets in India and Iran. While these countries are involved in localized traffic, rather than international traffic to the United States, the Cabinet Committee on International Narcotics Control of July 1972, voiced a warning that the trade is well organized, and "if illicit supplies of opium from other sources in the world are cut back, these channels have the potential for moving South Asian opium into the international market."

That prediction is now becoming a reality. In an article by Lewis Simons, appearing in the Washington Post on May 14, 1973, he reports from Pakistan:

In the midst of the lovely blossoms walks a tall, bearded farmer . . . he pauses here and there, softly cupping a flower in his hands, and then he slowly moves on. It is a scene of pastoral beauty. But it is deceptive. And deadly. This is a poppy field at harvest time. The farmer has taken the first step on a long and convoluted trail which will end months later and thousands of miles away with a heroin addict easing a hypodermic needle into a swollen vein in the crook of his arm.

The article further states that the total annual production of illicit Pakistani opium may be as much as 170 tons. That is 340,000 pounds. According to a former police official in Karachi, law enforcement performance has been poor. A relative handful of arrests have been made; $20 fines have been paid gladly; police have been bought off cheaply; no serious attempt has been made to patrol the 550-mile border with Afghanistan.

The Turkish Government has taken decisive action in banning all opium production after 1972. This should effectively dry up Turkish sources. Mexico is the source of approximately 10 percent of the heroin smuggled into the United States and is the route of transit of 15 percent. The Mexican Government has established penalties under the agrarian reform law for those who plant or permit the planting of opium. Penalties include confiscation of land and livestock. In addition, they have mobilized 10,000 troops for anti-drug operations, destroying more than 2,500 hectares of poppy fields.

Michel Lamberti, coauthor of a book on heroin, has written:

. . . Any underdeveloped country with a large unemployed labor force can start production. This could be the case, say for various South American countries.

If we are to deter these underdeveloped countries from realizing their potential as opium producers and distributors, we must act boldly and decisively. Some have suggested paying subsidies to those foreign farmers who agree not to grow opium as we have done in Turkey. But from the Washington Post of February 18, 1973:

American financial contributions to Turkey as part of the considerable political pressure to stop the cultivation of the opium poppy after 1972, offers no encouragement to other opium producing countries. Turkish authorities had estimated that stopping opium production would cost the country 432 million dollars; United States contribution have amounted to 35 million dollars.

Obviously, the cost of such subsidies to fully pay for opium produced in all countries would become extreme. Threats to begin production by those countries not now engaged might also become commonplace. We would be paying a tribute to tyranny—the tyranny of drug traffickers. The only practical and honorable deterrent to illicit opium production and sales is the imposition of penalties on those nations which refuse to cooperate. And the only penalty we can impose on a sovereign nation is the removal of American assistance. This line of reasoning was accepted by Congress when it gave the power of suspending foreign aid to countries not taking adequate steps to end illicit drug traffic to the President last year. By enacting the pending amendment, we will be serving notice to organized crime and governments which have not taken vigorous action against drug traffic that we will no longer tolerate the financial, human, or social costs that illicit drugs have brought to our people.

So there will be no mistake as this Congress' intention, I have added as a definition of adequate steps, very meaningful initiatives which a country seeking our assistance must comply with before the restriction shall be removed.

First, every country must enact public criminal laws which make illegal the production, transportation, and sale of illicit opium. Second, each country shall institute, if none already exists, a viable working agency which shall enforce enacted laws. Laws without execution are meaningless exercises of public drama in the courtyard. Third, the leadership of the country must not give mere lip service to the laws or their enforcement, but shall vigorously pursue the eradication of this terrible blight upon all human beings of the world. And lastly, but most important, each country shall cooperate fully with our Bureau of Narcotics and Dangerous Drugs or its equivalent, the State Department, and all other agencies or departments which have an interest in stopping the illicit flow of heroin into the United States. This is the very least we can do for future addicts in the United States.

My amendment is not a cure-all for the drug problem in the United States. It is a positive beginning by the Congress to tell both the world and the administration that we are tired of rhetoric. And it tells addicts that we care and want to help.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HARTKE. First, Mr. President, I ask unanimous consent that Howard Marlowe, of my staff, be given the privilege of the floor during the debate on this matter.

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

Mr. HARTKE. Mr. President, I ask unanimous consent that the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Connecticut (Mr. RIBICOFF) be added as cosponsors of the amendment.

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

Mr. HARTKE. I yield now to the distinguished Senator from Arizona.

Mr. GOLDWATER. The question I have is that if this amendment is good, in the Senator's opinion, against the countries that he has named—Iran, Afghanistan, Pakistan, Burma, Thailand, or Laos—why would it not be better to broaden it so that all foreign countries shall be denied aid if they engage in such traffic?

Mr. HARTKE. First, the amendment does not apply to Iran, because we have assurances from the State Department that we are having cooperation from Iran. The reason for naming the countries mentioned in the amendment is that they were identified as source countries. When we had a similar amendment before Congress, the chairman of the Foreign Relations Committee asked that we name the specific countries involved. I had no objection to making it applicable to any country which operates in this fashion, but these are the primary source countries which are presently engaging in illicit opium traffic.

Mr. GOLDWATER. The reason why I asked the question is that I know Mexico has made some effort to put an end to the production of poppies, but living where I do, I know Mexico is still a major problem with us as far as marihuana is concerned and, if I am not mistaken, something like 17, or perhaps it was 27 pounds of heroin were confiscated in Yuma just a few months ago. I know that Mexico makes an effort, but I know also that the drug traffic continues; it is onesided. It comes from Mexico. On that 1,850-mile border, we do not have as many men to apprehend or discover as we had 35 years ago, and it has been only this year that we have been able to get enough aircraft to patrol that border.

I repeat, I know Mexico is seemingly making efforts, but I can also report that Mexico continues to be a major source of marihuana, and I think a very sizable source of heroin.

I do not move that the amendment be changed to include Mexico, but it prompted my question as to why, if the author of the amendment felt it was good to name the countries that have been named, it would not be as applicable, as well, and as timely and as forceful as to all countries, without naming one.

Mr. HARTKE. I think the Senator makes a good point. However, we have examined this matter in detail, and feel Mexico is making a sincere effort at this time to do the best job it can to cooperate with the United States in the removal of illicit trafficking in opium and its derivatives and they have not only take decisive steps, but they also have enacted severe penalties against those who are involved and apprehended.

My own position is that the countries mentioned in the Hartke amendment are principal sources of illicit opium, and receive assistance, domestic, and military assistance, while reaping a reward from illicit drug traffic. Mexico is not such a country.

Mr. MANSFIELD. Mr. President, would the Senator yield?

Mr. HARTKE. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I happened to be in Mexico a few months ago. And I was very pleased to note how they went through my baggage and all the baggage of other passengers.

I think that they are doing a superb job, not only in Mexico City, but also all along the border and in the interior of Mexico. The cooperation between Mexican and U.S. authorites has had a great deal to do with bringing about a diminution in the drug traffic which used to be of some considerable importance in days gone by.

Mr. HARTKE. Mr. President, I think that is true. It is for that reason they are not included in the measure. They are

making a successful effort. If they are not 100-percent successful, they should not be blamed.

Mr. MANSFIELD. We are not being 100-percent effective either.

Mr. HARTKE. The distinguished Senator from Montana is correct.

Mr. GOLDWATER. Mr. President, I believe what the Senator has said about there having been marked cooperation between the two governments. However, I tell the majority leader that if he wants to buy a large supply of marihuana or heroin, those supplies are available over the Mexican border.

I have watched this for many years. I have watched the efforts that have been made. However, I know how limited they can be in controlling what is basically a very minor crop when compared to cotton, tomatoes, and things that we use every day.

Mr. President, I am not condemning Mexico. I think she is trying. However, I think Mexico is still a source of narcotics coming across our border, and she probably always will be.

Mr. AIKEN. Mr. President. I ask unanimous consent to have printed in the RECORD the text of the law relating to the Foreign Assistance Act, namely chapter 8 of the International Narcotics Control. I ask unanimous consent to have this entire chapter printed in the RECORD at this point.

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

CHAPTER 8—INTERNATIONAL NARCOTICS CONTROL [166]

SEC. 481.[167] *International Narcotics Control.*—It is the sense of the Congress that effective international cooperation is necessary to put an end to the illicit production, smuggling, trafficking in, and abuse of dangerous drugs. In order to promote such cooperation, the President is authorized to conclude agreements with other countries to facilitate control of the production, processing, transportation, and distribution of narcotic analgesics, including opium and its derivaties, other narcotic drugs and psychotropics, and other controlled substances as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970. Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of the production of, processing of, smuggling of, and the traffic in, narcotic and psychotropic drugs. The President shall suspend economic and military assistance furnished under this or any other Act, and shall suspend sales under the Foreign Military Sales Act [168] and under title I of the Agricultural Trade Development and Assistance Act of 1954,[169] with respect to any country when the President determines that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such suspension shall continue until the President determines that the goverment of such country has taken adequate steps to carry out the purposes of this chapter.

SEC. 482.[167] *Authorization.*—To carry out the purposes of section 481, there are authorized to be appropriated to the President $42,500,000 for the fiscal year 1973, which amount is authorized to remain available until expended.

FOOTNOTES

[166] Chapter 8 was added by Sec. 109 of the FAAct of 1971.

[167] 22 USC § 2291. Sec. 481 was added by Sec. 109 of the FAAct of 1971. Sec. 503 of the Foreign Relations Authorization Act of 1972 amended Sec. 481 and added Sec. 482, Sec. 481 formerly read as follows:

"It is the sense of the Congress that effective international cooperation is necessary to put an end to the illicit production, trafficking in, and abuse of dangerous drugs. In order to promote such cooperation, the President is authorized to conclude agreements with other countries to facilitate control of the production, processing, transportation, and distribution of narcotic analgesics, including opium and its derivatives, other narcotic drugs and psychotropics and other controlled substances as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513). Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of the production of, processing of, and traffic in, narcotic and psychotropic drugs. In furnishing such assistance the President may use any of the funds made available to carry out the provisions of this Act. The President shall suspend economic and military assistance furnished under this or any other Act, and shall suspend sale under the Foreign Military Sales Act [168] and under title I of the Agricultural Trade Development and Assistant Act of 1954 [169] with respect to any country when the President determines that the government of such country has failed to take adequate steps to prevent narcotics drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such suspension shall continue until the President determines that the government of such country has taken adequate steps to carry out the purposes of this chapter".

Under the FAAct of 1971, funds to implement Sec. 481 were available from any funds made available to carry out this Act.

[168] For text, see page 198.

[169] For text, see page 259.

Mr. AIKEN. Mr. President, I would like to read a portion of that chapter. It reads:

The President shall suspend economic and military assistance furnished under this or any other Act, and shall suspend sales under the Foreign Military Sales Act [168] and under title I of the Agricultural Trade Development and Assistance Act of 1954,[169] with respect to any other country when the President determines that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully.

I do not know that the amendment of the Senator from Indiana would add much to the existing law.

Mr. HARTKE. Mr. President, as I understand the Senator from Vermont, he says it would not add anything to the law?

Mr. AIKEN. What would it add to the existing law?

Mr. HARTKE. Mr. President, this changes the existing law considerably.

Mr. AIKEN. How is that?

Mr. HARTKE. Mr. President, the President must make a positive finding that adequate steps have been taken. This prohibition on economic assistance will be in effect until he makes an affirmative finding and the Congress concurs therein.

Mr. AIKEN. How?

Mr. HARTKE. By cutting off assistance until he makes a finding.

Mr. AIKEN. The law says he shall cut off sales to them. How can we make that more explicit? The only thing we could do would be to impeach him for not doing it.

Mr. HARTKE. Quite to the contrary. He cannot give them military assistance if he finds that they are in violation of the law. I do not say that he is in violation of the law today. I do say that if he makes a finding that there is such traffic, there can be no assistance. But if he finds that any of the countries referred to in subsection (a) of the Hartke amendment have taken adequate steps to prevent such acts, he may ask Congress to waive the restrictions of such subsection (a), and if Congress concurs, the restrictions shall not apply to that country.

Mr. AIKEN. Mr. President, I simply read the existing law, which seems to me to be wholly adequate without further amendments. The President, I expect, is responsible for all of the 3 million employees of his Government.

This would require him to cut off aid to any country which permitted the sale of any of these drugs to any employees of the U.S. Government or permitted them to enter the United States. That is a matter of interpretation. I do not pretend to be a constitutional lawyer. However, as a layman reading the law, it seems to me that the situation is well covered now.

Mr. HARTKE. The provisions of the law are changed substantially. He cannot allow assistance to any of these countries unless there is a specific finding in which Congress concurs.

Mr. AIKEN. Would that include Turkey?

Mr. HARTKE. No.

Mr. AIKEN. Why does it not include Turkey?

Mr. HARTKE. Mr. President, if the Senator from Vermont wants to include Turkey, I would be very glad to do so.

Mr. AIKEN. Mr. President, I would not choose four or five countries. I would have it applicable to all of them. However, it seems to me that the existing law does this.

Mr. HARTKE. If the Senator from Vermont would want to make it apply to

all countries, that is one thing. However, these are the countries in violation today. These are the countries which allow the supplies to come in and eventually come into the United States. We are simply providing for affirmative action in the matter that cannot be contravened by the President.

Mr. AIKEN. Mr. President, a legal advisor—and I will keep him anonymous for the time being—tells me that the Hartke amendment says that a country is guilty until it is proven innocent. Maybe that is the kind of law we are coming to today.

Mr. HARTKE. Mr. President, there is a lot of evidence at the present time to show that the illicit drug traffic is coming from Afghanistan, Pakistan, Burma, Thailand, and Laos.

Mr. AIKEN. Mr. President, how did the Senator happen to exclude Cambodia?

Mr. HARTKE. Cambodia can be included if the Senator from Vermont would like to include it.

Mr. AIKEN. Mr. President, I would think that Cambodia would be even more important since the American oil companies bought a large share of exploratory rights there only a year ago. I would certainly include that.

Mr. HARTKE. Mr. President, if the Senator from Vermont would like to add it, I would have no objection.

Mr. AIKEN. Mr. President, I think that the Senator's amendment should include all countries and not just six or seven.

Mr. HARTKE. Mr. President, if the Senator from Vermont wants to offer an amendment, I do not think I would have an objection.

Mr. AIKEN. No; I do not offer any amendment. I think that the existing law is adequate.

Mr. FULBRIGHT. Mr. President, this amendment was not submitted to the committee. I know of no evidence before the committee in justification of the amendment.

I do not personally believe the effort to purchase other countries' cooperation by threatening to deprive them of aid is a useful or a constructive way to approach the problem. On the contrary, I think it is a good way to alienate those countries which the Senator picks out specifically by name.

Of course, being against the AID program itself, I should be for this amendment, because it in that sense undermines the integrity of the AID program. But so long as we have a program, whether I like it or not, I do not think this is the proper way to use that program, to try to purchase the cooperation of other countries.

Actually, the basic law under which we have been paying certain countries not to grow opium, I think, is very ineffective. It is a waste of money, in my opinion. We are asked, I think, to put $42,500,000 into this program in the coming year.

I ask unanimous consent to have printed in the RECORD at this point a list of some 31 countries that we are paying, or propose to pay, not to raise opium or other narcotics.

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

INTERNATIONAL NARCOTICS CONTROL PROGRAM

[In thousands of dollars]

	Fiscal year —		
	1972	1973	1974
Total	20,637	20,500	42,500
Asia	18,576	9,971	18,504
Afghanistan		60	300
Lebanon		65	75
Pakistan		5	50
Syria		8	
Turkey	15,700	5,000	15,000
Cambodia		24	
Indonesia		19	18
Laos	1,100	2,079	1,500
Philippines	230	300	265
Singapore		40	
Thailand	1,046	1,871	1,114
Vietnam	500	500	182
Latin America	36	2,596	1,927
Argentina		234	310
Bahamas			15
Barbados		5	12
Bolivia	17	147	4
Brazil		4	100
Chile		106	75
Colombia		51	238
Ecuador		308	300
Guyana			2
Jamaica		33	26
Mexico		1,305	375
Netherlands Antilles			3
Panama		48	20
Paraguay		50	22
Peru		143	250
Uruguay		140	135
Venezuela		22	40
Regional	19		
Africa: Tunisia			50
International organizations	2,000	5,100	5,100
U.N. special fund	2,000	5,000	5,000
Colombo plan		100	100
Worldwide program costs	25	2,833	7,181
Training	25	2,383	6,731
Interregional costs		450	450
Unprogramed			9,738

Mr. FULBRIGHT. So I hope the Senate will not accept this amendment. The basic law, as the Senator from Vermont suggests, goes about as far as we can go. Under the amendment the President has to find compliance and then Congress has to find compliance. How in the world is Congress going to find, in any reasonable manner, that they are in compliance? Administratively I think the proposal of the Senator from Indiana is much worse than the one he had last year, and worse than what is in the existing law.

So I agree with the Senator from Vermont; I hope the Senate will not agree to this amendment.

