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Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

SENATE—*Tuesday, September 11, 1973*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Reverend Dr. Lewis Raymond, pastor, the Old Stone Church, First Presbyterian, Cleveland, Ohio, offered the following prayer:

Heavenly Father, we thank Thee for having been wakened to this day and its possibilities, and for the great gift of life. Especially do we thank Thee for all who now from their labors rest; for loving parents who gave us birth, whose dreams and hopes went far beyond our imagination; for conscientious teachers who stimulated in us the search for truth; for unheralded priests, nuns, rabbis, and ministers, who developed in us the true spirit of humility and love; for long since forgotten neighborhood friends and chums who developed in us the spirit of competition as well as that of cooperation; for loving wives and children who watch us with respect and pride.

For all these, and for all others who have touched us and influenced us, we thank Thee.

Now allow us to sow the seeds of the things of this day, that their influence upon us shall not have been in vain, and that in this place, hallowed by the memory of those who served here before us, we may truly know that we do not walk alone.

Bless us, our Nation, and our world. In Thy most precious name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, September 10, 1973, be dispensed with.

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

ORDER OF BUSINESS

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time.

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Delaware (Mr. BIDEN) is now recognized for not to exceed 15 minutes.

PROPOSED SELECT COMMITTEE TO STUDY AND INVESTIGATE REGULATORY COMMISSIONS

Mr. BIDEN. Mr. President, just before the August recess, Senate Resolution 160 was introduced by the distinguished Senator from Minnesota (Mr. HUMPHREY) to establish a temporary Select Committee of the Senate To Study and Investigate the Regulatory Commissions of the U.S. Government. As its lengthy title indicates, the committee would be charged with conducting an intensive examination of the present operations and efficiency of the regulatory agencies. I would like this morning briefly to indicate what I believe are some of the areas of greatest concern.

There can be no doubt that the problem of agency performance is one of awesome magnitude. Regulatory commissions are vested with such far-reaching responsibilities that they have been dubbed "the fourth branch of government," a reasonably accurate assessment in light of their functional independence and power to affect the course of industry.

Agencies are, in fact, microcosms of our Federal system, exercising powers analogous to the three branches of Government: devising rules and regulations is a legislative task; formulating policy and implementing it are executive actions; and deciding controversies respecting contested matters before it is a quasi-judicial function. At the same time, regulatory bodies are created by the Congress, and must look to it for authority to regulate the industries within their ambit.

While Congress has delegated to the President certain controls over the agencies, such as the power to appoint commissioners, it is still the responsibility of Congress for the enabling statute, granting the agencies the authority which they have. This congressional-creating authority carries with it great responsibility for, once established, the agency must continue to operate within the framework of its legislative mandate, and has only such powers that have been specifically provided.

Over the years, the stresses and strains resulting from specific inadequacies in the administrative legislation have come to light, as well as inconsistencies in the power delegated to the different regulatory commissions. The wealth of suggestions for reform, and the controversy that has surrounded each proposal, is evidence of the need for a serious, comprehensive report to set out relevant considerations and point up areas for congressional action.

At present, it seems to me that too little hard, factual data is available for anyone to be able to make judgments on what substantive and procedural changes are in order.

The original pattern for regulatory legislation dates back to the Interstate Commerce Act of 1887. The ICC was charged to look to "public convenience and necessity" as the basic requirement for the performance of industry. Subsequent legislation echoed this language.

The Civil Aeronautics Act of 1934, for example, included the same standard for the Civil Aeronautics Board to consider in granting air carriage authorization. While such broad language has traditionally been supported in order to give administrative bodies as much flexibility as possible, perhaps it is time that Congress undertake a fundamental examination of the regulatory experience to amend or clarify its statutory directives in order to give further guidance or authority where needed.

New technological developments have created unanticipated problems. For example, both the ICC and the Maritime Commission regulate containerized shipments with differing policies at times, because their regulatory concerns are not necessarily consistent.

Another area of possible conflict of jurisdiction may arise between the Federal Power Commission and the Federal Communications Commission with respect to future supplies of power to be supplied by laser beams rather than across loadlines, because the technology apparently fits the language of both statutes. The complexity of such decisions is but one indication of the need for modern reanalysis.

A long-time criticism of the commissions has been that, because of the expertise which is the hallmark of their approach, both commissioners and staff tend to become representatives rather than regulators of the industries in their charge. The potential for this was noted before the turn of the century by then Attorney General Olney who advised a railroad president not to fight for the abolition of the ICC, because it could be of great use to the railroads. The ICC, he said:

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Satisfies the popular clamor for a government supervision of the railroads, at the same time that that supervision is almost entirely nominal. Further, the older such a commission gets to be, the more inclined it will be found to take the business and railroad view of things. It thus becomes a sort of barrier between the railroad corporations and the people and a sort of protection against hasty and crude legislation hostile to railroad interests . . . The better part of wisdom is not to destroy the Commission, but to utilize it.

I am not suggesting that the Interstate Commerce Commission is in fact such an important body today. I simply point out that there were others who had the same concern as I do about regulatory agencies, as far back as the turn of the century.

Consistent with this reasoning, regulators are on occasion heard to argue that whatever is best for the industry is best for the general public. While in some cases this may in fact be true, I think it presents a fundamental question as to the role of our regulators vis-a-vis the industries they are supposed to regulate. I realize this question is not new, but I would like to see it considered once again in light of past experience and in the context of the needs for the 1970's.