Mr. HARTKE. Mr. President, the amendment does not require a finding by Congress. It requires concurrence by Congress, and there is a difference. The finding must be made by the President and submitted to Congress for its concurrence. That is quite simply a procedure which is not unusual, and does not require an investigation of the same type, as the chairman of the Foreign Relations Committee indicates.

I might point out that those who want to include all countries find themselves in the position of having the whole question of economic assistance submitted back to Congress country by country. Under such a circumstance, that would even reach Mexico, if we include all countries, as the Senator from Arizona has indicated.

Mr. FULBRIGHT. Mr. President, let me point out that Mexico gets no foreign aid. I do not know why Senators keep talking about Mexico. I think that is insulting to Mexico. She get no aid that I know of, other than a very little bit. About $375,000 is proposed for 1974, but I do not know whether that is aid or not. It is not aid in the usual sense of the AID bill.

I am not at all suggesting that all countries be included. That is not what is wrong with the amendment. It is basically wrong. I do not care if we put them all in. The program itself is wrong.

I ask unanimous consent to have printed in the RECORD the last paragraph of Senator SPONG's subcommittee report on this subject last year, dated September 18, 1972, and entitled, "Heroin: Can the Supply Be Stopped?" in which he concludes:

The conclusion to which we must inexorably be led is both simple and profound: Our heroin addiction problem is an American problem.

I agree with that, and I think if we are going to do anything about, that is where we ought to put our attention.

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

The conclusion to which we must inexorably be led is both simple and profound: our heroin addiction problem is an *American* problem. It arises in the willingness of hundreds of thousands of our citizens, for a great variety of reasons and motives, to submit themselves to the scourge of that drug. To say this does not give the solution to our problem, but it tells us where the solution lies; it is here, within our own country, among our own people, that we must seek answers. Those answers lie in the calm and accurate education of our public, in the legislation and administration of severe and well-reasoned penalties against those who sell this drug, and in bold and comprehensive measures of treatment and rehabilitation. We must, of course, act energetically to promote rigorous international controls—for the sake of other countries as well as our own—but we must never be distracted from a fundamental truth: it will not be by changing the world but by looking to ourselves that the solution to American addiction will ultimately be found. And it is from this premise that we must begin.

Mr. HARTKE. Mr. President, for the benefit of the record, I did not bring up Mexico. The reason I mentioned Mexico is because the Senator from Arizona wanted to know why we did not include Mexico. The Senator from Vermont wanted to know why we did not include all countries. The reason is very simple. The way the amendment is drafted, it would require a finding by the President with the concurrence of Congress. I was trying to explain why we included the limited number of countries here included.

To say that the problem is strictly an American problem is fine, except that it does not deal with the heart of the matter. Everyone knows that when we put the pressure on France to stop the factories which were working at Marseilles, it had a material effect upon them. Anyone acquainted with the history of this legislation knows that when we put pressure on Turkey, it had a material effect upon them. Turkey and France are not

in this amendment, partly because there is no aid, but also because the State Department says they are now cooperating with us in this effort.

The State Department is not against this type of legislation. What they want is some help. All I am saying is, if the State Department is not getting the job done, I do not see why Congress should stand in the way and be supporters of the illicit drug traffic. A vote against this amendment will be just that—a vote in favor of the continuity of the illicit drug traffic and the profiteering and racketeering and benefits which flow therefrom. That is what this amendment is all about. Very simply, the amendment is to cut down on one of the elements involved in the problem.

As I said in my opening statement, this is not a cure-all. Certainly it is not a cure-all. It is a step in a positive direction. I think steps to do something about the drug problem should be encouraged, especially when agencies of the Government are willing to encourage this type of action by Congress. It would give them some type of authority and some type of procedure by which they can make sure their voice will be effectively heard. This is the only weapon they have.

Mr. GOLDWATER. Mr. President, this amendment cuts off foreign assistance to Iran, Afghanistan, Pakistan, Burma, Thailand, and Laos until the President finds these countries to have taken adequate steps to stem the flow of illegal narcotics.

Passage of the amendment will do irreparable damage to the U.S. international narcotics program. During the past 3 years the number of U.S. narcotics agents overseas has increased sevenfold. Seizures of opium, morphine base and heroin resulting from joint operations has increased tenfold. The new Drug Enforcement Administration will develop an even stronger focus on international efforts.

Enforcement agents with diplomatic support have established successful special narcotics enforcement units in Thailand and Laos. Pakistan is moving, with U.S. assistance, to establish a special enforcement program and to speed up phaseout of illicit opium growth. Afghanistan is engaged in a major antinarcotics program with the United States and through the U.S.-supported U.N. drug fund. Burma is moving toward acceptance of U.N. and possibly U.S. assistance on narcotics; recent Burmese moves against local insurgents have disrupted illicit opium flow. Iran produces no legal opium and severely punishes traffickers.

Thus, all of the countries listed in the amendment are cooperating with the United States in a carefully coordinated effort to move against narcotics traffic. Disruption of aid would set negotiations and actions back for many months or possibly years. Meanwhile heroin flow from the increasingly important Southeast Asian and Near East routes would undoubtedly increase.

Mr. President, I ask unanimous consent to have printed in the RECORD a series of opinions on the impact of this amendment on the different countries and their efforts.

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

PROPOSED AMENDMENT NO. 211—THE HARTKE AMENDMENT

IMPACT ON THAILAND, LOAS AND BURMA

The Hartke amendment would suspend all U.S. aid to Thailand, Laos and Burma until Congress concurred with the President's finding that they had taken adequate steps to prevent the production, transportation and sale of illicit opium and its derivatives and with his request for a waiver of the aid restriction. We do not share the view of Senator Hartke and other proponents of this amendment that it is an appropriate or effective means of achieving narcotics control. We believe this drastic measure with the prospect of putting these countries up for public trial each year and threatening the continuity of aid assistance and good relations would hinder rather than help the fight against illicit narcotics.

It appears an inappropriate step for an area which is not the major source of heroin coming into the US, where considerable progress has been made in the last 2–3 years in initiating activities directed at the narcotics problem, and which has extremely complex problems of narcotics control for which solutions are still a long way away. Far from engendering the kind of bilateral and multilateral cooperation necessary for these countries to tackle their multitude of problems, the Hartke amendment would provoke anger and bewilderment and actually impede the efforts made by these governments to stop narcotics production and trafficking. And it could cause embarrassing and serious political consequences for governments friendly to the US.

Further, the amendment does not appear to provide for any real waiver authority. Its provision for a presidential request for a congressional waiver amounts to no more than an acknowledgement that the Congress could amend this legislation at any time and that the President could request amendments at any time. Without some real waiver authority the President would lose much of the bargaining power which he presently enjoys vis-a-vis the listed countries by virtue of Section 481 of the Foreign Assistance Act. The proposed amendment would substitute a formula which would be awkward and distortive in the conduct of foreign relations and the provision of foreign assistance.

THAILAND

The Royal Thai Government has steadily stepped up the range and intensity of its anti-narcotics activities, and these are becoming increasingly effective—as evidenced by seizures of illicit opium and derivatives. Opium trafficking is a long-standing and complex problem; the most serious offenses take place in areas outside the RTG's effective control. Furthermore, most of the opium and derivatives entering the international market from Thailand originate in Burma. Thailand is thus mainly a conduit. It faces extraordinary problems in stemming the flow of narcotics into the country because of the long border and the presence on both sides of it of numerous bands of well armed insurgents and other lawless elements. With US cooperation, the Thai are moving on all fronts: better suppression, alternative crops to provide an income for hill tribesmen now engaged in poppy growing, better and more comprehensive police organization, improved border controls, more high-level government attention to the problems. Increasingly, the Thai recognize that narcotics are a danger to the Thai people, and that drug abuse is not just an American problem. We believe that there is ample justification for stating, now, that the RTG is taking "adequate steps" as defined in the proposed amendment.

Under these circumstances this amendment would be seen by the Thai government and people as an egregious insult. The additional requirement for Congressional approval of any waiver of the prohibition of US assistance would subject Thailand (or any of the other countries named in Section 19(a)) to a peculiar, possibly unprecedented, "popularity poll" in the Congress. The passage of this punitive legislation would seriously endanger the prospects for continuing Thai-US cooperation in anti-narcotics efforts and indeed in other fields of concern to US interests.

LAOS

Largely as the result of our expressed concern over international narcotics trafficking, the Royal Laotian Government (RLG) agreed to undertake a major narcotics interdiction effort. This was done despite the imperatives of a full scale war and the difficulties involved in outlawing narcotics which had traditionally never been prohibited by law or custom. A special unprecedented narcotics enforcement body was established by the RLG with wide powers and soon several important seizures were made and refineries destroyed. Current evidence indicates, in fact, that Laos is no longer an important link in the trafficking network of Southeast Asia.

This quite outstanding record of achievement would likely be obliterated by the effect of the Hartke amendment. Adoption of the amendment would necessitate a prolonged period of investigation and debate over whether Laos would qualify as an aid recipient under the criteria established. Even if satisfactorily resolved, this period of uncertainty would coincide with a most delicate period of negotiation and accommodation between the RLG and the Lao Patriotic Front, the screen behind which the North Vietnamese seek to achieve their goals in Laos. In its present negotiations with the LPF, the RLG would be dangerously and perhaps disastrously weakened by the threat of a withdrawal of or delay in US support. The prolonged hostilities have imposed burdens on the RLG which would overwhelm it without US support. It is thus unrealistic to expect that the RLG with its limited resources would be able to continue to cooperate in the interdiction of narcotics should the US fail to provide consistent and certain support in its aid assistance.

BURMA

We are not furnishing any bilateral assistance to Burma and have no plans to do so at this time except possibly under Chapter 8 of Part I of the Foreign Assistance Act relating to international narcotics control. Hence the Hartke amendment would not serve as a weapon of inducement for this country, the major opium producer in Asia. Rather, it might reverse the results of long and judicious representations to Burma by the UN, the US and other countries to take more active steps against narcotics trafficking. Burma, for instance, has just accepted an opium crop substitution assistance scheme proposed by the United Nations Fund for Narcotics Control (most of the Fund's revenue is supplied by the USG). It has recently launched a new policy of enforcement actions against traffickers in areas under its control in the remote and turbulent area where opium is grown. The Burmese, extremely sensitive to accepting aid or aid strings, especially from Western countries, could be driven by the Hartke amendment away from the UN program or any idea of accepting US assistance in controlling narcotics.

IMPACT OF HARTKE AMENDMENT—AFGHANISTAN

The termination of our aid program in Afghanistan would not contribute to the elimination of opium production and trafficking. In fact it would be counterproductive of that objective. And it would seriously

jeopardize our relations with Afghanistan which has an important place in a part of Asia which is of significance to us.

Impact on Opium. Afghanistan is one of the 25 least developed countries identified by the UN. USAID has a technical assistance program in Afghanistan concentrating on helping to improve management capabilities and on raising agricultural output.

In management we have education projects at all levels and administration projects dealing with both public administration and private enterprise.

In agriculture, AID is helping to introduce new crops, new varieties, and especially new farming techniques.

To get control of the narcotics problem, the Government of Afghanistan needs to improve its ability to administer the country, to develop a capability to provide advice and assistance to farmers who are forced out of their traditional cash crop of opium poppies, as well as to strengthen its enforcement capability.

To cut off AID funding would further delay the type of development most needed to enable the Government of Afghanistan to control the production and trafficking of opium.

We are now discussing with the UN and other interested countries cooperative efforts of assistance to Afghanistan for narcotics control. A major component of the U.S. contribution to this international effort is connected with another proposed AID project in rural development. Should funding for this AID project be suspended, this part of the narcotics program would be undermined.

Impact on U.S. Policy. The Government of Afghanistan has long seen American assistance and the American personnel accompanying it as significantly enhancing its ability to maintain its independence from the great pressures from the Soviet Union to the North. The withdrawal of USAID projects and personnel would have a major negative impact on our relationship with Afghanistan with serious implications for our neighboring allies of Iran and Pakistan.

Conclusion. The Government of Afghanistan is now moving positively to cooperate with a multilateral group to gain control of its opium trafficking and to eventually eliminate opium poppy cultivation completely. Since at present there is no evidence that Afghan source opium is entering the heroin traffic to the United States, such drastic measures as an aid cut off seem unnecessary. We should, however, press ahead vigorously with the negotiations now underway in order to be in a position to prevent Afghanistan becoming a source of illicit drugs destined for the United States.

IMPACT OF HARTKE AMENDMENT—PAKISTAN

A precipitate cessation of economic assistance to Pakistan would threaten our current objectives in South Asia. In addition to the adverse effect such cessation of assistance would have on Pakistani-American relations, it would prevent the Pakistani economy from regaining the momentum in its developmental activities which was lost in 1971. This would, in turn, intensify the current aura of political uncertainty in Pakistan and thus offer yet another reason for moving even more slowly in the hard business of resolving outstanding issues with India and Bangladesh. Pakistan already finds it difficult, for domestic reasons, to move toward peace; precipitate cessation of economic assistance would only worsen the present situation.

We are now engaged in intensive discussions with the Government of Pakistan on the form and scope of an expanded narcotics control program which the USG will be prepared to assist. These discussions are based on a report prepared by an American team which visited Pakistan earlier this year at the invitation of the Government of Pakistan to help plan a control program. The Government of Pakistan has already taken action on several of the U.S. team's recommendations. To stop U.S. aid now would stop this movement toward narcotics control. It would not contribute in any way to our objective of preventing Pakistani opium from entering the heroin traffic destined for the United States but rather would be counter productive of that objective. Pakistan is not now a known supplier of this traffic.

IRAN AND NARCOTICS CONTROL

Iran is a victim country into which flow narcotics from major opium-producing areas, particularly Afghanistan. The Iranian Government has made a vigorous effort to suppress the smuggling of narcotics into Iran, and has imposed harsh penalties on smugglers (160 have been executed since 1969). Iran is one of the few countries authorized by international agreement to cultivate opium for medical purposes. This cultivation is under strict government control, and we know of no significant diversion of Iranian opium into the illicit narcotics traffic. The Government of Iran has cooperated closely with the United States in our international narcotics control efforts, and does so entirely at its own expense.

Iran does not receive economic or military assistance from the United States. Our economic aid program was terminated in 1967, and our military aid program in 1972. Iran imports a large volume of civilian and military goods from the U.S., and we have a favorable balance of trade and payments with Iran. Iran is one of the most important countries in the Middle East by any standard, and has a long record of friendship and cooperation with the United States. Iran is presently hosting the Annual Meeting of the CENTO Council of Ministers. President Nixon made a State visit to Iran in 1972.

Mr. HARTKE. Mr. President, I would like to comment briefly on the statement of the Senator from Arizona.

The Bureau of Narcotics and Dangerous Drugs would disagree with this statement completely. These are the countries which they presently identify as the principal sources of the drug traffic area. We talked with the people who are working with these programs, and they told us very definitely that Iran is cooperating, and these other countries are not.

As far as the Senator from Arkansas, the chairman of the Foreign Relations Committee, saying that the drug problem is an American problem, that is just plainly not so, any more so than saying U.S. economic assistance is not a contributing factor to growth in those countries, which are, at the present time, taking foreign military and economic assistance and then proceeding to use some of that money to encourage their people to traffic in drugs which could destroy the foundation of our society, our morality, our young people, and is one of the principal causes of crime.

I make the point again. If these countries are cooperating and the President makes a finding that they are, and submits it to Congress, and it is concurred in, then no harm is done and these countries can have any assistance that is authorized by Congress. But, in the absence of that, they absolutely should not—and I believe that every Member of this body would agree—should not have that kind of assistance.

Mr. HELMS. Mr. President, I want to get clear in my mind exactly what the distinguished Senator from Indiana (Mr. HARTKE) says the State Department is saying. Does the Senator say that the State Department disavows the cooperation of Afghanistan, Pakistan, Burma, Thailand, and Laos with respect to the drug problem?

Mr. HARTKE. That the State Department said what?

Mr. HELMS. I have no information about any lack of cooperation that came from the State Department.

Mr. HARTKE. The State Department told us that.

Mr. HELMS, The curious thing is that the State Department has advised me that each of the countries indicated in the Senator's amendment is cooperating.

Mr. HARTKE. These countries all have programs which, on their face, show cooperation, but which are not operating. The countries mentioned in my amendment are the principal source of the supply at the present time. If the Senator has any information contrary to that, I will be glad to have it submitted for the RECORD.

Mr. HELMS. I have no information to the contrary except the information supplied to me by the State Department, which seems to be contrary information to what the Senator has presented here today. I was wondering about the source of the Senator's information.

Mr. HARTKE. I will be glad to have that information put in the RECORD because it will substantiate what the State Department says. The information we have is that the State Department does not deny that these countries are the sources of the illicit drug traffic, and I was in conversation with the State Department today. I do not have any interest whatsoever in restricting any country which is participating—Mexico is participating—and making a sincere effort to eliminate the drug traffic.

Mr. HELMS. I know that the Senator's intentions are perfectly good and that is why I raise these questions because of the conflict of information I have which is opposed to the information the Senator has. My information came to me from the State Department in writing.

Mr. HARTKE. I would be glad to have that for the RECORD.

Mr. HELMS. The information presented earlier by the distinguished Senator from Arizona (Mr. GOLDWATER) is substantially the same as that presented by me. As the Senator knows Mr. GOLDWATER has already inserted that information in the RECORD. I thank the distinguished Senator from Indiana.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The question is on agreeing to the amendment of the Senator from Indiana (Mr. HARTKE).

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. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator

from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Colorado (Mr. HASKELL), and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. SCOTT of Pennsylvania. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senators from Ohio (Mr. SAXBE, and Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Colorado (Mr. DOMINICK) is absent on official business.

The result was announced—yeas 30, nays 45, as follows:

[No. 191 Leg.]

YEAS—30

Abourezk	Eagleton	Nelson
Allen	Gravel	Nunn
Bayh	Hartke	Pastore
Bible	Hatfield	Proxmire
Biden	Huddleston	Randolph
Burdick	Magnuson	Ribicoff
Byrd, Robert C.	McClellan	Schweiker
Cannon	McGovern	Talmadge
Church	Montoya	Tunney
Cranston	Moss	Weicker

NAYS—45

Aiken	Ervin	McIntyre
Baker	Fannin	Mondale
Bartlett	Fong	Packwood
Beall	Fulbright	Pearson
Bennett	Goldwater	Pell
Brooke	Hansen	Scott, Pa.
Buckley	Hathaway	Scott, Va.
Byrd, Harry F., Jr.	Helms	Sparkman
	Inouye	Stafford
Case	Jackson	Stevens
Chiles	Johnston	Stevenson
Clark	Kennedy	Symington
Cotton	Mansfield	Thurmond
Curtis	Mathias	Young
Dole	McClure	
Domenici	McGee	

NOT VOTING—25

Bellmon	Haskell	Percy
Bentsen	Hollings	Roth
Brock	Hruska	Saxbe
Cook	Hughes	Stennis
Dominick	Humphrey	Taft
Eastland	Javits	Tower
Griffin	Long	Williams
Gurney	Metcalf	
Hart	Muskie	

So Mr. HARTKE's amendment was rejected.

Mr. FULBRIGHT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE AZORES AGREEMENT AND THE CONSTITUTION

Mr. GOLDWATER. Mr. President, I rise to speak to sections 7 and 8 of the State Department Authorization Act relating to a ban against the expenditure of any funds to carry out the Azores agreement with Portugal or any other foreign military base agreements between the United States and any foreign country where U.S. forces are to be stationed, unless these agreements are submitted to the Senate for its advice and consent.

There are many practical reasons why I oppose these provisions, having to do with the historic importance of this kind of agreement to the basic national security interests of the United States. For example, anyone looking at a map should be able to see the strategic importance of the Azores in relation to the defense of free world interests in the Middle East and Mediterranean areas.

But, Mr. President, the one objection which I shall address myself to today is the concern which I have with the fundamental premise which underlies both of these sections. This is the idea, as expressed in the Foreign Relations Committee report, that it is the U.S. Senate and not the President who is charged with the formulation of foreign policy and thus that all major agreements with foreign countries must be in the form of treaties, subject to Senate approval.

Mr. President, this simply is a false reading of the intent of the Founding Fathers and it runs counter to the entire course of American history, as well as against several judicial pronouncements on the constitutional allotment of the foreign policy powers.

To start with, it is rather strange to consider the Founding Fathers as having given the Senate such unique powers over the destiny of foreign affairs when the framers recognized so clearly that the Senate, at that time, was created as the chamber of representatives of the State legislatures, while it was the President who was conceived of as "the representative of the entire people—the guardian of his country." As Representative Scott pointed out during debate on legislation creating the Department of Foreign Affairs during the first Congress, the President "is elected by the voice of the people of the whole Union; the Senate are the Representatives of the State sovereignties."

In the setting of the time, with the Senate of each State not chosen by the people but "but the legislature thereof," I find it difficult to conceive that the framers would have vested such great responsibility for the formulation of external affairs to a chamber representative of State legislatures, which held governmental power only over domestic affairs.

Mr. President, in the face of this historical fact, which would appear to narrow the limits of responsibility which the framers intended for the Senate, the proponents of sections 7 and 8 boldly lay claim to senatorial supremacy in the field of foreign policymaking. They argue that the word "treaties" as used in the Constitution embraces every kind of "important" international agreement and requires that all such agreements be made by the President only by and with the advice and consent of the Senate.

The historical truth is, however, that the Constitution has never been interpreted in this manner, and indeed the management of foreign affairs could not be carried on if it had been so construed. To put the treaty clause in its proper perspective, I will mention that international Executive agreements have been entered into in every period of our history as a nation beginning with the Second Congress. During the first 50 years of Government under the Constitution, the President entered into at least 27 international agreements without obtaining the consent of the Senate under the treaty procedure, and this figure increased to 238 Executive agreements in the second half-century after the Constitution came into effect. During the third 50-year period, 917 Executive agreements were concluded and in the period beginning with 1946, 5,589 Executive agreements were made by the President.

Contrary to the emotional rhetoric of Presidential critics, 99 percent of these agreements have received previous or subsequent ratification by Congress. For example, over 1,000 of the present Executive agreements deal with the distribution of surplus agricultural commodities pursuant to a Federal statute. Even the category of foreign military base agreements, which are the concern of sections 7 and 8 of the bill, themselves may properly be considered to be specifically provided for in the annual Military Construction Authorization and Appropriation Acts. This points to the proper role of Congress to review base agreements, which should not be an attack on the President's authority to enter into such agreements, but a determination by Congress of whether or not it shall appropriate the moneys required to fully implement such agreements. My basic objections to sections 7 and 8 is that they do not primarily involve the merits of the particular agreement, in fact under section 8 no one knows what country we will be dealing with or what circumstances might necessitate the agreement, and that these provisions thereby constitute a direct challenge to the fundamental power of the President to ever enter into these kinds of agreements with any foreign countries without going through the process of a treaty.

If this were true, then the thousands of international executive agreements which have been entered into throughout our Government under the Constitution would all become illegal and invalid. This implication is ridiculous, of course, and the Supreme Court of the United States has determined as much in the clearest possible language.

In the landmark case of *United States* v. *Belmont*, 301 U.S. 324 (1937), it was settled by the Supreme Court that the recognition of, establishment of diplomatic relations with, and the terms which should govern dealings with, a foreign government are exclusively within the President's control over foreign relations. This case expressly held that international agreements on these subjects do not require the participation of the Senate, and in its ruling the Court did not limit its words to questions of recognition alone. The Court declared:

> There are many such compacts, of which a protocol, a modus vivendi, a postal convention, and agreements like that now under consideration are illustrations.

Louis Henkin, in his new book "Foreign Affairs and the Constitution," con-

cludes that the Supreme Court in the Belmont decision found authority for executive agreements not in the President's exclusive control of recognition policy, but in his broad authority as "sole organ," of the Nation in foreign affairs, which Henkin argues "supports not only recognition but much if not most other foreign policy."

A later decision of the Supreme Court was even more specific in giving its approval to the power of the President to determine the public policy of the United States in the field of foreign affairs. In this case, *United States* v. *Pink*, 315 U.S. 203, 230 (1942), the Supreme Court specifically referred to an early treatise by the great scholar of international law, John Bassett Moore, as correctly portraying "the historic conception of the powers and responsibilities of the President in the conduct of foreign affairs." In this article, which I shall ask to have appear in the RECORD, Professor Moore set forth numerous specific examples of purely executive agreements which Presidents had reached on a wide range of topics, having far-reaching importance. The agreements described by Professor Moore and implicitly endorsed by the Court's statement even included peace agreements which, interestingly enough, were of a nature remarkably analogous to the Vietnam cease-fire agreement concluded in January by President Nixon.

Mr. President, in actual practice no distinction has been made between international agreements which are "important" and those which do not meet this standard, if it can be defined at all. Probably the single most authoritative writing on this subject in modern times is the study published by Prof. Myers McDougal in 1945, aptly titled "Treaties and Congressional-Executive or Presidential Agreements: Interchangeable Instruments of National Policy," 54 Yale Law Journal 181, 534. Already then the prominent scholar in the field of foreign affairs under the Constitution, Professor McDougal concluded that the President possesses unquestioned power to make Executive agreements in every consequential respect equivalent to a treaty. Today, having attained a position of even higher eminence in this area of constitutional law, Professor McDougal has written to me that he retains all of his previously expressed convictions.

On January 12, he wrote:

> It seems to me that our usage during the past twenty-five years strongly confirms that the President's independent powers over foreign affairs include a competence to make important agreements of substantial duration. Certainly, our experience as a nation in an increasingly dangerous world indicates that it is indispensable that he have such a competence.

Mr. President, the principle of Presidential primacy over external affairs is not a new one. What is really unusual is the feeling by many in this Chamber that it is the Senate who possesses supremacy in this area. I will conclude my statement by quoting from recent opinions by Justices of the present Supreme Court which, in my opinion, completely contradict the position asserted by the critics of Presidential responsibility for foreign policy. For the constitutional "primacy" of the President in this field has been recognized in varying ways by at least six of the sitting Justices of the Court.

For example, Justice Stewart and Justice White have stated that the Constitution endows the President with "a large degree of unshared power in the conduct of foreign affairs and the maintenance of our national defense." *New York Times Co.* v. *United States*, 403 U.S. 729 (1971).

Justice Blackmun wrote in the same case:

> Article II of the great document vests in the Executive Branch primary power over the conduct of foreign affairs and places in that branch the responsibility for the Nation's safety. *Id.*, at 761.

Justice Marshall believes "it is beyond cavil that the President has broad powers by virtue of his primary responsibility for the conduct of our foreign affairs and his position as Commander in Chief." Id., at 741.

More recently, Justice Rehnquist, joined by Chief Justice Burger and Justice White, grounded their opinion in an "Act of State doctrine" case on the ground of "the primacy of the Executive in the conduct of foreign relations" and "the lead role of the executive in foreign policy." *First National City Bank* v. *Banco Nacional de Cuba*, 406 U.S. 759, 767 (1972).

In the face of such clear support of the distribution of major foreign policy responsibilities to the President, I cannot understand how any committee of the Congress could attempt to usurp these powers from the President by anything short of a constitutional amendment. Because of my belief that these provisions are possessed of a fatal premise unfounded in the Constitution, I support the deletion of both of these sections from the bill.

Mr. President, I ask unanimous consent that the article written by John Bassett Moore and cited approvingly by the Supreme Court in the Pink case shall be printed in the RECORD at this point.

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

JOHN BASSET MOORE, 20 POLITICAL SCIENCE QUARTERLY 385; SEPTEMBER 1905

TREATIES AND EXECUTIVE AGREEMENTS

I. Question as to general arbitration treaties

During November and December, 1904, and January, 1905, there were signed at Washington by Mr. Hay, on the part of the United States, and by the ministers of various other countries, ten general treaties of arbitration. The treaties first concluded were those with France and Switzerland, which were signed on November 1, 1904. Then came treaties in the order of date with Portugal, Great Britain, Italy, Spain, Austria-Hungary, Mexico, and Sweden and Norway, that with Sweden and Norway being signed on January 20, 1905. All these agreements were duly submitted to the Senate. A similar treaty was aftewards signed with Japan; but, in view of the differences which had arisen as to the instruments previously negotiated, it was not transmitted to the Senate.

All the treaties above mentioned were based upon the same model, namely, a treaty of arbitration between Great Britain and France, which was concluded at London, on October 14, 1903. The signing of this treaty was followed by the conclusion of numerous conventions between other European powers in precisely similar terms. The treaties signed by Mr. Hay varied from them only in the formal parts, the language defining the questions to be arbitrated and the mode of procedure being precisely the same.

The substantive clauses of the American treaties, like those of the European treaties, were embraced in two articles. Of these, the first reads as follows:

> Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the permanent court of arbitration established at The Hague by the convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence or the honor of the two contracting states, and do not concern the interests of third parties.

The second article reads thus:

> In each individual case the high contracting parties, before appealing to the permanent court of arbitration, shall conclude a special agreement defining clearly the matter in dispute and the scope of the powers of the arbitrators, and fixing the periods for the formation of the arbitral tribunal and the several stages of the procedure.

While the treaties were pending before the Senate, various questions were raised as to their probable effect. It was suggested, among other things, that they might require the United States to submit to arbitration claims against some of the individual states of the Union, on account of repudiated or unpaid debts. In order to obviate this apprehension, the president addressed a letter to Senator Cullom, chairman of the foreign relations committee of the Senate, setting forth his views as to the inadmissibility of such claims and giving an assurance that during his administration they would not be entertained. A more serious question afterwards arose.

On January 20, 1905, there was signed at Santo Domingo City, by Commander A. C. Dillingham, U.S.N., and Mr. Dawson, the American minister, on the one part, and by the Dominican minister of foreign affairs, on the other, a protocol under which the United States was to guarantee the integrity of the Dominican territory, undertake the adjustment of foreign claims, administer the finances on certain lines, and assist in maintaining order. As it was stipulated that the arrangement should take effect February 1, the inference was widely drawn that there existed an intention to treat the protocol as a perfected international agreement without submitting it to the Senate. Such an intention was soon afterwards disclaimed by the administration; but the incident resulted in the raising of the broad question as to the power of the president to enter into international agreements of any kind without the advice and consent of the Senate, and the discussion was soon found to involve the second article of the arbitration treaties. By this article, as we have seen, it was provided that the president should in each individual case, before appealing to the permanent court of arbitration, conclude a "special agreement," defining the matter in dispute and the scope of the arbitrators' powers and fixing the periods for the formation of the arbitral tribunal and the several stages of the procedure. As announced in the press, the position was taken by senators that the "special agreement" required in each case must be in the form of a treaty, duly submitted to the Senate for its advice and consent. The president, on the other hand, took the ground that the arbitration treaties, if approved by the Senate and afterwards ratified, would in themselves constitute complete legislative acts, which it would be within his powers as executive to carry into effect,

as occasion might arise; and that, if a new treaty were required in each particular case, the general treaties would fail to accomplish their primary purpose and would in reality constitute a step backward, rather than a step forward, in the development of the practice of international arbitration by the United States. These views the president embodied in a letter to Senator Cullom, which was in the nature of a protest against the position which senators were understood to have taken. On receiving this letter, the Senate, with only seven dissenting votes, immediately amended the treaties by striking out of the second article the word "agreement" and substituting for it the word "treaty," so that it would be necessary in each individual case before proceeding to arbitration to conclude a special "treaty," defining the matter in dispute and the scope of the arbitrators' powers, as well as fixing the periods for the formation of the tribunal and the several stages of the procedure. When the treaties as thus amended were returned to the president, it was announced that he would not submit them in their amended form to the other governments concerned but would consider the action of the Senate as constituting in principle a disapproval of them.

As the record stands, issue was thus joined on the broad question whether it is within the power of the president to conclude any "agreement," or at any rate any arbitral agreement, with a foreign power without the advice and consent of the Senate. As regards this question, the president appears upon the affirmative side, and the Senate apparently upon the negative. No doubt, if the subject had been further discussed, the issue might have been brought within narrower limits. It will not be pretended by any one that the president can make any and every kind of an international agreement without the cooperation of the Senate, for the constitution expressly requires that "treaties" shall be made by him "by and with the advice and consent" of that body, signified by the approving vote of two-thirds of the senators present. On the other hand, it can easily be demonstrated that the word "treaties," as used in the constitutional law of the United States, does not embrace any and every kind of international agreement.

2. The terms "treaty," "convention," "protocol"

In diplomatic literature, the words "treaty," "convention," and protocol" are all applied, more or less indiscriminately, to international agreements. The words "convention" and protocol" are indeed usually reserved for agreements of lesser dignity, but not necessarily so. In the jurisprudence of the United States, however, the term "treaty" is properly to be limited, although the federal statutes and the courts do not always so confine it, to agreements approved by the Senate. Such an agreement may be and often is denominated a "convention," and perchance might be called a "protocol;" but it is also, by reason of its approval by the Senate, in the strict sense a "treaty," and possesses, as the product of the treaty-making process, a specific legal character. By the constitution of the United States, a "treaty" is a "supreme law of the land," having the force of an act of congressional legislation and overriding any inconsistent provisions not only in the constitutions and laws of the various states, but also in prior national statutes. It is at once an international compact and a municipal law, and in its latter character directly binds the courts and the individual inhabitants of the country. In this respect the legal system of the United States differs from that of most other governments, under which a "treaty," although it represents a binding international compact, becomes legally operative upon courts and individuals only when the legislature adopts it and enacts it into law. In England, for instance, an extradition treaty may be executed only where an act of Parliament already exists, or is passed, to render it effective; in the United States such a treaty may be immediately executed by virtue of its double character as an international compact and a municipal law. By reason of its added municipal character, a "treaty," in the United States has a superior legal efficacy; but it is for the same reason peculiarly exposed to degradation by the action of the legislature, since the courts have held that it is, as a "law," subject to abrogation or "repeal," even by implication, by a later and inconsistent act of Congress. The international obligation may not be thus destroyed, but the government of the United States is disabled from performing it.