A related area for serious inquiry is the development of competing interests among agencies. The role of agencies in alternate transportation industries, including air, rail, and highways immediately comes to mind, as does the Federal Power Commission's concerns about natural gas supplies while the Atomic Energy Commission tries to encourage the development of a competitive fuel. I have no ready answers as to whether regrouping agencies is in order, or perhaps providing a better mechanism for interagency coordination, but I cannot help but ask whether or not our regulatory system is functioning most efficiently in this respect.

Another often heard criticism of our regulatory system is the inadequate opportunity for citizen participation in the decisionmaking process. Because decisions are made largely on the basis of material submitted to a commission, which comes generally from interested members of the industry, it is argued that the public interest is insufficiently represented. Such procedural difficulties as the relatively short published public notice before formal administrative action, and the relative obscurity of the information itself, add to difficulties of public participation in administrative action. Serious commentators on the administrative process, such as Roger Cramton, Chairman of the Administrative Conference of the United States, have argued for the desirability of broadened public participation in order to give decisions greater legitimacy and acceptance and to provide an expanded set of ideas, rewards and incentives for regulators. Recent court decisions expanding the law of standing will provide new opportunities for interested citizens to help in the determination of commission policy. Nevertheless, economic realities of such participation due to costs of information gathering and presentation may impair new opportunities for meaningful participation. I, therefore, would like very much to see a thorough study of some procedural improvements which have been suggested from time to time, such as the proposed creation of a separate Federal administrative court to have jurisdiction solely to review agency decisions. This proposal was made as early as the Hoover studies in the 1940's and renewed recently in the Ash report presented to President Nixon in January 1971. Other potential reforms such as a public ombudsman or consumer affairs department within each agency, or an independent public counsel corporation also deserve careful consideration. I look forward to a congressional study not only to reiterate past suggestions and evaluate them, but to provide sufficiently concrete information to lay the basis for meaningful legislation.

Another general area of concern that I would like to see studied is the process by which commissioners are selected. Originally, I believe, it was intended that commissioners would be able to bring special knowledge to their positions. However, political concerns have gradually come to erode the criteria of ability and expertise which were once thought to be the touchstone of regulation. The Landis report of 1960, which included an evaluation of regulatory personnel, noted: "A deterioration in quality, both at the top level and throughout the staff."

If this has remained so, perhaps Congress ought to consider specifying more definitely the qualifications for potential nominees, or at least provide some independent reviewing mechanism to raise the professional standards of commissioners and revitalize the regulation.

I have not attempted to canvass the field of issues which must be considered in evaluating the regulatory process, nor have I attempted to suggest answers. I hope, however, that my colleagues will join me in support of early passage of Resolution 160, so that we may promptly begin a much-needed task, and bring a complicated area into clear perspective.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield such time from my order as he may desire to the distinguished Senator from Oklahoma (Mr. BARTLETT).

Mr. BARTLETT. I thank the Senator from West Virginia.

TWO-TIER CRUDE OIL PRICE CONTROLS

Mr. BARTLETT. Mr. President, the Cost of Living Council's present two-tier price control system of crude oil is ill-conceived and impractical—and will create an economic nightmare if it is continued.

This system was implemented with the intention of encouraging increased exploration and production while preventing windfall profits to oil producers and royalty interest owners.

Two-tier pricing of crude oil actually will create windfall profits. As long as the price of any previously established crude oil production is held down, higher than fair prices will be paid for new production to strike an average price level. All comparable quality oil has the same value whether it is old oil or new oil. Why should not the price be the same too?

Already the difference in at least one instance between the price of "new" and "old" crude is $1.35 per barrel. At least one refinery in Louisiana is purchasing "new" crude oil for $5.60 while it pays only $4.15 per barrel for "old" crude.

The price for new oil will approach the price of crude oil on the foreign market more quickly if old oil prices are held down. In some cases the price of new oil will exceed the world price of foreign oil because a purchaser of crude oil will be willing to pay a very high price for new crude oil if he also can obtain old oil contracts with the new oil. The disparity between the price of new oil and old oil will increase drastically.

There is nothing to prevent virtually any amount—$25 per barrel for example—from being paid for "new" crude that is tied in with a contract for a sizable amount of "old" crude held to a lower price.

This disparity would create windfall profits of huge proportions for the ownership and royalty interests of the new production—and would be grossly unfair to the ownership and royalty interests of the old oil which has the exact same value.

Once this two-tier system gets well underway, and the disparity between the price of old and new oil increases, there will be strong pressure to continue it—just as there is with natural gas regulation. Investments will have been made at high prices for new crude oil. Those sellers of new oil will oppose removing the controls on old oil, because they will fear that the free market will move to create an average price between the old and the new prices causing a price reduction.

An equal concern would be expressed by the purchasers of crude oil and consumers that eliminating the ceiling on the price of "old" crude oil would lead to rapidly rising prices that would approach the price of new oil and that "windfall" profits would occur. Regardless of the reason for their bias, both viewpoints would have the same improper conclusion—that the two-tier system should not be abandoned.

The longer the two-tier system is in effect the harder it will be to go back to a free market situation for crude oil.

The decision to adopt the two-tier price control system by the administration is incomprehensible because this is the method of pricing we already have for the sale of natural gas at the wellhead and the administration recognizes it has failed miserably to provide sufficient energy supplies. Actually, natural gas is sold in a multitier system, because "old" natural gas and "new" natural gas sold in the interstate market are allowed different prices by the Federal Power Com-

mission and a third tier is created when natural gas is sold intrastate in a free marketplace.