3. Examples of purely executive agreements

Such being the nature and meaning of the term "treaty" in the jurisprudence of the United States, we find that the government has been in the habit of entering into various kinds of agreements with foreign powers without going through the process of treaty-making. The conclusion of agreements between governments, with more or less formality, is in reality a matter of constant practice, without which current diplomatic business could not be carried on. A question arises as to the right of an individual, the treatment of a vessel, a matter of ceremonial, or any of the thousand and one things that daily occupy the attention of foreign offices without attracting public notice; the governments directly concerned exchange views and reach a conclusion by which the difference is disposed of. They have entered into an international "agreement"; and to assert that the secretary of state of the United States, when he has engaged in routine transactions of this kind, as he has constantly done since the foundation of the government, has violated the constitution because he did not make a treaty, would be to invite ridicule. Without the exercise of such powers it would be impossible to conduct the business of his office.

But, in addition to agreements made in the transaction of current business, we find that the executive has entered into international agreements of a more formal kind, without resorting to the treaty-making process.

The agreement of 1817, for the limitation of naval armaments on the Great Lakes, was made and carried into effect by the executive, though it was afterwards submitted to the Senate. By a protocol signed at London, December 9, 1850, by Abbott Lawrence, American minister, on the part of the United States, and by Viscount Palmerston, on the part of Great Britain, it was agreed that the British crown should cede to the United States Horseshoe Reef in Lake Erie, and that the United States should accept it, on the conditions of erecting a lighthouse there and maintaining no fortifications. On receipt of the protocol, Mr. Webster, as secretary of state, on January 7, 1851, instructed Mr. Lawrence to acquaint the British government that the arrangement was "approved" by the government of the United States. This Mr. Lawrence did on the 17th of the succeeding month. Congress made appropriations for the erection of the light-house, which was built in 1856.[1] The validity of the title thus gained will hardly be disputed. The cession, which the executive had arranged, having been adopted by Congress, the territory came completely within the jurisdiction and control of the United States without any "treaty." We hold the Hawaiian Islands by no better tenure. Two successive attempts to annex them by treaty having failed, they were acquired under a joint resolution of Congress. Texas, also, was annexed by a joint resolution, but, as it was at the same time admitted as a state, it stands in a legal category distinguishable from that of Hawaii.

In 1882, an arrangement was effected between the United States and Mexico, by means of an exchange of notes, for the reciprocal passage of troops of the two countries across the border when in pursuit of hostile Indians.[1] On June 25, 1890, an agreement, in the form of a protocol, was entered into on the same subject, and this agreement was from time to time renewed with amendments. The federal troops of the two countries were permitted to cross the international boundary in pursuit of certain hostile Indians in the uninhabited and desert part of the line, which were defined as "all points that are at least ten kilometers distant from any encampment or town of either country." It was expressly stipulated that no such crossing should take place between two certain specified points. There were various other provisions requiring notice of crossing to be given if possible, and permitting the chastisement of other hostiles whom the troops might chance to meet.[2]

One of the most important agreements ever made by the executive without submission to the Senate was the peace protocol with Spain of August 12, 1898. By this protocol provision was made for a general armistice between the two countries. This stipulation was no doubt within the powers of the president as commander-in-chief of the army in time of war, but there were other provisions of a different nature and of far-reaching importance. Not only did the protocol stipulate that Spain should relinquish all claim of sovereignty over and title to Cuba, and should cede to the United States Porto Rico and other islands under Spanish sovereignty in the West Indies and an island in the Ladrones to be selected by the United States, but it also provided that Spain should "immediately evacuate" Cuba, Porto Rico and other Spanish islands in the West Indies, and to this end within ten days should appoint commissioners, who within thirty days were to meet commissioners of the United States at Havana, in Cuba, and San Juan, in Porto Rico, respectively, for the purpose of arranging and carrying out the details of the evacuation of Cuba and the adjacent islands. Commissioners to negotiate the definitive peace were to meet at Paris not later than October 1, 1898. They met accordingly, and, pending the negotiations which resulted in the signature of the treaty of peace on December 10, 1898, Porto Rico was evacuated and the preparations for the evacuation of Cuba were proceeding. It may be said that the evacuation of Cuba was clearly within the scope of the joint resolution under which the president was directed to intervene in Cuba, but this could not be said with regard to the anticipatory evacuation of Porto Rico and other Spanish islands in the West Indies, which was clearly an incident of the session.

Another remarkable exercise by the president alone of the power to make agreements with foreign countries is found in the protocol concluded at Peking on September 7, 1901, between China and the allied powers who had cooperated in the march to Peking for the relief of the foreign legations. This protocol was signed on the part of the United States by Mr. W. W. Rockhill, now minister to China, who was then acting as a special commissioner to China by executive appointment alone. It embraced numerous topics, including reparation by China for the murder of the German minister at Peking, the infliction of punishment on the principal authors of the outrages and crimes committed against foreign governments and their nationals, the prohibition by China of the importation of arms and ammunition as well as of the materials exclusively used for their manufacture, the payment to the allies of an indemnity of 450,000,000 taels, the constitution of an extraterritorial quarter for the use of the foreign legations in Peking, the

Footnotes at end of article.

temporary occupation by the powers of certain points in order to keep open the communication between the capital and the sea, and undertakings on the part of China to negotiate amendments to her existing treaties, to improve the navigability of the Peiho river, and to transform her office of foreign affairs into a ministry of foreign affairs, which was to take precedence over the six ministries of state.[3]

4. Agreements under acts of Congress

There are certain definite classes of international agreements which are made by the executive under acts of Congress. It is a peculiarity of these agreements that, so long as the statute under which they are concluded stands unrepealed, they have precisely the same municipal force as treaties, being in effect laws of the land. And sometimes they relate to subjects which might be and perhaps have been dealt with by the treaty-making power.

(1) Postal "treaties"

As the first illustration of this type of agreements we may take postal "treaties" or conventions. Originally it seems to have been supposed that such agreements must be submitted to the Senate. On March 6, 1844, a postal convention was signed between the United States and New Granada, with special reference to the isthmus of Panama. It was transmitted by President Tyler to the Senate May 7, and on the 13th it was read the first and second times by unanimous consent, and was ordered to be referred to the committee on foreign relations and to be printed in confidence for the use of the Senate. It was approved without amendment June 12.[4] A similar course was taken in other cases; but the procedure was altogether changed by the act of Congress of June 8, 1872, entitled "An act to revise, consolidate and amend the statutes relating to the post office department." By section 167 of this act it was provided that, "for the purpose of making better postal arrangements with foreign countries, or to counteract their adverse measures affecting our postal intercourse with them," the postmaster-general, "by and with the advice and consent of the president," might "negotiate and conclude postal treaties or conventions," and might "reduce or increase the rates of postage on mail-matter conveyed between the United States and foreign countries."[5] By section 20 of the same act, the postmaster-general is required to transmit a copy of each postal convention concluded with a foreign government to the secretary of state, who is to furnish a copy to the public printer for publication; but the proof-sheets are to be revised in the post office department.[6] These provisions have since governed the negotiation and conclusion of postal treaties, and they are now embodied in the revised statutes of the United States, as sections 398 and 399.

(2) Reciprocity arrangements

Another class of international agreements, concluded by the government of the United States under the authority of an act of Congress, is that of arrangements with foreign powers in relation to commercial reciprocity. Such were the agreements made by the United States under section 3 of the act of October 1, 1890, commonly called the McKinley act. By section 3 of this act the president was authorized to impose duties at certain rates on specified articles, whenever, in his judgment, the duties imposed by the country of exportation on goods imported from the United States were, in view of the free admission of such specific articles into the United States, "reciprocally unequal or unreasonable."[7] This retaliatory provision was used for the purpose of securing reciprocal commercial agreements with other powers; and ten such agreements were in fact concluded with Austria-Hungary, Brazil, the Dominican Republic, Germany, Great Britain, Guatemala, Honduras, Nicaragua, Salvador and Spain. These agreements remained in force till they were terminated by section 71 of the tariff of August 27, 1894, generally known as the Wilson-Gorman act.

The subject of commercial arrangements is also provided for by the act of July 24, 1897, called the Dingley act. By section 3 of this act, the president is authorized to enter into negotiations with the governments of countries exporting to the United States certain specified articles, wit. a view to making commercial agreements "in which reciprocal and equivalent concessions may be secured in favor of the products and manufactures of the United States"; and whenever an agreement is made by which the products and manufactures of the United States are, in his judgment, admitted on reciprocal and equivalent terms, he is authorized to suspend by proclamation the imposition and collection of duties on the articles in question. By section 4 of this act the president is also authorized to make certain concessions whenever he shall have entered into a reciprocity treaty with a foreign country by and with the advice and consent of the Senate Under the third section of the act the president has concluded and carried into effect commercial agreements with France, May 28, 1898; with Portugal, May 22, 1899, and January 11, 1900; with Germany, July 10, 1900; and with Italy, February 8, 1900.

(3) Discriminating duties, copyrights, and trade marks

In numerous cases, in addition to those first mentioned, the president has been invested by Congress with power the exercise of which has involved the making of formal or informal international agreements. As examples, we may take the acts of March 3, 1815; January 7, 1824; May 24, 1828; June 19, 1886; April 4, 1888, and July 24, 1897, with reference to the suspension of discriminating duties. The power thus vested in the president constantly has been and still is exercised by him, sometimes on the strength of understandings reached by ordinary correspondence, and sometimes on the strength of more formal diplomatic agreements.

A power similar to that exercised by the president with regard to the suspension of discrimiating duties is conferred upon him by section 13 of the act of March 3, 1891, amending the provisions of the revised statutes of the United States in relation to copyrights. By this section the president is authorized by his proclamation to admit the citizens of foreign nations to the privileges of copyright in the United States, either when such nations extend the benefits of copyright to citizens of the United States on substantially the same basis as to their own citizens, or when they are parties to a reciprocal international copyright agreement to which the United States may at its pleasure adhere. Under the first condition the president, after exchange of correspondence, has by proclamation extended the benefits of the law to citizens of Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain, Italy, Mexico, the Netherlands, Portugal and Spain.[8]

Agreements with regard to the protection of trade marks have been concluded by the exchange of notes, under section 1 of the act of March 3, 1881, with the Netherlands, February 10 and 16, 1883, and with Switzerland, April 27 and May 14, 1883.[9] In 1894, Mr. Gresham, as secretary of state, declined to approve a declaration for the protection of trade marks signed at Athens by the American minister and the Greek minister of foreign affairs, on the ground that a formal convention should be submitted to the Senate.[10] In numerous instances, the subject of patents and trade marks and the general protection of industrial property have been regulated by treaties duly submitted to the Senate.

(4) Indian "treaties"

During the first eighty years of government under the constitution, agreements with the Indian tribes were made exclusively by the president and the Senate, in the exercise of the treaty-making power. Since 1871, however, the subject has been dealt with exclusively by the president and Congress. This circumstance is due to the act of Congress of March 3, 1871,[11] now incorporated in section 2079 of the revised statutes, by which it is expressly provided that "no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty." Previously to this statute, the president, by the act of July 5, 1862,[12] now embodied in section 2080 of the revised statutes, was, whenever the tribal organization of any Indian tribe was in actual hostility to the United States, authorized by proclamation to declare all treaties with such tribe to be abrogated, if in his opinion it could be done consistently with good faith and with legal and national obligations.

The passage of the act of 1871 was strongly opposed by certain members of the House as well as of the Senate, on the ground that it involved an infringement of the treaty-making power vested in the president and the latter body. It was admitted that if the president should undertake to make a treaty with the Indians, Congress could not interfere with his doing so, by and with the advice and consent of the Senate; but it was, on the other hand, maintained that Congress had the power to declare whether the tribes were independent nations for the purposes of treaty-making, and to render its declaration effective by refusing to recognize any subsequent treaties with them; and this view prevailed.[13]

5. The modus vivendi

The first examples given above of international pacts made by the president, without consulting the Senate were agreements entered into by him alone, in the exercise of his own authority. There is a well defined type of agreement, known as the modus vivendi, which has been regarded as falling within the president's powers. As the name indicates, a modus vivendi is in its nature a temporary or working arrangement, made in order to bridge over some difficulty, pending a permanent settlement.

By an exchange of memoranda and correspondence in April and June, 1885, a diplomatic agreement was entered into between the United States and Great Britain, by which the fishing privileges granted to American citizens in Canadian waters by the treaty of May 8, 1871, which would otherwise have expired on July 1, 1885, were to continue throughout the season of 1885. This arrangement in no way affected the collection of duties on fish and fish products in the United States, but was entered into by the British government in consideration of the president's undertaking to recommend to Congress, on its assembling in December 1885, the appointment of a joint commission to consider the question of fisheries and trade relations.[14]

On February 15, 1888, a treaty commonly known as the Bayard-Chamberlain convention, was signed at Washington with a view to the permanent settlement of the fisheries controversy. This treaty was in the following August rejected by the Senate; but, on the day on which it was signed, a *modus vivendi* was entered into by the negotiators by which a temporary arrangement was made for a period not exceeding two years. This arrangement was communicated by the president to the Senate, for its information, when the treaty was submitted for ratification.

Footnotes at end of article.

By a *modus vivendi* concluded at Washington on June 15, 1891, the killing of fur seals in Bering sea, whether by American citizens or by British subjects, was suspended till the following May. This suspension, which applied only to that part of Bering sea eastward of the water line of demarcation in the treaty of cession of 1867, was established with a view to the conclusion of a treaty for the arbitration of the entire dispute. Such a treaty was made in the following year.

On October 20, 1899, a *modus vivendi* was effected by means of an exchange of notes between Mr. Hay, secretary of state, and Mr. Tower, British chargé d' affiaires *ad interim* at Washington, for the purpose of fixing a provisional boundary between Alaska and the Dominion of Canada in the vicinity of Lynn canal. This agreement remained in force till the boundary question was definitively settled by the decision of the joint commission under the treaty of January 24, 1903.

Protocols of agreement have on various occasions been made by the executive with a view to future negotiations. Protocols of this kind were signed with Costa Rica and Nicaragua on December 1, 1900, with a view to negotiations for the construction of an interoceanic canal by way of Lake Nicaragua.

6. The settlement of pecuniary claims

Agreements of another class, the making of which has been considered to be within the competence of the executive, are those providing for the settlement of pecuniary claims, especially of private individuals, against foreign governments. Such an agreement the president no doubt may in any case submit to the Senate, if he sees fit to do so; and we find especially in former times, that this course was often taken.

(1) By Treaty

Thus, provision was made for the settlement of pecuniary claims, either directly or by means of arbitration, under article vi of the treaty with Great Britain, commonly called the Jay treaty, of November 19, 1794, for the adjudication of claims of British subjects against the United States growing out of legal impediments interposed to the collection of debts under the treaty of peace of 1782–1783; under article vii of the same treaty, for the adjudication of claims of citizens of the United States against Great Britain on account of violations of neutral rights and of claims of British subjects against the United States growing out of failures of neutral duty; under article v of the convention with Great Britain of October 20, 1818, for the arbitration of claims of citizens of the United States against the British government, growing out of the carrying away of slaves in violation of article i of the treaty of Ghent; under the convention with Great Britain of February 8, 1853, for the arbitral adjustment of claims of the citizens of each country against the government of the other; under the convention with Great Britain of July 1, 1863, for the adjudication of the claims of the Hudson's Bay Company and the Pudget Sound Agricultural Company against the United States; under articles i–xi, inclusive, of the treaty of Washington of May 8, 1871, for the arbitration of the "Alabama" claims; under article xii of the same treaty for the determination of claims of citizens of each country against the government of the other, other than the "Alabama" claims, arising during the Civil war in the United States; under articles xx–xxv, inclusive, of the same treaty for the arbitration of the question what, if anything, was due to the British government from the United States on account of the arrangement made with regard to the fisheries; under the convention of February 8, 1896, for the adjudication of British claims against the United States growing out of the Bering sea controversy; and under the tripartite convention between the United States, Germany and Great Britain, of November 7, 1899, for the adjudication of the question of liability for the payment of claims of the citizens or subjects of the contracting parties growing out of the unwarranted military action of any of them in Samoa.