Most energy experts place most of the blame for our domestic shortages of energy on the artificially and extremely low prices of natural gas established by the Federal Power Commission. They point out that the low price for natural gas has held down the prices of all competing fuels and has resulted in inadequate domestic supplies of all energy.

Past experience with the Federal Commission's control over natural gas shows the impossibility of raising sufficiently or removing controlled prices.

What about the argument that has been given by some in favor of the two-tier system of prices for crude oil that this will avoid "windfall" profits?

As I have already pointed out, the two-tier system will create huge "windfall" profits, not prevent them.

Inadequate prices for all fuels have resulted in about 50 percent less exploration and development activity for oil and gas as compared to 10 years ago.

"Shortfall" prices have produced "shortfall" profits—resulting in "shortfall" reserves and "shortfall" production of oil and gas—providing our "shortfall" of energy—shortages of oil and gas, which currently supplies 78 percent of the energy we use.

The free marketplace will replace any "shortfall" prices of energy with "fair" prices—not "windfall" prices. Fair prices will stimulate exploration and development of all sources of energy to eliminate eventually our shortage of energy. As shortages are eliminated, prices will decrease.

The price of foreign oil and gas has been skyrocketing because it is based on what the world market will bear. Foreign countries are taking full advantage of our "shortfall" supply of energy. They will continue to rise, until we permit the free market to establish fair prices—which will eventually eliminate our shortages.

The administration's two-tier system is an unworkable honor system that will place a huge administrative burden and financial expense on the industry and the Government.

The procedure that must be followed by sellers to determine the acceptable price which they can accept for their crude oil is complex and time consuming. An operator will have to sacrifice time, which could be spent trying to increase his production for the good of the United States, trying to determine by regulation the price which he might accept for the many different qualities of crude oil from the many different leases which he might operate.

The royalty owner is in an even more precarious position. The royalty owner might be totally unfamiliar with the crude oil pricing. Royalty interests are often owned by persons who may have no working knowledge of the petroleum industry and rely completely upon the operator to find a purchaser of the royalty interest crude oil. Under the current Cost of Living Council price regulations, the royalty owner would have to determine the price that he could accept for his crude oil independent of what the operator of the very same well could accept for his portion of the produced oil. This burden is entirely uncalled for.

Already it is a joke in the oil States that all the production of each State is now "new" crude oil eligible for the uncontrolled price.

The two-tier system on domestic crude oil prices is destined to be an even more dismal failure than the multitier system of natural gas prices which has more than any other factor caused our energy shortages.

The Nixon administration should immediately abandon the two-tier system of crude oil pricing by removing all price controls from petroleum and petroleum products.

Also, it should make an all-out effort to persuade Congress to remove all price controls on natural gas.

We can eliminate shortfalls of energy production by eliminating all controlled shortfall domestic prices and replace them with fair market prices.

This will also eliminate the "windfall" profits of the two-tier system and gradually reduce the currently gigantic "windfall" profits of the OPEC nations.

ORDER OF BUSINESS

Mr. BARTLETT. Mr. President, I yield my remaining time to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

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. 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.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

TEXTS OF ILO CONVENTION NO. 136

A letter from the Acting Assistant Secretary for Congressional Relations, transmitting, pursuant to law, texts of ILO Convention No. 136 and ILO Recommendation No. 144 (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish in the Department of Health, Education, and Welfare the positions of Deputy Secretary of Health, Education, and Welfare and an additional Assistant Secretary of Health, Education, and Welfare in lieu of the Under Secretary and the Assistant Secretary for Administration (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

PUBLICATION ENTITLED INDEX TO EPA LEGAL AUTHORITY

A letter from the Acting Director, Office of Legislation, U.S. Environmental Protection Agency, informing the Senate that they will be shortly receiving a new EPA publication entitled "Index to EPA Legal Authority." Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California. Referred to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION NO. 30

"Relative to aviation user taxes

"Whereas, The federal government has a vital interest in the development of a national air transportation system, and to this end has concentrated its efforts in the field of airport development to the major metropolitan areas of our nation whose airports serve the national and international traveler; and

"Whereas, State government has accepted as its role the development of those airports that will complement the national system and bring air service to the small communities of the nation; and

"Whereas, The federal government has levied user taxes of such magnitude on the aviation public so as to preempt the field of taxation; and

"Whereas, The national policy has been established as being one that will encourage the redevelopment of the small cities and towns of this nation to combat the problems of urban strife; 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 the Congress of the United States to assure that the funds amassed by aviation user taxes on the federal level be returned in part to the states on an equitable basis so as to allow the states themselves to build and maintain the intrastate portion of the total national air transportation system to which this nation is firmly committed; 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 Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the National Society of the Sons of the American Revolution, praying for the maintenance of our military capabilities. Referred to the Committee on Armed Services.

A resolution adopted by the National Society of the Sons of the American Revolution, praying for a restoration of high military standards. Referred to the Committee on Armed Services.

A resolution adopted by the National Society of the Sons of the American Revolution, praying for a readjustment of the United States' financial support of the United Nations. Referred to the Committee on Foreign Relations.

A resolution adopted by the National Society of the Sons of the American Revolution,

praying for the conservation of the nation's natural resources. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the National Society of the Sons of the American Revolution, urging the establishment and maintenance of the Edward Rutledge home as a permanent memorial. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the National Society of the Sons of the American Revolution, relating to observance of the dates commemorating George Washington's Birthday and Veterans Day. Referred to the Committee on the Judiciary.

A resolution adopted by the National Society of the Sons of the American Revolution, in support of publicly supported educational systems. Referred to the Committee on Labor and Public Welfare.

A resolution adopted by the National Society of the Sons of the American Revolution, in opposition to efforts to restrict accessibility to census records. Referred to the Committee on Post Office and Civil Service.

A resolution adopted by the National Society of the Sons of the American Revolution, urging proper honor for unknown soldiers in the Vietnam War. Referred to the Committee on Veterans' Affairs.

A resolution adopted by the National Society of the Sons of the American Revolution, relating to various and sundry matters. Ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, with amendments:

S. 1739. A bill to amend the Federal Aviation Act of 1958 to provide a definition for inclusive tour charters, and for other purposes (Rept. No. 93-387), together with minority views.

Mr. CANNON. Mr. President, the Aviation Subcommittee of the Senate Commerce Committee held hearings in May on S. 1739 and S. 455. These bills would amend the Federal Aviation Act to authorize one-stop inclusive tour charters—ITC's—for both scheduled and supplemental air carriers, permit the marketing of such charters directly by the air carriers or through carrier-controlled tour operators, and remove certain existing restrictions on inclusive tour charters—such as the arbitrary pricing restriction and the minimum-stay requirement—which have impeded the development of this type of charter within the United States.

These bills are designed to make available to U.S. citizens the type of low-cost ITC service which has existed in Europe for over 15 years, and which has enabled millions of Europeans of modest means to take one or even two vacations annually by air. This popular type of charter service has been beneficial not only to the European consumer, but also to a whole range of European businesses which are engaged in providing tourist facilities and services—such as hotels, restaurants, sightseeing, and others. Perhaps the most popular ITC destination is Spain, where millions of Europeans as well as thousands of Americans have enjoyed low-cost ITC vacations.

But ITC's serve many other European vacation spots as well, and this type of air charter service has existed and developed side by side with regular scheduled airline service.

During the hearings on this legislation, the committee received expert testimony and detailed economic studies which demonstrated that the introduction of this form of charter service in the United States would be greatly beneficial both to consumers and to all classes of air carriers. The evidence presented not only enumerated the many benefits which European travelers have derived from this type of service, but also established beyond question that such service has not in any way injured intra-European scheduled airline service. On the contrary, ITC's have stimulated the market for air travel in general, including scheduled air travel. For example, one analysis of 1,800 European points served by ITC's showed that scheduled services to such points had increased steadily during the 10-year period in which intra-Europe ITC's experienced their most rapid growth.

I am pleased to report that the Senate Commerce Committee, having considered S. 1739, reports favorably thereon with amendments and recommends that the bill as amended be enacted. I am also pleased to submit a report on S. 1739 which clearly sets forth an analysis of this legislation as well as its need. Let me emphasize that this report specifically requires the Civil Aeronautics Board, in accordance with provisions of the bill as amended, to insure that the introduction of this type of charter service does not impair essential levels of scheduled service.

During the hearings, Mr. President, my subcommittee afforded all interested parties an opportunity to present testimony for or against this legislation. The Air Transport Association of America, the trade organization of the scheduled carriers, did appear and present testimony in opposition to one-stop inclusive tour charters, even though the scheduled air carriers which it represents would also be authorized to perform such charters. I might add that the testimony by this organization was conclusionary and unsupported by any factual studies or analyses to demonstrate why such legislation would not be in the public interest. Mr. Ignatius, the president of ATA, gave us only generalized statements of "gloom and doom," such as—

> Enactment of such legislation could herald the beginning of the end of the nation's air transportation system as we know it today.

These statements are strikingly similar to others made by that organization in response to past proposals, to provide expanded charter services to the American consumer. None of the fears expressed, however, have yet come to pass. And while the committee challenged the opponents of the legislation to submit factual studies demonstrating how this legislation would adversely affect them, no studies or other hard data have been submitted to the committee, nor, to our knowledge, have any such studies been made.

Despite the absence of any solid evidence to indicate that this legislation would adversely affect the scheduled airlines, the ATA has embarked upon a well-financed public relations drive designed to defeat this legislation. Unsupported allegations of adverse consequences that will flow to the scheduled air carrier system have been circulated to the public, businessmen, chambers of commerce, mayors, and all Members of Congress. These statements and pamphlets are filled with inaccuracies, and seek through scare tactics to stimulate public opinion against this consumer-oriented legislation.

The scare materials I refer to do not explain what the legislation is designed to do, or the benefit to the consumer—which, to say the least, is essential for a proper understanding of the matter. They do not tell you that scheduled fares, which on the average are 6.1 cents per passenger-mile—including promotional fares—are three times the seat-mile costs of charters. They allege without any factual substantiation that one-stop ITC's will cause a reduction in the volume of scheduled service but they do not tell you that the legislation contains specific provisions against impairment of essential levels of scheduled service. They neglect to tell you that the scheduled carriers themselves have admitted that there is excess scheduled service in the market today, and they have asked the CAB to waive the antitrust laws so that they can meet and agree among themselves to reduce the amount of service available in major markets.

In several respects this ATA propaganda is especially misleading. For example, much stress is placed on the claim that European scheduled air fares are higher than U.S. domestic scheduled air fares. The comparison, however, is based on international European fares. They fail to tell you that European domestic fares are lower than U.S. domestic scheduled fares which would have been a much more pertinent comparison than the one they used. I have had such a comparison prepared and I ask permission to have it inserted in the RECORD at this point. In brief, this comparison shows that European domestic fares are from 14 to 194 percent below comparable U.S. domestic fares.