By article xxi of the treaty with Spain of October 27, 1795, provision was made for the adjudication of claims of citizens of the United States against Spain in consequence of the seizure of their vessels and cargoes by subjects of his Catholic majesty during the then recent war between Spain and France. Provision was made by the convention of August 11, 1802, for the adjudication of other claims of American citizens against Spain and of Spanish subjects against the United States; but, although the ratifications of this convention were afterwards exchanged, it was never carried into effect, and the subject to which it related was dealt with in the Florida treaty of February 22, 1819, by which all claims of the citizens of either country against the government of the other were renounced and the United States undertook (article xi) to make satisfaction for the claims of its own citizens to an amount not exceeding $5,000,000. By article ix of the same treaty the United States undertook to compensate the Spanish inhabitants of Florida for injuries suffered by the operations of the American army in that province. Claims against Spain arising during her war with her American colonies were directly settled by the Van Ness convention of February 17, 1834. Many claims on the part of citizens of the United States against France grew out of the wars in which that country was involved prior to the peace of Amiens. Some of these were settled under the indemnity convention of April 30, 1803, which forms one of the series of treaties relating to the Louisiana cession, as part of the price of which certain classes of the claims were assumed and paid by the United States. Subsequent claims against France, as well as certain claims of France against the United States, were directly settled by the Rives convention of July 4, 1831. A mutual adjustment of claims by the same countries through a mixed commission was accomplished under the convention of January 15, 1880. Claims of citizens of the United States against Denmark originating in the Napoleonic wars were directly settled by the treaty of March 28, 1830, as likewise were similar claims against Naples by the convention of October 14, 1832. Provision was made by the treaty of April 11, 1839, for the adjudication of claims of citizens of the United States against Mexico, and various claims which failed of adjustment under this convention were assumed and paid by the United States under the treaty of Guadalupe Hidalgo.

By a convention of July 4, 1868, all claims of the citizens of either country against the other which had arisen since the signature of the last-named treaty were submitted to arbitration. Claims of citizens of the United States against Peru were directly settled by a convention signed at Lima on March 17, 1841. By a convention with the same country of December 20, 1862, the claims of the owners of the American vessels "Georgiana" and "Lizzie Thompson" against the government of Peru were submitted to the king of the Belgians as arbitrator, but the claims were afterwards withdrawn by Mr. Seward, and no decision was rendered. A convention for the mutual adjustment of claims as between the United States and Peru by means of a mixed commission was concluded on January 12, 1863. A similar convention was entered into on December 4, 1868. Claims of citizens of the United States against Brazil were directly settled by the convention of January 27, 1849. By a treaty signed on February 26, 1851, the claims of citizens of the United States against Portugal growing out of the destruction of the brig "General Armstrong" by the British at Fayal, in 1814, was submitted to Louis Napoleon as arbitrator. On September 10, 1857, a convention was concluded at Washington for the adjudication of claims of citizens of the United States against New Granada, especially of those growing out of the Panama riot of 1856, and the powers of the commission organized under this convention were extended by the convention of February 10, 1864. In 1821, a quantity of silver, representing the proceeds of sales of merchandise imported into Peru by the American barque "Macedonian" was forcibly taken in the valley of Sitaña by order of Lord Cochrane, then a vice-admiral in the Chilean navy. The claims growing out of this transaction were, under a convention concluded November 10, 1858, referred to the king of the Belgians. Numerous claims against China were settled by a convention of November 8, 1858. By a convention of February 4, 1859, the claims of the United States and Paraguay Navigation Company against the government of Paraguay were submitted to arbitration. A settlement of all claims of citizens of the United States against Costa Rica for injuries to persons or property was effected by means of a mixed commission under the convention of July 2, 1860.

A mutual adjustment of claims as between the United States and Ecuador was effected in a similar manner under the convention of November 25, 1862. The claim of Julio R. Santos, a naturalized citizen of the United States, against the government of Ecuador, growing out of his arrest and detention in that country in 1884 and 1885, was adjudicated under the convention of February 28, 1893. Provision was made for the arbitral settlement of claims against Venezuela by the convention of April 25, 1866; but the proceedings of the commission were set aside and the claims retried under the convention of December 5, 1885. The claim against Venezuela, growing out of the seizure of the vessels of the Venezuela Steam Transportation Company, an American corporation, was settled by a mixed commission under the convention of January 19, 1892. By a convention between the United States and Denmark of December 6, 1888, the Carlos Butterfield claims, were submitted to Sir Edward Monson, then British minister at Athens, as arbitrator. Under a convention between the United States and Chile of August 7, 1892, all claims of citizens of either country against the government of the other, growing out of acts committed by the civil or military authorities, were adjudicated by means of a mixed commission. This convention was revived by the convention of May 24, 1897, in order that unfinished business might be disposed of. We thus have thirty-nine cases in which treaties have been made by the United States for the purpose of settling pecuniary claims. It is to be observed, however, that in only twenty cases were the claims against the foreign government alone. In fourteen cases there were claims against both governments, and in five, claims against the government of the United States alone; in other words, in nineteen instances the settlement embraced claims against the United States; and, as the executive is forbidden to bind the government of the United States to the payment of money in the absence of authority of law, the president has never undertaken to settle claims against the United States except by means of a treaty, or by means of an agreement concluded *ad referendum* to Congress.

(2) By Executive Agreement

But, as has heretofore been pointed out, pecuniary claims against foreign governments have constantly been settled by the president and no question as to his possession of such a power, apart from discussions to its possible limitations, appears ever to have been seriously raised. We, therefore, find in the books little that bears upon the subject; but, in at least one case in which a foreign government sought to qualify an agreement

made with the President, the validity and finality of his action were vigorously asserted by the government of the United States.

On November 29, 1886, Mr. Moret, Spanish minister of foreign affairs, informed Mr. Curry, the American minister at Madrid, that the council ministers had decided to settle the claim of Antonio Maximo Mora, a naturalized citizen of the United States, of Cuban origin, against the government of Spain, growing out of the embargo of his property in Cuba, by paying the sum of $1,500,000. This sum, said Mr. Moret, was to be paid by a charge on the Cuban budget; but, as the colonial budget was not in a condition to support such a sum at one time, the government had reserved the determination of which due information would be given. On December 7, Mr. Curry, under instruction of his government, accepted this offer; and a clause was inserted in the Cuban budget of 1887–88 for the payment of the money. This budget, however, was not passed, the Cortes avoiding action upon it by renewing the appropriations of the preceding year; and when, 1888, the colonial budget for 1888–89 was submitted, the provision for payment was omitted. When Mr. Curry inquired as to the reason for the omission, Mr. Moret replied that, in view of the debates which had taken place in the Chamber of Deputies, the government was convinced that the Chamber would not vote the money unless the "totality" of American claims was settled, including those of Spain against the United States.

At the same time, Mr. Moret declared that the government did not assume to alter what had been agreed on, but must judge when it would be opportune to lay the matter before the Cortes. The government of the United States expressed its confidence that "the Spanish government would not repudiate the arrangement which was deliberately concluded in its name and by its authority." Nevertheless, in consequence of the opposition manifested in the Cortes to the settlement which had been made, Mr. Moret was transferred to the ministry of the interior, and was succeeded in the ministry of foreign affairs by the Marquis de la Vega de Armijo. The latter, in August, 1888, stated that the government intended to satisfy, as far as lay in its power, the government of the United States, and expressed the belief that the Cortes would vote the money if the payment of the Mora claim "coincided" with the payment of the claims of Spain against the United States. With reference to this statement, Mr. Bayard, as secretary of state, on September 17, 1888, declared that, so far as the minister's note affirmed "the inviolability of the settlement arrived at in the Mora case and its removal from the sphere of discussion," it was satisfactory and fulfilled "the expectations that had been confidently entertained in regard to the observance by the Spanish government of the agreement heretofore concluded." Mr. Bayard was not indisposed to include the "payment" of the Mora claim with the "settlement" of other claims, if this could be done within a reasonable time; but he declared that the "sum agreed to be paid" in the Mora case might "fairly be treated as a debt due and withheld by Spain from the United States, upon which interest should justly be computed from the time the agreement was concluded." Again, on December 18, Mr. Bayard declared that the claim had been "conclusively adjusted for a specific sum and only awaits payment by the Spanish government." Similar ground was taken by Blaine, Mr. Bayard's successor as secretary of state, who adopted the statement of Mr. Curry that by the settlement "the case was raised from the debatable and negotiable ground which it had previously occupied to the height of an international compact, binding upon both governments."

In the same paper, Mr. Blaine said "that by the most formal and sacred of international compacts the faith and honor of the Spanish government" had been "directly pledged" to the payment of the claim, and that the president was "unwilling to allow the execution of the absolute settlement of the Mora case to be made dependent upon the further settlement of other claims." In February, 1893, Mr. Foster, Mr. Blaine's successor, referring to a remark made by the American minister at Madrid as to the possible conclusion of a "convention for the adjustment of the Mora" claim and the claims of Spanish subjects against the United States, said: "The Mora claim has been regarded by this government as already a liquidated and adjusted claim, only awaiting an appropriation by the Spanish Cortes for its final payment. I should not therefore be placed in the category of unadjusted claims." Mr. Gresham, Mr. Foster's successor, writing to Mr. Taylor, the American minister at Madrid, on July 14, 1893, declared that the United States "could not recognize parliamentary difficulties in the way of securing an appropriation for the Mora claim as in any way relieving Spain from her distinct and unconditional obligation to pay that claim." In a note of December 29, 1894, to the Spanish minister of state, Mr. Taylor declared that the United States had reached the "irrevocable conclusions," (1) that, "when the proposition of settlement was accepted, an international convention was concluded," precluding the discussion of all questions but that of payment; (2) that the "unconditional promise to pay carried with it the obligation to pay in a reasonable time;" (3) that the United States would "not consent" that payment should "depend upon the willingness of the Cortes to make the appropriation," or upon the final adjustment of claims asserted by Spain against the United States.

This presentation of the subject was approved by Mr. Gresham, who, in reply to arguments of the Spanish government that the Mora case was not "one of those matters of strict justice which require immediate reparation," and that the agreement to pay the claim was conditional and not unconditional, reaffirmed the position that the agreement was "unconditional," and further declared that all departments of the Spanish government were bound by it, and that no one department could nullify it, and that, whether the Spanish government did or did not receive the income from Mora's estates was a question "immaterial" to the "rights" of the United States or the "obligations" of Spain. Nevertheless, delay in the payment of the money continued, and at length Congress, by a joint resolution approved March 2, 1895, requested the president "to insist upon the payment of the sum agreed upon between the governments of Spain and the United States in liquidation of the claim of Antonio Maximo Mora against the government of Spain, with interest from the time when the said amount should have been paid under the agreement." [15] Instructions in conformity with the resolution were sent to the legation of the United States at Madrid, and like representations were made to the Spanish minister at Washington, urging an immediate payment on account and an arrangement for the early discharge of the remainder, should Spain be unable to pay the full amount at once. On July 20, 1895, the Spanish minister at Washington handed to Mr. Olney the text of a resolution of the council, approved by the queen regent, in which it was stated that, "in view of the facts shown of record and of the conclusions formulated by the ministers and a sub-committee of reference," it had been decided to notify the United States that Spain, "in fulfilment of the engagement contracted by the notes exchanged on the 29th of November and the 7th of December, 1886," was prepared to proceed to the payment of 1,500,000 pesos in three instalments, the form and date of payment to be determined by agreements. On the 10th of the following August an agreement, signed by Mr. Olney, as secretary of state, and by Mr. Depuy de Lôme, Spanish minister, and by two representatives of the claimant and other interested persons, was entered into for the payment, on or before September 15, of 1,500,000 gold pesos, "in full discharge and satisfaction not only of the principal sum agreed to be paid," but also of any amount that might be claimed to be due as interest. This payment was duly made.[16]

The conclusiveness of the settlement was thus finally maintained, in spite of Spain's contention that the agreement should be treated as having been made subject to the approval of the Cortes. No matter what view might be taken of this contention, the way was open to Spain to make it, since the country was in a state of tranquility and all the departments of the government were in the full exercise of their constitutional functions. Had a dictatorship existed and the constitutional guarantees been suspended, the case would have been obviously different. Such a condition of things has often existed even in recent years, especially in the countries of Spanish America, where international agreements of the most important character have been entered into and carried into effect by the chief executive in the exercise of dictatorial powers. Even territorial questions have been so settled. The treaty of commerce, navigation, boundaries and extradition between Brazil and Bolivia of March 27, 1867, was concluded and ratified on the part of Bolivia by the president *ad interim* of that country. The arbitral agreements made with Venezuela in 1903, under which claims against that government amounting to millions of dollars were settled, were ratified and put into effect by President Castro in virtue of dictatorial powers. Likewise, the agreement between the United States and the Dominican Republic of January 31, 1903, for the settlement of the claims of the San Domingo Improvement Company and its allied companies, was executed and put into effect by President Vasquez, in the exercise of similar powers. From May 2, 1902, until July 20, 1903, there was no congress, the constitutional guarantees being in suspense and all powers being exercised by the president. In such cases the only authority in existence is necessarily dealt with, it being inadmissible to hold that the national powers and responsibilities are in abeyance and cannot be discharged because powers ordinarily exercised by one department of the government have for the time being been assumed by another.

(3) *Arbitrations under executive agreements*

Not only is the power of the president to settle the claims of citizens of the United States against foreign governments firmly established, but he has repeatedly employed arbitration for the purpose. An eminent authority has observed that this "at first glance would seem to be an independent exercise of the treaty-making power," but that "in a strict sense" it "cannot be so regarded"; and it has therefore been placed among certain acts of an international character, binding the government, which the president may perform without the interposition of the Senate." [17] The legal theory on which such settlements rest is simple. Arbitration is in such cases only one of the modes by which the president exercises his power to settle the claims of individuals against foreign governments. If, in the exercise of this power, differences arise which apparently cannot be directly solved, it is a natural and obvious thing to submit them to the judgment of impartial persons. As early as September 5, 1793, Mr. Jefferson, as secretary of state, when discussing with the British minister the question of losses sustained by vessels unlawfully captured within American jurisdiction, proposed as a provi-

Footnotes at end of article.

sional measure that the collector of customs of the particular district and the British consul, "or any other person you please," should "appoint persons to establish the value of the vessel and cargo." [18]

It would be a work of supererogation to attempt to cite all the cases in which the executive of the United States has settled individual claims against foreign governments without reference to the Senate, but the more important examples may be given, including those in which the process of arbitration has been employed.

By a convention signed at Caracas on May 1, 1852, claims of citizens of the United States against Venezuela, growing out of the seizure of certain vessels, were settled for the sum of $90,000, with interest to date of payment. An agreement, concluded seven years later (January 14, 1859), for the settlement of claims of citizens of the United States on account of their expulsion from the Aves Islands, was submitted to the Senate, President Buchanan remarking that "usually" it was "not deemed necessary to consult the Senate in regard to similar instruments relating to private claims of small amount when the aggrieved parties are satisfied with their terms," but that it was thought advisable in the present instance on account of the instability of the Venezuelan government.[19] By a protocol signed at Washington on February 17, 1903, all claims of citizens of the United States against Venezuela, which had not been previously settled by diplomatic agreement, were submitted to a mixed commission. The claims, with interest, amounted to upwards of $81,000,000; the awards of the commission, with interest, to $436,450.70. In connection with this settlement the non-blockading powers concurred with the blockading powers, under agreements concluded by the latter with Venezuela on May 7, 1903, in submitting to The Hague tribunal the question whether the blockading powers had a right to the preferential payment of their claims.

In 1858, it was agreed by an exchange of notes between Mr. Reed, the American minister, and the Chinese authorities that a fund of 600,000 taels should be raised in China out of duties collected on American goods and bottoms at three treaty ports for the payment of American claims. This agreement Mr. Reed afterwards modified by concluding the convention of November 8, 1858. In 1884, the American minister arranged with the taotai of Swatow to refer to two of the foreign consuls at that port the claim of an American citizen, named Ashmore, for injuries to a fishery by native trespassers in 1872.[20]

On May 4, 1864, the American minister in Salvador agreed with the government of that country for the arbitration of the claim of an American citizen, named Savage, against Salvador on account of losses in connection with the exportation of a quantity of gunpowder.[21] By a protocol, signed at Washington, December 19, 1901, the claims of the Salvador Commercial Company and other citizens of the United States, stockholders in the Salvadorian corporation styled "El Triunfo Company, Limited," were submitted to a mixed commission composed of the chief justice of Canada, a citizen of the United States and a citizen of Salvador. An award was made in favor of the United States for $523,178.64.[22]

By a protocol, signed at Rio de Janeiro, March 14, 1870, it was agreed to submit to the British minister at Washington, as arbitrator, the claims of the owners of the American whaling ship "Canada" and her cargo against the government of Brazil because of losses incurred, as it was alleged by the illegal interference of Brazilian officials with the master of the vessel when he was attempting to pull her off a reef. An award was rendered in favor of the United States for the sum of $100,740.04.[23] By another protocol, signed at Rio de Janeiro, September 6, 1902, the claim of the owners of an American vessel against the government of Brazil, for indemnity for damages inflicted on the vessel and her long boat by the firing of Brazilian soldiers and by her detention at Rio de Janeiro, was submitted to the arbitration of the minister of Sweden and Norway at Washington.