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

EXHIBIT 1

COMPARISON OF U.S. DOMESTIC FARES VERSUS EUROPEAN DOMESTIC FARES, SEPTEMBER 1973

		Economy fare		
	Nonstop mileage	Before tax	After tax	Percent U.S. fare higher
Madrid to Las Palmas	1,097	$64.82	$64.82	
New York to Kansas City	1,098	78.70	85.00	31
London to Glasgow	349	31.66	31.66	
St. Louis to Tulsa	351	33.33	36.00	14
Palma to Madrid	339	29.84	29.84	
Memphis to Atlanta	332	32.41	35.00	17
Malaga to Madrid	268	24.57	24.57	
Philadelphia to Pittsburgh	267	26.85	29.00	18
Ankara to Istanbul	227	12.24	18.36	
Seattle to Spokane	223	24.07	26.00	42
Belgrade to Dubrovnik	186	13.53	13.82	

	Nonstop mileage	Economy fare: Before tax	Economy fare: After tax	Percent U.S. fare higher
New York to Boston	191	$22.22	$24.00	74
Warsaw to Gdansk	183	8.46	10.27	
Baltimore to New York	180	22.22	24.00	134
Berlin to Hamburg	163	19.38	19.38	
Kansas City to Omaha	166	21.30	23.00	19
Geneva to Zurich	144	17.95	17.95	
New York to Providence	149	20.37	22.00	23
London to Birmingham	100	12.77	12.77	
Washington to Richmond	104	17.59	19.00	49
Zurich to Basle	49	8.21	8.21	
Kansas City to Topeka	51	15.74	17.00	107
Brussels to Antwerp	21	4.42	4.42	
Baltimore to Washington	24	12.04	13.00	19

Source: OAG September 1973.

Mr. CANNON. While ATA states that scheduled air fares have decreased in the past 10 years, they fail to tell you that within the United States scheduled fares in the economy class, which is used by about 85 percent of the travelers, have increased in the same period between 19.6 and 69.6 percent for an overall average of 51.1 percent. Again, ATA fails to tell you that European air fares have increased on the average of only 42.1 percent during this period.

I ask unanimous consent that the comparison be printed in the RECORD at this point.

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

EXHIBIT 1

DOMESTIC U.S. FARES INCREASED MORE IN THE PAST DECADE THAN INTRA-EUROPE FARES

City pairs per ATA pamphlets	Economy fare: 1963	Economy fare: 1973	Percent increase
Domestic United States:			
Dallas–Miami	$66.60	$79.63	19.6
Atlanta–Boston	51.65	70.37	36.2
Chicago–Pittsburgh	25.15	36.11	43.6
Detroit–Washington	24.85	35.19	41.6
Chicago–Detroit	15.25	25.00	63.9
New York–Boston	13.50	22.22	64.6
Wichita–Kansas City	13.10	22.22	69.6
Oklahoma City–Dallas	13.10	22.22	69.6
Simple average			51.1
Intra-Europe:			
Copenhagen–Rome	108.50	142.10	31.0
Paris–Milan	40.20	58.40	45.3
London–Paris	26.80	39.00	45.5
Hamburg–Copenhagen	28.70	42.10	46.7
Simple average			42.1

Source: OAG, QRE September 1963 and September 1973 OAG, World-Wide Edition September 1963 ATA publication "How Air Service in the U.S. and Europe Is Different."

Mr. CANNON. The ATA has also asserted in its literature that "within Europe there are no discount or promotional air fares." They fail to tell you that the fact of the matter is that there are night fare discounts up to 30 percent in some of these markets and in markets where scheduled carriers must compete with inclusive tour charters, there are also inclusive tour basing fares.

Mr. President, one of the most despicable statements that the ATA and its member carriers are circulating through this propaganda machine is that scheduled service will probably be terminated to many communities if this legislation is enacted. This must be called what it is—"a big lie." This is not a new tactic on the part of ATA, when it seeks to preserve its vested interest. It made similar statements in 1962 when this Congress adopted legislation that created the supplemental industry. It made similar statements in 1962 when the Congress authorized inclusive tour charters. It made similar statements when the Civil Aeronautics Board adopted the travel group charter programs. These predictions of gloom and doom, threatened loss of air service, are tactics to influence you to vote against legislation which would enable the consumers to enjoy low-cost air transportation service. This legislation, S. 1739, will not cause any community the loss of air service. If the community loses air service or there is a reduction, it will be the result of carrier agreements presently pending before the Board which have nothing to do with this legislation at all.

Mr. President, I and my colleagues have recently been receiving a good deal of mail on this subject, most of it stimulated by the Air Transport Association in an attempt to defeat this bill.

At this point I ask unanimous consent to insert in the RECORD for the information and interest of my colleagues two letters I have recently received from individuals involved in air transportation and who are knowledgeable about the effects and ramifications of this bill. One letter is addressed to me, the other was addressed to Mr. Stuart Tipton, Chairman of the Board of the ATA a copy of which was sent to me by the sender for my information.

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

MARRAKESH EXPRESS CO., INC.,
New York, N.Y., August 30, 1973.

Mr. STUART G. TIPTON,
Chairman of the Board, Air Transport Association, Washington, D.C.

SIR: In reference to your letter of 27 August, I feel compelled to reply for the millions of persons whom the airline industry constantly ignores; the vacationing traveller. It has been the aim of this company and its IATA parent, Rodgers Travel, to provide low-cost, quality travel to large numbers of people. It never fails to amaze us that the attitude of the airline industry has always been that it is better to fly with empty seats than to sell those seats at rates which the carriers consider "unprofitable". What is more unprofitable than an empty seat? When one stops to consider the enormous amount of discounting, rebating, "illegal" charters and the like, it becomes quite evident that what the public wants, and deserves, is lower cost.

Let us take your points one by one: "Some elements of the travel industry *may* (emphasis added) believe that single stop ITC services . . . will boost tourism." There is absolutely no doubt in my mind and in the minds of many informed and reasonably forward thinking people that one-stop ITCs will promote fantastic tourism and not just to "some markets and to some destinations", but to new and as yet unspoiled places. The only drawback is that those very few destinations which are not as yet destroyed by rampant commercialism will shortly be so.

You refer to the "myriad of dependable scheduled service flights . . . on which the vast majority of sales are made today." You imply, for a reason which I, for one, do not at all comprehend, that these "myriad" flights will vanish from the OAG. And perhaps some shall. Surely with all those empty seats it would not be such a tragedy nor would it be a regression to the days when there were not twenty-odd flights daily from New York to London.

". . . concentrating flights in a relatively few high volume markets . . . would have an adverse effect on your business." This is perhaps the most nonsensical remark in your letter. Any means for promoting more travel, higher volume even at substantially lower cost, cannot but help the travel agent. Every travel agent will have the opportunity to promote and sell ITCs and with the large numbers of established agencies failing because of poor business perhaps this would be just the needed boost. At any rate, I cannot see mass travel as being deleterious to the Agent.

"The airlines believe that you have a right to know what issues are involved . . . ." This would certainly be the first time that the carriers told agents the real reasons and real issues involved. The general attitude has always been that the agent is the last to know. Now, suddenly, when the scheduled carriers are afraid that they might lose some business to supplementals, they are courting the agents. Now, when the American consumer is finally going to receive some of the benefits which his European brothers have had for many years, the Air Transport Association finds it necessary to warn travel agents of the financial dangers involved in good, inexpensive travel.

I have responded to your letter, Mr. Tipton, but not to the brochure, per se, because I feel that to answer the obviously slanted, distorted and, in many ways, slanderous allegations made therein would, perhaps, elevate that pamphlet to a plateau of some credibility. There is no credibility in that brochure that I can read.

In conclusion, I will continue to lobby for the rights of the travelling consumer in the hope that through international travel and understanding we may promote a better life for all.

Sincerely,

JAMES FINE,
President.

THE INTERNATIONAL PASSENGERS CONSUMER ASSOCIATION,
Limerick, Republic of Ireland, September 7, 1973.

Hon. HOWARD W. CANNON,
Chairman, Subcommittee on Aviation, Committee on Commerce, U.S. Senate, Washington, D.C.

Re. S. 1739.

DEAR SENATOR CANNON: I want first to congratulate you on your sponsorship of this bill which, if passed into law, will not only remove three burdensome restrictions from a form of travel for which there is, in other parts of the world, a truly massive demand, but will open up for Americans and for foreigners wishing to visit America a new vista of travel arrangements that must inevitably be for the benefit of America, for airline passengers of the future, and for airlines, both scheduled and supplemental. The questions that come to my mind are, why were ITC's hedged in by restrictions in the first place and why, in the light of European experience and of a rapidly growing demand for cheaper travel in America, has it been so long before action was taken to do away with those restrictive rules that have abridged the American's right to travel as freely as possible?

I believe the restrictions to have been—in all good faith—misconceived from the outset. The record of development of civil air transport does not support the view (on which the restrictions were based) that regular scheduled services would have suffered by the greater simplification of the cheaper forms of travel such as that now proposed by S. 1739. I believe the assumption on which the restrictions were predicated were groundless then and are, *a fortiori*, groundless today.

Let me introduce myself. I speak for the International Passengers' Consumer Association (IPCA) which includes in its membership Americans from forty states and persons from a total of thirteen countries. Among our purposes, we serve and promote the interests of people of all nations who are (or who may be) users of services or subjects of conditions incidental to travel. In two respects we differ (I believe) from many of the organizations that may have testified before your Committee. We aim to represent the interests of *travelers as whole:* first-class economy-class, right down to those who will use the so-called "Skytrain" services proposed by Laker Airways and a few others. In endorsing S. 1739, therefore, we have to satisfy ourselves that its passage into law would be unlikely to have any adverse effect on other categories of traveller.

Secondly, it is our belief that the long-term interest of travellers demands the continuing economic viability of air carriers, both those providing scheduled and those which operate non-scheduled services. Consequently, we examine carefully such evidence as there may be relative to questions (such as the subject matter of S. 1739) with a view to satisfying ourselves that competing interests may not be harmed unduly, nor that the long term interests of travellers in general may be imperiled.

Our view is that the removal from ITC's governed by the CAB rules of the three offensive restrictions (unnecessary and unwanted nightstops, a minimum charge for the "package", and a minimum stay) should not induce any abridgement of other types of service which would affect other categories of passengers, nor should it lead to reduced trading profits for any well-managed airline. On the contrary, profits both for supplemental and scheduled carriers may be expected to increase as a result of newly-generated traffic. This has already happened in Europe.

If we felt that by making ITC traffic more widely available one of the results would be seriously to reduce the availability of scheduled services, we would be bound to exercise great caution in supporting S. 1739 for, as I have said, our interests include those of the scheduled as well as the charter traveller. The upsurge of charter traffic over the North Atlantic and in Europe has been attended by a steady rise in the volume of scheduled services. If (especially over the North Atlantic) certain carriers have had some lean years financially, this must be attributed not to dilution of scheduled by non-scheduled traffic, but rather to almost prodigal expenditures on new types of aircraft and the resulting over-capacity. "Keeping up with the Joneses" is invariably costly!