By an exchange of correspondence in 1870, it was left to arbitrators to assess the damages in the claim of the American steamer "Lloyd Aspinwall" against the government of Spain on account of the seizure and detention of the vessel by the Spanish authorities in Cuba. By a similar agreement in 1885, the claims growing out of the seizure of the American barque "Masonic" by the Spanish authorities at Manila was referred to Baron Blanc, Italian minister at Madrid. But far more important than these was the agreement effected at Madrid by an exchange of notes on February 11–12, 1871, under which all claims of citizens of the United States against the government of Spain, for wrongs and injuries committed against their persons and property by the authorities of Spain in Cuba since the commencement of the insurrection in 1868, were submitted to a mixed commission, consisting of two arbitrators and an umpire. These claims involved questions of great international importance, including the validity of decrees of the Spanish government and of legal proceedings against both persons and property in Cuba. Questions analogous to those involved in the "Virginius" case eventually came before the commission, as well as many questions of nationality or citizenship. The commission remained in existence more than ten years. It adjourned December 27, 1882, and the last awards of the umpire were filed on February 22, 1883. The amount of the claims presented to the commission was more than $30,000,000, exclusive of interest. The total sum awarded was $1,293,450.55. Immediately after the conclusion of the agreement, Congress appropriated $15,000 for the United States' share of the expenses. Appropriations were thereafter regularly made for the same purpose, the whole amount contributed by the United States being $126,324.59.[24]

The seizure and detention of the American steamer "Montijo" in Colombia, in 1871, gave rise to claims against that government. These claims involved various important questions, including that of the liability of a government for the acts of insurgents. They were submitted to arbitration under a protocol signed at Bogota, August 17, 1874, and an award was rendered in favor of the United States.[25]

On several occasions claims against Hayti have been settled in a similar manner. The award of the arbitrator in the cases of Pelletier and Lazare under the protocol signed at Washington, May 28, 1884, was not enforced, because in the case of Pelletier the arbitrator misconstrued his power, and in the case of Lazare, as it was alleged, he did not have the benefit of certain important evidence. By an exchange of correspondence at Port au Prince, in 1885, the American minister arranged for the adjustment by a mixed commission of claims of citizens of the United States against the government of Hayti growing out of riots at Port au Prince. The claims were of small amount.[26] In the case of C. A. Van Bokkelen, a citizen of the United States, against Hayti, growing out of his imprisonment and detention in violation of treaty rights, an award was rendered in favor of the United States under a protocol signed at Washington, on May 24, 1888, by the sum of $60,000.[27] The claim of certain citizens of the United States against the government of Hayti, on account of the seizure and sale of their goods, was adjusted in a similar manner under a protocol signed at Washington on October 18, 1899. The arbitrator, the Hon. William R. Day, rendered an award in favor of the claimant for $23,000.[28]

The claims of two American citizens, named Oberlander and Messenger, against the government of Mexico were disposed of by arbitration under a protocol signed on March 2, 1897, by Mr. Olney, secretary of state, and Mr. Romero, Mexican minister.[29] Under a protocol concluded on May 22, 1902, the claim of the Pious Fund of the Californias was referred to The Hague tribunal, which decided that Mexico should pay to the United States the sum of $1,420,682.67, and in each succeeding year in perpetuity the sum of $43,050.99, in money having legal currency in Mexico.[30]

Under a protocol signed at Washington, February 23, 1900, a claim of a citizen of the United States named May, against the government of Guatemala, for a debt alleged to be due him under certain railway construction contracts with that government and for damages caused by the Guatemalan civil and military authorities, was submitted to the British minister in Central America, who awarded the claimant $143,750.73.[31]

Claims against Nicaragua of small amount were submitted to arbitration under a protocol signed at Washington, on March 22, 1900.[32] So, by a protocol signed at Washington, on May 17, 1898, the claim of a citizen of the United States against Peru was referred to the chief justice of Canada. In 1897, the complaint of E. V. Kellett, United States vice-consul general in Siam, on account of an assault committed upon him by soldiers of that government, was disposed of by a joint commission.[33] In the same year the claim of a citizen of the United States against the Siamese government, growing out of breaches by the latter of an agreement for the working of the teak forests, was submitted, under a protocol signed at Bangkok, July 26, 1897, to the governor of the Straits Settlement, by whom an award was rendered in favor of the United States for $200,000 in gold.[34] Certain claims against Chile were directly settled by an agreement concluded on May 24, 1897. By an agreement with Russia, signed September 8, 1900, various claims for the detention of American sealing vessels by Russian cruisers were submitted to arbitration. The submission involved important questions as to marine jurisdiction.

One of the most interesting of the arbitrations of the United States under executive agreements, is that relating to the Delagoa Bay railway, under a protocol between the United States, Great Britain and Portugal, signed at Berne on June 13, 1891. The railway was constructed under a concession originally granted to an American citizen named McMurdo. McMurdo transferred his concession to a Portuguese company, which was in turn financed by an English company. The taking possession of the railway by the Portuguese government in 1889 gave rise to interesting and complicated questions as to the rights of McMurdo as well as of the English investors. Both the United States and Great Britain intervened for the protection of the interests of their respective citizens, and, on the demand of the United States, which was supported by the British government, the case was referred to three Swiss jurists, who, in 1899, rendered an award in favor of the United States and Great Britain for the sum of $4,670,000.

On several occasions claims against the Dominican Republic have been settled under executive agreements. In 1898 an American engineer, acting under such an agreement, rendered an award in favor of the United States for $74,411.17, with interest at six per cent for two and a half years, on account of the seizure of the Ozama bridge by the Dominican government. On April 30, 1904, an award was made by arbitrators of the sum of $215,812, on account of arms, ammunition

Footnotes at end of article.

and other articles furnished by the firm of Sala & Company to the Dominican government while General Heureaux was president. The arbitral proceeding was conducted under a convention signed on April 28, 1902.

By a protocol signed at Santo Domingo City, January 31, 1903, provision was made for submitting to a mixed commission the question of the terms on which the Dominican government should pay the sum of $4,500,000, which that government had agreed to pay in consideration of the cession to it of all accounts, claims and properties of the San Domingo Improvement Company and its allied companies, including their rights in the railway from Puerto Plata to Santiago, and in settlement of all differences, as well as in consideration of the relinquishment by the Improvement Company of its right to collect the revenues at all the ports of the republic. The protocol expressly required the arbitrators to fix the mode in which the moneys to be paid under it should be collected. By the award rendered on July 14, 1904, it was decreed that the moneys should be paid in certain monthly installments, and that, in case of default, it should be collected at certain Dominican ports by an agent to be appointed by the United States.

It thus appears that, if we include only the more formal settlements, there have been thirty-one cases in which claims against foreign governments have been settled by executive agreement, and that twenty-seven arbitrations have been held under such agreements as against nineteen under treaties, where the settlement embraced claims against the foreign government alone and not against the United States.

In connection with the arbitration under the protocol with the Dominican Republic of January 31, 1903, it may be pointed out that on various occasions the customs or other specific revenues of foreign countries have been pledged for the payment of American claims.[35] Provision has also been made in certain cases for the direct collection of such revenues, in the event of the failure of the local government to make the stipulated payments; but, as the cases in which such an arrangement has been necessary have been comparatively infrequent at any rate in the experience of the United States in such matters, it is proper to refer particularly to certain precedents in which the subject has been either discussed or practically dealt with.

In 1880, the Venezuelan government appealed to the United States for its interposition in difficulties which had arisen between Venezuela and France, because the former government had fallen into arrears in payments due to the latter on the settlement of claims against Venezuela effected in 1864. As it was represented that there was danger that France would institute a blockade of Venezuelan ports and take possession of the custom houses for the purpose of collecting the money, and as there were conflicting claims as to preference among foreign creditors, Venezuela proposed to deliver certain monthly sums to the government of the United States, which was to distribute the money among all the foreign creditors. Mr. Evarts, who was then secretary of state, intimated that the proposal would be favorably entertained if it should prove to be acceptable to all the creditor governments. Subsequently, no arrangement having been effected, Mr. Evarts' successor, Mr. Blaine, acting in the name of the president, instructed the American minister at Paris to suggest that the United States would place an agent in Caracas to receive such monthly sums from Venezuela as might be agreed upon and distribute them among the creditor nations, and that, in case the Venezuelan government should default for more than three months in the regular instalments, the agent appointed by the United States should be authorized to take charge of the custom houses at Laguayra and Puerto Cabello, and reserve from the monthly receipts a sufficient sum to pay the stipulated amounts, with ten percent additional, handing over to the authorized agent of the Venezuelan government all the remainder collected.

It was, said Mr. Blaine, the judgment of the president that an arrangement of this kind would give all reasonable security to each of the creditor nations.[36] The French government afterwards arranged its differences directly with the Venezuelan government, and the proposal of the United States was not carried into effect.

An actual arrangement, to which the United States is a party, for the collection of moneys from a foreign government by means of the sequestration of custom duties, is that effected by the protocol between China and the allied powers, which was signed at Peking, September 7, 1901. By this protocol, China agreed to pay to the allied powers, one of which was the United States, an indemnity of 450,000,000 taels, to cover the claims of governments, companies or societies and private individuals. For the collection of this debt a commission of bankers was created on which each of the foreign powers is represented by a delegate, and specific revenues are assigned for the payment of the debt. These revenues embrace (1) the balance of the revenues of the imperial maritime customs (the foreign service under Sir Robert Hart), after payment of the amounts previously pledged as security for prior loans; (2) the revenues of the native customs, which are administered in the open ports by the imperial maritime customs; and (3) the total revenues of the salt gabelle, exclusive of the portion previously set aside for other foreign loans.

A still later example, which is specially interesting because it substantially carries out in Venezuela under another form the proposal made by the United States in 1881, is that of the settlement with Venezuela under the agreements signed at Washington in 1903, among which is the protocol between the United States and Venezuela of February 17 in that year. By Article V of this protocol, following the stipulations made in the other agreement, it is provided that the Venezuelan government shall set apart in each month, for the payment of claims, thirty per cent of the customs revenues of Laguayra and Puerto Cabello, and that, in case of failure to carry out this stipulation, "Belgian officials shall be placed in charge of the customs of the two ports, and shall administer them until the liabilities of the Venezuelan government in respect of the above claims shall have been discharged." These precedents directly sustain the protocol with the Dominican Republic of January 31, 1903, and the award of the arbitrators thereunder.

7. Executive enforcement of statutes and treaties

In view of what has been set forth, it is evident that the position that the president can make no agreement with a foreign power, except in the form of a treaty approved by the Senate, cannot be maintained; and that, if he had consented to be deprived, by amendment of the arbitration treaties, of the right to agree to the submission of any question whatsoever thereunder except by means of a new treaty, he would have waived the exercise of a power which he has constantly used. If the Senate had amended the treaties by inserting, after the word "agreement," the words "or treaty," the issue would have been more correctly drawn; but it must in fairness be admitted that this would not have accomplished the Senate's object in assuring to itself an opportunity to exercise its judgment upon the propriety of executive action in each particular case. It should also, in fairness, be admitted that they go too far who assert that the Senate, in amending the treaties, committed an act that was not legally justifiable. The law of the constitution is not more to be found in the letter of that instrument than in the practice under it, and the Senate has from the foundation of the government exercised the power of amending treaties. It has constantly given its "advice and consent" in that form. The practical question to be considered, so far as arbitration is concerned, is whether a general treaty might not be put into such form that the Senate would approve it without requiring each case actually submitted to be made the subject of a new treaty, so that the formulation of the issue to be determined by arbitrators and of the periods within which they were to act might be treated merely as a matter of procedure to be carried out by the executive.

To assert, as an abstract proposition, that the Senate cannot, without abdicating its constitutional functions, approve a general arbitration treaty in such a form, would be to claim for it a more extensive supervision of executive action than is enjoyed by other parliamentary bodies which have a voice in the making of treaties. By article 8 of the constitutional law of France of July 16, 1875, it is provided that "treaties of peace and of commerce, treaties which involve the finances of the state, those relating to the persons and property of French citizens in foreign countries, shall become definitive only after having been voted by the two chambers." [37] The constitutions of other countries contain similar or analogous clauses. And yet the Anglo-French arbitration treaty, on which the American treaties were modelled, was approved by the French chambers; and it is believed that in no case was any parliamentary difficulty created in carrying into effect the other European treaties. Nothing therefore can be drawn from the constitutional law and practice of other countries to support the proposition that the Senate of the United States cannot legally approve any general arbitration treaty in such a form that it can be executed without making subsequent special treaties. The Hague convention, which was approved by the Senate, has so far been carried into effect by the president by special executive agreements, but the only questions so submitted have related to pecuniary claims against foreign governments.

It may be affirmed that in the execution of every law the executive is invested with more or less discretion, and in some cases the powers thus committed to him have been of a very sweeping character. For example, by the act of June 4, 1794, the president was authorized, during a certain period when Congress was not in session, to lay an embargo on ships in American ports, "whenever, in his opinion, public safety shall so require."[38]

By the act of June 13, 1798, suspending commercial intercourse between the United States and France, the president was authorized to restore such intercourse in case France should, before the next session of Congress, "clearly disavow" and "refrain from aggressions, depredations and hostilities" which she had encouraged and maintained against the vessels and other property of American citizens, and should also acknowledge the claim of the United States to be considered as neutral in the then existing European war.[39] By the act of December 19, 1806, the president was authorized to suspend the operation of the non-importation act, "if in his judgment the public interest should require it." [40] Similar powers were conferred on the president by the non-intercourse acts of March 1, 1809, and May 1, 1810.[41] Power has also repeatedly been conferred upon the president to suspend the imposition of discriminating duties, in case he should be satisfied that the discriminating or countervailing duties of other foreign nations had been so modified as not to operate to the disadvantage of the United

Footnotes at end of article.

States.[42] By the act of March 23, 1879, the president was authorized to suspend the judicial functions of United States consuls in Egypt whenever he should receive satisfactory information that tribunals competent to render impartial justice had been organized there.[43] Under the act commonly known as the civil service law, wide discretionary powers were committed to the president.

The validity of legislation of this character has repeatedly been affirmed, one of the later instances being the action of the supreme court of the United States in sustaining the constitutionality of section 3 of the tariff act of October 1, 1890, by which, as has heretofore been seen, the president was empowered to impose certain duties on various articles imported from foreign countries in case he should be of opinion that the duties charged in such countries on products of the United States were "reciprocally unequal and unreasonable." [44] It was contended that this section was unconstitutional, as delegating to the president both legislative and treaty-making powers. The court, after an exhaustive examination of the subject, decided that the section was constitutional, holding that it merely made the president the "agent of the law-making department to ascertain and declare the event upon which the expressed will was to take effect." It is true that the court in another place spoke of the imposition of duties being required when the president ascertained the existence of a "particular fact;" but it is obvious that under the statute the so-called "fact" was the declaration by the president of the opinion that, in his judgment, the duties imposed were "reciprocally unequal and unreasonable." The unconstitutionality of an act of Congress is a fact, after the court has announced it; but prior to such announcement the question whether the act is unconstitutional involves not the ascertainment of a fact but the exercise of judgment. In no other sense was the president's declaration that certain duties were "reciprocally unequal and unreasonable" the declaration of a fact.

FOOTNOTES

[1] Foreign Relations of the United States, 1882, pp. 419–426.
[2] Report of Mr. Olney, secretary of state, to the president, Dec. 7, 1896, For. Rel. 1896. See, also, *ibid.* p. 438.
[3] See Report of Mr. Rockhill, Nov. 30, 1901, Senate Doc. 67, 57th Congress, 1st session; reprinted as Appendix to Foreign Relations, 1901, vol. iii, pp. 312–318.
[4] Executive Journal of the Senate, vol. vi (1841–45), pp. 275, 276, 321.
[5] 17 U.S. Statutes at Large, 283.
[6] 17 *ibid.* 304.
[7] 17 U.S. Statutes at Large, 287.
[8] For the act of March 3, 1891, see 26 U.S. Statutes at Large, 1110; also, Foreign Relations, 1892, pp. 258–266.
[9] 21 U. S. Statutes at Large, 502; Senate Doc. 20, 56th Congress, 2d session, pp. 334, 337.
[10] Foreign Relations, 1895, pp. 759, 763, 765.
[11] 18 Statutes at Large, 176.
[12] 12 *ibid,* 528.
[13] See, especially, *Congressional Globe,* 41st Congress, 3d Session (1870–71), part 2, pp. 763–765; part 3, pp. 1821–1825.
[14] Foreign Relations, 1885, pp. 460–469.
[15] For the correspondence and the joint resolution, see Foreign Relations, 1894, appendix i, pp. 364–450; *ibid.* 1895, part ii, p. 1163.
[16] Foreign Relations, 1895, part ii, pp. 1162, 1163, 1166, 1170, 1171, 1176.
[17] John W. Foster, "The Treaty-Making Power," *Yale Law Journal,* December, 1901, vol. xi, pp. 77, 79.
[18] American State Papers, Foreign Relations, vol. i, pp. 174, 175.
[19] Executive Journal, vol. xi, p. 142.
[20] Moore, International Arbitrations, vol. ii, p. 1857.
[21] Moore, International Arbitrations, vol. ii, p. 1855.
[22] Foreign Relations, 1902, pp. 857, 861.
[23] Moore, International Arbitrations, vol. ii, pp. 1733–1747.
[24] Moore, International Arbitrations, vol. ii, pp. 1019–1053.
[25] *Ibid.* vol. ii, pp. 1426–1446.
[26] Moore, International Arbitrations, vol. ii, p. 1859.
[27] *Ibid.* vol. ii, p. 1809.
[28] Foreign Relations, 1901, p. 276.
[29] *Ibid.* 1897, pp. 382–388.
[30] *Ibid.* 1902, appendix ii.
[31] *Ibid.* 1900, p. 674.
[32] Foreign Relations, 1900, p. 824.
[33] Moore, International Arbitrations, vol. ii, p. 1862.
[34] Foreign Relations, 1897, p. 479; Moore, International Arbitrations, vol. ii, p. 1908.
[35] *E.g.,* conventions with China, November 8, 1858, and September 7, 1901; with Colombia, September 10, 1857, art. iii; with Costa Rica, July 2, 1860, art. iv; with Ecuador, November 25, 1862, art. iii; with Mexico, April 11, 1839, art. vi, and January 30, 1843, art. iv; with Peru, March 17, 1841, art. vi; with Venezuela, February 17, 1903, art. v.
[36] Foreign Relations, 1881, pp. 1217–1218.
[37] Crandall, Treaties, Their Making and Enforcement, p. 178.
[38] 1 Statutes at Large, 372.
[39] 1 *ibid.* 565, 566.
[40] 2 *ibid.* 411.
[41] 2 *ibid.* 528, 605, 606.
[42] 3 *ibid.* 224; 4 *ibid.* 3.
[43] 18 *ibid,* 23; 19 *ibid.* 62.
[44] 26 Statutes at Large, 567.