Airlines engaged in scheduled services are eligible to share the charter segment of the total passenger market and, in fact, on the North Atlantic IATA carriers have captured charter traffic in excess of that captured by non-IATA airlines. The cake is available to all—as it should be.

We must confess to finding the arguments against S. 1739, based as they are on speculation and the gloomiest of prophecies, far less attractive than those which support the bill with the results of careful and painstaking analyses and with the experience gained elsewhere over more than a decade.

We believe that travel should be made as free of restrictions as is possible, having regard to all the relevant factors. The burden of proof that a restriction is necessary should fall fairly and squarely on those who would seek to introduce or to perpetuate it—not on those who oppose it or seek to have it removed. Around last Christmas or New Year I watched a television programme on the B.B.C. where a panel discussed, *inter alia,* cheap fares and related matters. On the panel was the Rt. Hon. Lord Boyd-Carpenter, Chairman of the C.A.A. It was indeed refreshing to hear him say that it was C.A.A. policy *to aim for the removal of every restriction that could not be shown to be necessary.*

We reject the proposition that S. 1739 will lead to abridgement of scheduled services to the disadvantage of that segment of the public which uses these services. There is no objective evidence to support this.

We find unimpressive the suggestion that scheduled carriers will lose financally if cheap travel is made more attractive by liberalizing ITC's: they will take a sizeable slice of whatever new traffic is generated and this should more than compensate them for any loss of revenue through certain passengers at present being compelled to go on scheduled flights availing themselves of the new ITC facilities.

If we thought otherwise, we would hesitate to support even something that is to the obvious advantage of so many travellers. Air fares (and conditions attaching thereto) must never be allowed to drop to levels where "low-cost travel this year" may mean "no services next year". We reject any suggestion that S. 1739 will lead to this. We believe the bill, taken in its entirety will be for the benefit of an increasing segment of the public with no foreseeable consequences that will adversely affect the interests of any specific segment of the public, including the travel or the air transportation industry.

Having said this, may I conclude on another note. To the extent that is possible and practicable travel should be kept free of restrictions. The Kremlin is open to criticism for refusing unimpeded rights to tourists to travel to places in the U.S.S.R. that they *want* to visit. Is the CAB so very different? For years it has compelled Americans, and visitors to America, to travel to, and make nightstops at, places in the U.S.A. that they do *not* want to visit. In the absence of the strongest reasons to the contrary, it is more than high time that Congress reversed this posture on the part of the CAB. For our part, we can find no such reasons for Congress to delay; and we support and endorse S. 1739 for the reasons stated.

Yours sincerely,

GEOFFREY A. MYERS, M.B., F.R.C.S., F.A.C.S.,
President.

P.S. It is requested that any correspondence arising out of this letter be directed to my private address: P.O. Box 497, Hamilton–5, Bermuda.

Mr. CANNON. Mr. President, I ask that my colleagues give S. 1739 their careful consideration before it comes to the Senate for debate in the near future. I ask that each Senator carefully read and review the report from the Commerce Committee which explains in detail the provisions of the bill and which will answer the malicious and erroneous criticism of this bill which has been engendered by the ATA.

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

S. 2316. A bill to authorize the disposal of copper from the national stockpile and the supplemental stockpile (Rept. No. 93-388).

ORDER FOR PRINTING OF REVIEW OF REPORT ON MISSISSIPPI RIVER AND TRIBUTARIES, GREENVILLE, MISS. (S. DOC. NO. 93-148)

Mr. RANDOLPH. Mr. President, I present a letter from the Secretary of the Army, transmitting a favorable report dated January 5, 1973, from the Chief of Engineers, Department of the Army, together with accompanying papers and an illustration, on Mississippi River and Tributaries, Greenville, Miss., requested by a resolution of the Committee on Public Works, U.S. Senate, adopted February 27, 1967. I ask unanimous consent that the report be printed as a Senate document with illustrations and referred to the Committee on Public Works.

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

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. 2398. A bill to develop employment opportunities and business in economically depressed areas by providing certain preferences for prospective Government contractors in such areas. Referred to the Committee on Government Operations.

By Mr. CANNON:

S. 2399. A bill to amend title 44, United States Code, to provide immunity for the Government Printing Office, the Public Printer, and other officers and employees of the Office. Referred to the Committee on Rules and Administration.

By Mr. BELLMON:

S. 2400. A bill to amend section 202 of the Clean Air Act with respect to motor vehicle emission standards. Referred to the Committee on Public Works.

By Mr. MAGNUSON (for himself and Mr. CANNON):

S. 2401. A bill to promote safe transportation of people and property in commerce by establishing the National Agency for Transportation Safety as an independent agency of the United States to investigate transportation accidents, to make recommendations for avoiding such accidents, to represent the safety interests of the public before regulatory agencies, and for other purposes. Referred to the Committee on Commerce.

By Mr. McGOVERN (for himself and Mr. ABOUREZK):

S. 2402. A bill authorizing the construction of a dam and reservoir on the Little White River, South Dakota (Rosebud Site). Referred to the Committee on Public Works.

S. 2403. A bill to authorize the Secretary of the Interior to construct, operate, and maintain a larger and adequate spillway, and to improve the upstream slope protection on Belle Fourche Dam, Belle Fourche project, Belle Fourche, S. Dak., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON:

S. 2399. A bill to amend title 44, United States Code, to provide immunity for the Government Printing Office, the Public Printer, and other officers and employees of the Office. Referred to the Committee on Rules and Administration.