AMENDMENT NO. 218

Mr. PROXMIRE. Mr. President, I have an amendment at the desk. I ask that the name of Senator BIDEN, of Delaware, be added as a cosponsor and that it be called up and made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered and the amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, add the following new section:

NINETY-DAY FREEZE

Section —. The Economic Stabilization Act of 1970 is amended by inserting after section 203 the following new section:

"203A.

"(a) Immediately upon the enactment of this section, the President shall issue an order to establish a ceiling on prices, rents, wages, salaries, interest rates, and dividends for a period of 90 days from the date of enactment of this section, at levels not greater than the highest levels pertaining to a substantial volume of actual transactions by each business enterprise or other person during the thirty-day period ending June 4, 1973, for like or similar commodities, services, or transfers, or, if no transactions occurred during such period, then the highest applicable level in the nearest preceding thirty-day period.

"(b) The ceiling on prices required under subsection (a) shall be applicable to all retail prices and to wholesale prices for finished or processed goods and services and to such additional prices as the President deems necessary to achieve the purposes of this Act.

"(c) The ceiling on interest rates required under subsection (a) shall be applicable to interest rates on mortgage loans for single or multi-family dwellings, installment or non-installment consumer credit loans, loans to family-sized farms for farm production or capital improvement, loans to small business concerns as defined under section 3 of the Small Business Act, and such additional interest rates as the President deems necessary to achieve the purposes of this Act.

"(d) The President shall by order require reductions in the ceiling with respect to particular prices, rents, or interest rates whenever the President determines such reductions are necessary to

"(1) rescind price, rent or interest rate increases since January 11, 1973 which were in violation of the guidelines established under the authority of this Act; or

"(2) stabilize profits at the level realized during the period referred to in subsection (a).

"(e) The President may, by written order stating in full the considerations for his actions, make such exceptions and variations to the orders required under this section as may be necessary to prevent gross inequities and hardships.

"(f) The President shall, not later than 90 days after the enactment of this section, and after consultation with the Congress and with representatives of labor, business, farmers (including family farmers), and consumers, issue orders and regulations replacing the freeze required by subsection (a) with a firm, fair and equitable long-run control program to

"(1) stabilize prices, rents, wages and salaries in order to reduce inflation; and

"(2) stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth. The details of this program shall be submitted to the Congress at least 30 days prior to the date it is scheduled to go into effect.

"(g) The long-run control program required under subsection (d) shall take into account the fact that workers wages have fallen behind in the inflationary cycle."

Mr. PROXMIRE. Mr. President, this amendment provides a temporary freeze on prices, wages, profits, rents, and consumer interest rates, right across the board. The purpose of the amendment is to pave the way for an effective anti-inflation program to replace the present disastrously ineffectual phase III.

I expect to call up this amendment tomorrow.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator from Minnesota.

Mr. MONDALE. I am preparing some proposed amendments that I wish the principal sponsor of the amendment would consider.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MONDALE. As the Senator from Wisconsin knows, and as he has often commented, one of the difficulties of this whole effort to try to restrain perhaps the most serious peacetime inflation in American history is the special problem that arises from the fact that in the last year wage restraint has been truly remarkable. Statistics show that while executive salaries soared and corporate profits are reaching all-time highs, breaking all records, and while the cost of living has risen so dramatically, the

American worker has less purchasing power today than he had 6 months ago.

I know the Senator from Wisconsin is aware of this and that he has commented on it.

Mr. PROXMIRE. The Senator is absolutely correct. This year the rise in wages has been less than last year and the rise in prices has been high, at an annual rate of 7.2 percent. The Senator is correct that wage earners are making less in terms of real earnings than they were 6 months ago, so they have been hurt very badly by this inflation.

Mr. MONDALE. Yes. The Senator will recall that at the time we worked on the resolution in the Democratic caucus, which is what the Senator is proposing, the Senator from Rhode Island (Mr. PELL) proposed that in the administration of any such action the Executive must take into account the fact that the average American worker slipped behind in the inflationary cycle.

In any event, in order to deal with that problem, I will have some amendments that I will suggest. I shall try to get them in the RECORD tonight so the Senator can look at them.

Mr. PROXMIRE. I am familiar with that, and I have provided in my amendment that consideration should be given to the fact that wages have been eroded by inflation and that this should be taken into consideration when the control program is worked out. The freeze is a temporary 90-day freeze, and the purpose is to provide an equitable and much more effective system to hold down prices. I hope the wage adjustment can be made after the freeze is over, but I also hope we do not incorporate amendment mandating a wage increase of 10 percent. I feel that if a catchup were permitted on the basis of the erosion of money wages by inflation we already have had, and taking the productivity factor into account, this would permit wage guidelines of almost 10 percent and that would gut the program.

Mr. MONDALE. I think there are three problems I would like to deal with in my amendment. First, the problem of exempting workers earning $3.50 an hour or less. That is the law based on the Proxmire amendment which we passed in the extension of the Economic Stabilization Act. I believe they should be exempt. Second, any increases that might arise as a result of increases in the minimum wage that deals with the poorest factor of the working people of America. It seems to me it is the area that has been ravaged the worst by this administration by unfairness in the administration of the Economic Stabilization Act.

This is the amendment that seeks to deal with the fact that the average worker's income has lagged tragically behind in this inflationary cycle. I would like that amendment to deal with it in a way that does not refuel inflation, but has some catchup possibility for the workers of our country.

Hopefully I will be presenting those amendments this afternoon. I will send one to the Senator's office immediately and maybe he will have a chance to review the others.

Mr. PROXMIRE. I hope we can work something out that we can agree on.

Mr. MONDALE. I thank the Senator.

QUORUM CALL

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

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

THE COMING SUMMIT MEETING BETWEEN PRESIDENT NIXON AND LEONID BREZHNEV

Mr. FULBRIGHT. Mr. President, there has just come to my notice at this moment an article from the current June 18, 1973, issue of U.S. News & World Report. I ask unanimous consent that the article entitled "A Risky Time for Bargaining," an interview with Senator HENRY M. JACKSON, may be printed in the RECORD.

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

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, in the article to which I have referred, the junior Senator from Washington, (Mr. JACKSON), proposes that the visit of Mr. Brezhnev, the Secretary of the Communist Party, be postponed. Mr. Brezhnev is due to arrive in Washington next Sunday.

This visit has been planned for some time. I merely wish to express my deep regret and state to the Senator from Washington that I think it is much too late to make that suggestion. I am afraid it will be misinterpreted by Mr. Brezhnev and his countrymen.

For well over a year this country's policy has been to seek a better understanding and relations with Russia. I thoroughly approve of that policy. I very much regret any action that endangers implementation of the policy of close relations, or "detente" as some people call it, with Russia.

Although I never expect any great things to come of these meetings, they do increase the prospect of understanding for future relationships. There have been several articles recently indicating important economic transactions with Russia are in the making.

Goodness knows, they are very important for this country, as they are for Russia. I think the country and, I would hope, everyone who is interested in the economic stability of this country would feel it would be to our mutual advantage.

I do not understand any viable, reasonable alternative to better relations with Russia, China, and other countries. I do not know why we cannot move to cooperation with those countries.

I will end by recalling a comment I saw the other day in the newspaper with regard to Russia: "We seem to be too frightened to fight and too stupid to cooperate." It looks as though that is about the policy we are operating under.

In any case, I hope the Russians will not take this statement as representative of the sentiment of the full Senate. It certainly does not represent my views. I hope the visit comes on schedule and that the visit is a successful one.

EXHIBIT 1

A RISKY TIME FOR BARGAINING

(Interview with Senator HENRY M. JACKSON)

Q. Senator Jackson, in contrast to most people in Congress, you seem to be "down" on the coming summit meeting between President Nixon and Leonid Brezhnev. Why is that?

A. I believe that it's a very, very poor time for the President to be meeting with Mr. Brezhnev. I think the meeting should be postponed—not canceled, but postponed. That would be the wise course.

Q. Why do you feel that way?

A. Because there are too many pressures on the President. This is a risky time for him to be bargaining with the head of an extremely powerful country in terms of trying to work out disagreements that run very deep.

Mr. Brezhnev will be coming here right in the fury of the Watergate hearings on Capitol Hill. Surely Mr. Brezhnev is not so high-principled that he's going to forego the temptation to take advantage of that situation.

The Russians are past masters at following the political situation. I think Mr. Brezhnev is extremely conscious of the advantages from his point of view.

Q. What advantages?

A. The Soviet Union is in deep economic trouble. But it is moving ahead militarily. The Soviet Union knows that the Western world is in a crunch in the Persian Gulf on energy. There are just lots of opportunities for the Russians to take advantage of a situation that could be very serious from a Western point of view.

I don't know what is being proposed in connection with this meeting. If it's a meeting that will be more or less cosmetic, that's one thing. But if serious negotiations are going to take place, that's something else. I have no idea whether or not some harmful, one-sided concessions are going to be made by our Government, but that would trouble me.

Q. Does Brezhnev come here politically strong?

A. Yes. I think that Mr. Brezhnev has strengthened his position in the Politburo. He has brought in Marshal Andrei Grechko, who is the Defense Minister and a career military officer. He has brought in the head of the secret police—the KGB. And he has brought in Andrei Gromyko, the Foreign Minister. So Brezhnev comes here at the peak of his political power.

Q. Despite internal problems in Russia?

A. Yes. He really must lean heavily on the United States for economic help, and I want to emphasize that point. The Soviets cannot supply the food and the fiber that they need for their own people within their own borders. There are not enough consumer goods, and quality is poor. The supply system is bad. They can't get help from the European satellite countries. The satellite countries need economic help from them.

I believe that our economic power at this point in history can be far more effective than our military power alone. It is a trump card. We ought to use this economic power to our advantage.

Q. In what way? What should we try to get with our economic power?

A. I would put top on the list the freer

movement of people, the freer movement of ideas across frontiers. This could be the beginning of a course of conduct which could make for less tension in the world. That's why I have pushed so strongly to use our economic power to make it possible for just a tiny bit of freedom to seep through the Iron Curtain.

I'm speaking now of my insistence that the Russians open the way for Jews or others to migrate out of Russia as a condition of the trade concessions—most-favored-nation treatment and U.S. Government credits and guarantees—that the Russians are seeking and that require congressional authorization.

I simply say that after a lapse of 25 years, it's high time they implement the Universal Declaration of Human Rights, which the United Nations adopted. It says, among other things, that a person shall have the right to leave a country freely. I would hope that the Soviet Union would permit the people who want to leave to leave.

Q. Haven't the Russians said they were abandoning their exit tax on Jews?

A. That's the biggest hoax pulled in quite a while. They put the tax on last summer. Then they announced that they were taking the tax off. When the American presidential election was over last November, they put the tax back on. Now they have removed it again.

The tax is just a cover for a policy prohibiting thousands of people, Jew and gentile alike, from leaving. Tax or no tax, if you apply for an exit visa you may lose your job, get thrown in jail, put in an insane asylum. They tell you, "You can't go."

There are a lot of dissidents in the Soviet Union who are not Jewish. Solzhenitsyn, the writer, is gentile, Sakharov, the great nuclear physicist, is gentile.

My interest here is to use our economic power to extend human freedom just a little bit.

I think the greatest crime committed by the Western world occurred during the 1930s, when we failed to listen to Winston Churchill. He alone cried out for action against Nazi Germany, and we stood idly by while millions of people were put in the ovens.

We're on notice now that there are millions in Russia who want greater freedom. We know that many of them have been in concentration camps. I talked to one scientist who spent half his life in a forced-labor camp in Russia. Let's face it, this is a concentration camp. And the things that are going on shock the conscience of people of good will everywhere.

I'm disappointed in the President's position on all of this. I've been reading some statements that he made back in 1963. The United States, he said, should be willing to sell wheat to the satellite countries as a business deal provided that the government involved gives some greater degree of freedom to the people in these countries, in particular the freedom to emigrate. Well, I couldn't agree more. I'm just trying to implement his 1963 promise.

Q. Do you oppose more trade with Russia, then?

A. Not when it serves our larger interests as well as their economic interests. I cosponsored the East-West Trade Relations Act in 1971. But East-West trade must be *mutually* beneficial. Look what happened in last year's grain deal. The Russians bought wheat at subsidized prices of $1.60 a bushel when they should have been paying the full price. The American taxpayer ended up subsidizing the Russian housewife to the tune of more than 300 million dollars, and the American housewife ended up paying higher prices for beef and other grain-based foodstuffs. Our shipping and grain-transportation systems have been severely disrupted. On that deal, at least, the Soviets got the wheat and we got the chaff.

Why should we underwrite credits to the Soviet Union? Are they doing that sort of thing for us? We're so anxious to do business—any kind of business—that we'll agree to anything.

I recall that Lenin, in discussing the grave economic difficulties in the Soviet Union in the 1920s, said: "But, comrades, don't let us panic. If we give the *bourgeoisie* enough rope, they'll hang themselves." Karl Radek, a member of the C. P. Central Committee and co-worker of Lenin, asked: "Where are you going to get the rope to give the *bourgeoisie?*" Replied Lenin: "From the *bourgeoisie.*"

Q. Are we as anxious for their natural gas as they are for our food?

A. No, I think it would be unwise for the United States to invest some 6 billion dollars or more in a liquefaction program that would convert their natural gas to liquid form and ship it to the United States. That gas probably would cost us as much as $1.50, possibly more, per thousand cubic feet shipped to New York City. Gas from Texas and Louisiana now costs about 70 cents per thousand cubic feet in New York City. Even though those domestic prices will go up some, the Russian gas is still a total disadvantage for us from an economic point of view.

The American consumer would be subsidizing the Soviet Union. We'd be driving our prices way up.

Russian gas is a good deal for the Japanese. They could run a pipeline from Siberia into the Japanese islands without having to go through the cost of liquefaction. This would help to relieve the demand for fuel from the Middle East. The Japanese now get 90 per cent of their petroleum from the Persian Gulf. Europe gets 80 per cent, and we're just now beginning to draw heavily on the Persian Gulf. That area poses a real, real problem.

Q. Is our need for oil from Arab countries in the Mideast so great that it may cause us to change our support for Israel? Is there a middle ground for the U.S.?

A. The average American gets the idea that our trouble in the Middle East stems from our support for Israel. Nothing could be further from the truth. The facts are that if Israel did not exist, Jordan would have disappeared. Saudi Arabia, which has over half the known oil reserves in the world outside the Soviet Union, would have disappeared from the map, and maybe Lebanon, too. The problem in the Middle East is the have-not Arab countries against the haves.

The two stabilizing factors in the Middle East are Israel and Iran. It's only Israel and Iran that could prevent an overrunning of the regime in Saudi Arabia. A key country that we're concerned about for oil for the U.S. is Iran. Iranians are Moslem, but they aren't Arab. They have a relatively close alliance with Israel. Iran is a crucial country.

Then there is Kuwait. What's the threat to Kuwait? Israel? Not at all. It is Iraq, backed by the Soviet Union. What's the threat to Saudi Arabia? The have-not Arab countries: Egypt, operating through Yemen as they did several years ago; Syria, and Iraq, a country with a lot of oil but with an extremist Government in power.

These are the real threats to the security of oil supplies out of the Gulf. It's not Israel that's the problem in the Middle East.

Q. Are you afraid the Russians are about to take over the Middle East?

A. No, no—not that. What they propose to do is to manipulate the situation and control the moves of certain Moslem countries in ways that favor Russia and are unfavorable to the West: encouragement of radical elements, withholding the shipment of oil. Even the latest run on the dollar may well be traced to some of that activity in the Middle East.

Q. What in your opinion is the most dangerous place in the world for the United States?

A. I think the Persian Gulf. The Russians have moved their attention from the Mediterranean to the Gulf. As long as we can keep the Suez Canal closed, it will keep the Russian navy from moving freely from the Mediterranean into the Gulf.

Q. You want to keep the Suez Canal closed. Is that correct?

A. Yes. I can't understand our State Department announcing that we want to open the Canal as a gesture of good will. That would mean the distance between Odessa in the Black Sea, where the Russians base their Southern Fleet, to the Persian Gulf would be some 4,000 miles, compared with perhaps 8,000 from Vladivostok to the Persian Gulf, the principal route the Russian Navy uses with the Canal closed.

Q. It's one of the long water routes in the world, isn't it?

A. That's right. But as far as the United States is concerned, reopening the Suez Canal would not help our Navy. The Canal is not deep enough and wide enough for our carriers to use, and our carriers are the key instrument by which we operate in those areas.

Secondly, the Western world would not be able to use the Canal for tankers. Our oil tankers now are 250,000 tons, and they're going on up to 500,000 tons. They draw 90 feet of water. It would take seven years to widen and deepen the Canal so that it could handle our fleet and use our tankers.

Q. So the Russians could use the waterway for the vessels they wanted to get through, but the West couldn't—

A. There isn't any doubt that there are two things that the Russians are interested in in the Persian Gulf:

One is their historic interests in warm-water ports. There have been various grand designs in that direction since the Czars. That's why the Shah [of Iran] is so uptight on this issue.

Secondly, the Russians recognize that within this limited area is 80 per cent of the known oil reserves of the world—80 per cent. Europe is completely dependent. Japan—the industrial heartbeat in the Orient—is completely dependent. And there is nothing the U.S. can do except get more of our oil supply from that area.

Last year we imported about 27 per cent of our oil needs. This year we're going to import 35 percent. By 1976 or '77, we will import about half of our needs, and the great bulk of the increase, as we go from 27 per cent up to 50, will have to come out of the Persian Gulf.

CHINA VERSUS RUSSIA: HOW THE UNITED STATES FITS IN

Q. Senator Jackson, what role, if any, should the United States play in the relationship between the Soviet Union and mainland China?

A. The United States has a lot of good will in China. We were the only major power that did not seek or exercise genuine control over pieces of Chinese territory, as others did. American missionaries, teachers and doctors went to China. There is a whole generation of Americans who did so much to bring education and medicine and help to China.

It seems to me that our role is this:

We are in a position to help restrain the Soviet Union from making any military move against China. This probably is why the Chinese are extremely receptive toward the United States and will be most co-operative.

On the other hand, the Russians are in serious economic trouble and need our economic help. So we can use both our economic power and our strategic powers as deterrents to war and as a means of lessening tensions in the world.

I want to say that it is vital that we maintain the credibility of our strategic deterrent.

The Chinese have been rather outspoken on this subject in their talks with Western diplomats. The Chinese felt we were "taken" in SALT I [first round of strategic-arms-limitation talks between the U.S. and Russia], and I agree with them. They want to see a stronger NATO, and I agree with them. We want the kind of world in which one day we can really live in peace.

Q. The Chinese seems unhappy with MBFR—mutual and balanced force reduction talks about troops in Central Europe. Are you?

A. Well, I'm very unhappy with the way it's going. If we could have a mutual pull-back of forces, it would be important from the standpoint of bringing about a genuine European settlement, which we've been seeking since the end of World War II. It also would mean a pull-back of Russian forces from the satellite countries. I'm talking about East Germany, where the Russians have over 20 divisions. I'm talking about Hungary and Poland and Czechoslovakia.

So MBFR could help to lessen tensions and it would help to provide some encouragement—a little bit of freedom—for the satellite countries. The hobnailed boot has been in those countries since Hitler took over in 1938. That's all most of those people have known: first, the Nazi hobnailed boot and then the Russian hobnailed boot.

Q. Over all, Senator, how would you rank the U.S. as a world power in comparison with the Soviet Union?

A. From a military point of view, our power in strategic terms in relation to that of the Soviet Union has steadily changed. This trend was dramatically evident in connection with SALT I.

In SALT I we agreed, on an interim basis, to a so-called freeze, which spells out specifically the strategic differences between the United States and the Soviet Union. In that agreement, the Soviet Union was permited to have 1,618 land-based intercontinental ballistic missiles to our 1,054. They were permitted 62 strategic-type submarines—what we call Polaris submarines—to our 44.

Over all, then, they were given more intercontinental strategic missiles—land-based and sea-based. The over-all throw weight—the size of the missile—permitted was 4 to 1 in their favor.

I believe this best sums up the change that has taken place in U.S. strategic power vis-a-vis the Soviet Union.

WHY KREMLIN WILL GROW TOUGHER

Q. Does this put us in a bad position?

A. This doesn't mean what the average person might assume: the threat of nuclear war. What it really means is that the element of risk-taking has gone up by a substantial factor. For example, when the Soviet Union did not have a single nuclear weapon, they were able to take over Czechoslovakia in 1948. In 1956, as they acquired a few weapons, they were able to overrun Hungary a second time. Then in 1962, when we still had a 7-to-1 advantage in strategic arms, they took a great risk by putting missiles in Cuba.

Now, one has to ask oneself the very simple question: What would the risk factor be should they get a substantial advantage over the United States?

I would say we will have a more difficult Soviet Union in the period ahead. Soviet nuclear strength coupled with their growing conventional surface forces compounds our problems. It could have special meaning in places like the Persian Gulf, and the Middle East in general.

Q. Even though we have given Russia an advantage in numbers of missiles, the argument is made that multiple, independently targeted re-entry vehicle warheads—MIRV's—on our rockets balance things out. How do you see that?

A. But SALT I does not prohibit the Russians from working on MIRV technology. MIRV could compound the Soviet numerical advantage, because they have more and larger vehicles on which to put MIRV's.

For example, the Russian SS-9 has a megatonnage yield of 25 megatons. Our biggest missile other than the 54 Titans, which we may phase out, is the Minuteman which has less than a 2-megaton yield. Then there is the follow-on to the Soviet SS-9—let's call it the SS-17—which has a yield of 50 megatons-plus.

Science and technology do not rest on a plateau. No matter what kind of agreement we have, it seems virtually impossible to freeze—really freeze—the development of science and technology.

The question is: Would an American President be able to protect our freedom and the freedom of those associated with us if we were in a position of strategic inferiority? I think this is a proper question.

Q. In light of this, should we build up our military strength, or can we trim back more than we have already?

A. What I would like to find out first is whether the Soviets are really moving toward *détente*.

One way to find out would be to see if they, in connection with all their economic troubles, would be willing to cut back on strategic arms so they could use a larger proportion of their resources to help their own people enjoy a better standard of living.

Today we have a golden opportunity to go to the world and find out who really believes in peace—who wants to cut back arms so that there will be more bread, as the saying goes, for people.

I just hope that the President would take advantage of this opportunity and take his case to the world and say: "Here's where America stands. Who are the ones that are preventing meaningful arms control? Is it the United States? We want to cut back. The Russians are in deep economic trouble. Shouldn't they be cutting back?"

I would like to see our land-based strategic forces cut back, let's say, to 900 land-based missiles. Let's cut back our submarine strategic forces to 35. And let's have the Soviets do the same, both in numbers and in the size of their missiles.

Q. What if the Russians don't agree to do that?

A. If we can't get parity, the only alternative is to build up, particularly our sea-based forces, so that they will be more survivable. The Trident submarine program, for instance.

Q. When does the U.S. find out if the Russians are serious about slowing the arms race? In the second round of SALT talks now going on?

A. Yes, in SALT II. This is what the objective should be.

There are all sorts of estimates as to the percentage of the Soviet gross national product that is being spent for arms. I've seen figures as high as 30 per cent or more. Our percentage of GNP for arms is only about 6 per cent.

So there is a good opportunity, if Mr. Brezhnev is going to come to Washington, for the President to say to him: "We would hope that, assuming your desire to improve the standard of living of your people—and we want to help—you will show some real evidence of it. Let's have both sides scale down the level of armament."

Q. What do you think is going to happen on arms during the Brezhnev visit here?

A. I don't know. It's my understanding that there wouldn't be much on SALT II in connection with Mr. Brezhnev's visit. The issues are too complex, in that short time, to work out an adequately safeguarded agreement. There is likely to be more on Europe—mutual balanced force reduction effort, attempts to make some headway toward a European settlement, and I assume some new initiatives in the economic and technological area and in cultural exchanges.

WHERE AMERICA WIELDS GREAT POWER

Q. You want the President to be tough in dealing with Brezhnev, to use his bargaining power on the economic side to extract something on the military side—is that right?

A. The economic power of the United States is enormous. Never in our history, in relation to other countries, has our economic power been greater—despite all our troubles at home and despite recessions and an inability to fine-tune the economy so that we can do all the things we'd like to do; despite the weakness of the dollar abroad.

Our free-enterprise system is the most productive in the world. Coupled with what we've done in agriculture, coupled with what we have been able to do through science and technology, it is without a doubt the most productive system ever devised by a free people.

And here the Soviet Union, after more than 50 years of Marxist-Leninist-Stalinist-now-Brezhnev economics, is still badly off and floundering economically.

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

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

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

(Subsequently, this order was changed to provide for the Senate to convene at 12 noon tomorrow.)

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees under the standing order tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes each.

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

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

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

ORDER FOR ADJOURNMENT UNTIL NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

ORDER FOR CONSIDERATION OF S. 1248 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of routine morning business on tomorrow, the Senate return to the consideration of the unfinished business, S. 1248, a bill to authorize appropriations for the Department of State, and for other purposes.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 o'clock noon tomorrow.

Following the recognition of the two leaders or their designees under the standing order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

At the conclusion of routine morning business, the Senate will return, in legislative session, to the consideration of the unfinished business, S. 1248, a bill to authorize appropriations for the Department of State, and for other purposes. The question at that time will be on the adoption of the Proxmire amendment.

Yea and nay votes are expected. Also a yea and nay vote is anticipated tomorrow on the nomination of Robert H. Morris, to be a member of the Federal Power Commisison. That vote may come on a motion to recommit. I am not sure at this time. However, in any event, there will be a yea and nay vote in relation to the nomination of Robert H. Morris to be a member of the Federal Power Commission on tomorrow.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 12 noon tomorrow.

The motion was agreed to; and at 4:40 p.m. the Senate adjourned until tomorrow, Tuesday, June 12, 1973, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate June 11, 1973:

THE JUDICIARY

Thomas G. Gee, of Texas, to be a U.S. circuit judge, fifth circuit vice Joe McDonald Ingraham, retiring.

U.S. ATTORNEY

George W. F. Cook, of Vermont, to be U.S. attorney for the district of Vermont for the term of 4 years. (Reappointment)

CONFIRMATIONS

Executive nominations confirmed by the Senate June 11, 1973:

U.S. AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Gordon M. Graham, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Donavon F. Smith, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

The following officer to the grade indicated under the provisions of title 10, United States Code, chapters 839 and 841:

To be temporary major general

Maj. Gen. Earl O. Anderson, [redacted] FV, Air Force Reserve.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Royal B. Allison, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John H. Hay, Jr. [redacted], Army of the United States (major general, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general

Col. William R. Wray, [redacted], U.S. Army.

Col. Harry A. Griffith, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Volney F. Warner, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William L. Mundie, [redacted], U.S. Army.

Col. Roscoe Robinson, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Edward A. Partain, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Hillman Dickinson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Wallace H. Nutting, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Fred C. Sheffey, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles C. Rogers, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James B. Vaught, [redacted], U.S. Army.

Col. Charles K. Heiden, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Bennett L. Lewis, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Ernest D. Peixotto, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. David E. Grange, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Oren E. DeHaven, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Leslie R. Forney, Jr. [redacted], Army of United States (lieutenant colonel, U.S. Army).

Col. Robert Arter, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James H. Merryman, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Bruce T. Coggins, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James M. Wroth, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John A. Smith, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Wesley E. Peel, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James G. Boatner, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James C. Donovan, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Vernon B. Lewis, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Oscar C. Decker, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John S. Egbert, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Walter E. Adams, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Walter O. Bachus, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Lawrence E. Adams, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Warner S. Goodwin, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard E. Cavazos, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Benjamin L. Harrison, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William I. Rolya, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John N. Brandenburg, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John L. Osteen, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Edward M. Markham III, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James M. Rockwell, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. James M. Leslie, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert A. Holoman III, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Joseph R. Ulatoski, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Sinclair L. Melner, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Daniel H. Wardrop, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Lawrence S. Wright, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Kenneth R. Symmes, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles P. Graham, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Paul S. Williams, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert B. Hankins, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert J. Lunn, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. William E. Eicher, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Clyde W. Spence, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Eugene Kelley, Jr., [redacted], U.S. Army.

Col. Harold F. Hardin, Jr. [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Harley F. Mooney, Jr. [redacted], Army of the United States (major, U.S. Army).

U.S. NAVY

The following-named captains of the Navy for temporary promotion to the grade of rear admiral in the staff corps indicated subject to qualification therefor as provided by law:

MEDICAL CORPS

Robert G. W. Williams, Jr.
Paul Kaufman.
Robert C. Laning.
Robert L. Baker.
William M. Lukash.

SUPPLY CORPS

John C. Shepard.
Carlton B. Smith.
Thomas J. Allshouse.

CIVIL ENGINEER CORPS

Kenneth P. Sears.

DENTAL CORPS

Robert W. Elliott, Jr.

IN THE ARMY

Army nominations beginning Anthony J. Adessa, to be colonel, and ending Sidna P. Wimmer to be captain, which nominations were received by the Senate and appeared in the Congressional Record on May 8, 1973.

Army nominations beginning C. A. Anderson, Jr., to be colonel, and ending Peter E. Zalopany, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on May 8, 1973.

HOUSE OF REPRESENTATIVES—*Monday, June 11, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Open to me the gates of righteousness; I will go through them and I will praise the Lord.—Psalms 118:19.

Most gracious God; may we go forth into the hours of this new day with eager minds, earnest hearts and enthusiastic souls, fortified by faith, strengthened in spirit and ready with wit and wisdom for the duties that demand our attention.

Grant that in these troubled times Thy truth and Thy love may be our law by day and our light by night.

Take the mists from our eyes and the malice from our hearts as we strive to remove the barriers which separate people and nations and as we seek to bring them together in the friendly spirit of an invincible good will.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4443. An act for the relief of Ronald K. Downie.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, bill of the House of the following title:

H.R. 6768. An act to provide for participation by the United States in the United Nations environment program.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 645. An act to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes; and

S. 1115. An act to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT UNTIL MIDNIGHT TOMORROW

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tomorrow night to file a privileged report on the bill making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1974, and for other purposes.

Mr. SCHERLE reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

SNAKE AND SWEETWATER RIVERS DESIGNATED AS WILD AND SCENIC RIVERS, WYOMING

(Mr. RONCALIO of Wyoming asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RONCALIO of Wyoming. Mr. Speaker, today I am introducing two pieces of legislation which call for studies looking toward the designation of portions of the Snake River of Teton County and the Sweetwater River as wild and scenic rivers.

The Sweetwater bill calls for the study of about 10 miles of the Sweetwater River in Wyoming's Red Desert. This segment of the river runs through public lands, and through an area so rich in wildlife habitat that consideration is being given to putting the surrounding lands in a preservation category. The Sweetwater is near the historic Oregon Trail and in the area containing segments of the three major routes to Yellowstone National Park. It is also a major visiting site for rockhounds, campers, fishers, hunters, boaters, snowmobilers, and dune buggy enthusiasts. The Red Desert enjoys significant all-around recreational opportunities for Wyoming citizens and for tourists. One of its main rivers, the Sweetwater, certainly is deserving of inclusion in the wild and scenic rivers system.

The second river, the Snake, and specifically that portion beginning at the southern boundary of Grand Teton National Park to the Palisades Reservoir, includes about 35 miles of meandering waters whose beauty, serenity, and recreational value should be preserved. Some of the Snake River may be subject to gold mining and owners of some of the claims in this area—and I am one of these owners—have attempted to dispose of their claims for several years in a manner to assure the lasting protection of that part of the river on which they are now located.

Pending success in these efforts, however, the study should nevertheless proceed to designate the entire Snake River Valley for wild and scenic river status, and thus protect the entire area regardless of the limitation on property rights it may impose on me or on anyone else.

H.R. 8578

A bill to amend the Wild and Scenic Rivers Act of 1968 by designating a section of the Snake River in the State of Wyoming for potential addition to the National Wild and Scenic Rivers System, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 5 of the Wild and Scenic Rivers Act (16 U.S.C. 1276) is amended by adding at the end thereof the following:

"Snake, Wyoming: Beginning at the southern boundary of Teton National Park to the entrance to Palisades Reservoir.