Mr. CANNON. Mr. President, this legislation is introduced for the purpose of immunizing the Public Printer from civil and criminal liability for carrying out the specific commands of the Congress.

The Supreme Court in a 5-to-4 decision of May 29, 1973, in Doe against McMillan removed any immunity which heretofore had been imputed to the Public Printer, the Superintendent of Documents, and other employees of the Government Printing Office in carrying out

their official duties in the printing, distribution, and dissemination of public documents.

As Justice Blackmun said in a footnote to his dissenting opinion in the above setout case:

Thus, the Court has placed the Public Printer and Superintendent of Documents in the untenable position either of accepting the risk of personable liability, whenever a congressional document officially is printed and distributed or of violating the specific command of a congressional resolution ordering the printing and distribution.

We do not claim this bill to be a panacea to all the problems brought to a head by the Supreme Court decision. However, we do feel it to be a step in the right direction to help alleviate the problem.

By Mr. BELLMON:

S. 2400. A bill to amend section 202 of the Clean Air Act with respect to motor vehicle emission standards. Referred to the Committee on Public Works.

CLEAN AIR ACT AMENDMENTS

Mr. BELLMON. Mr. President, in a recent interview, Robert W. Fri, former Administrator of the Environmental Protection Agency, stated in reference to EPA transportation control proposals for Los Angeles, that:

Such extreme remedies surely were not envisioned by Congress when it enacted the Clean Air Act of 1970.

He went on to say:

Nevertheless, the government must take these steps to meet national ambient-air standards by May 31, 1975, unless the law is changed.

Mr. President, I propose to change that law.

I firmly believe that certain amendments to the Clean Air Act are indicated in order to prevent unnecessary waste of scarce energy resources which will cause great hardship and even deaths this winter among those who cannot get fuel for home heating and other essential purposes.

It has become abundantly clear that there is not enough fuel available at the present time to do everything everyone wants done. Nor will this condition improve in the immediate future. On the contrary it will likely get worse—perhaps much worse.

Already most Americans have had personal experiences with energy shortages. Empty gasoline pumps, brown-outs, reduced airline operations, shortages of energy-derived agricultural fertilizers, and empty home heating fuel tanks are only a few of the symptoms that "a nation that runs on oil is running short."

Mr. President, we presently consume in this country 16 million barrels of crude oil per day. Over 50 percent is represented by gasoline consumption. The present EPA regulations will significantly increase the consumption of the automobile population in the years to come. It has been estimated by the Office of Emergency Preparedness that these standards, which are highly questionable as to their effectiveness, will increase fuel consumption over the next 30 years by 48 billion barrels of crude oil, which amounts to almost 8 years of our annual crude oil consumption.

A strong debate has been going on since the passage of the Clean Air Act regarding the merits of the emission standards that were established. It has been argued that the emission standards, if attainable from a technological standpoint, may in fact not be that solution to the vehicle emission problem.

Mr. President, I wish to submit for the record a memorandum written by Dr. Edward G. David, Jr., of the Office of Science and Technology, regarding EPA vehicle emission regulations. This document seriously questions EPA regulations. In regard to the national automotive emissions standards, the Office of Science and Technology states it "does not believe it is in the interest of the consumer or the nation to have a uniform national automotive emissions standards."

Mr. President, I ask unanimous consent that the memorandum by Dr. David be printed in the RECORD following my remarks.

Not only are we faced with the danger of making the wrong decision that would cost billions of dollars to the American consumer, we are also running the risk of severely aggravating our present energy shortage through an inordinately high consumption rate brought about by these emission control devices.

It is for this reason, Mr. President, that I am introducing legislation to help husband the limited supplies of fuel we have available so that the highest priorities of human need can be met. It makes little sense to waste fuel nationwide in inefficient automobile engines in a premature effort to clean up the air in a few large metropolitan areas while much of the country is cold, dark, or paralyzed.

More time is needed to develop new fuel sources and new emission control devices. This bill will gain that time.

It is becoming more and more obvious that adding devices onto conventional automotive engines is not the ultimate solution to vehicle emissions. Even pursuing this course for some short term interim period until better technology is developed will cause a significant waste of energy resources. It will also produce 3 to 5 years of low-performance, high-maintenance cost cars, which require special expensive lead-free fuel.

Mr. President, this bill would amend the Clean Air Act to suspend all emission controls standards beyond the 1974 model year until such time that a thorough review of the entire vehicle emission control problem is completed.

In addition, it calls for careful consideration of any environmental regulations as to the effect they have upon the economic health of the country.

My proposal also calls for an in-depth study of the entire vehicle emission problem to be conducted jointly by the National Academy of Sciences, the Office of Technological Assessment and other interested governmental agencies. Upon completion of this study in 1976, a decision will be made by the Administrator of the Environmental Protection Agency with the consent of Congress as to what further course of action is required in the vehicle emission control area.

Mr. President, while I do not quarrel with the intent of environmental legislation, in view of the energy crisis this Nation faces it is apparent that a reevaluation of priorities is necessary and a determined search for rational solutions must be undertaken. We simply cannot afford to cause people to freeze in their homes this winter for lack of heat in order to achieve arbitrary environmental benchmarks.

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

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

S. 2400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 of the Clean Air Act is amended to read as follows:

"ESTABLISHMENT OF STANDARDS

"SEC. 202. (a) Except as otherwise provided in subsection (b)—

"(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to, or is likely to cause or to contribute to, air pollution which endangers the public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d)), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

"(2) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(b)(1) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1975 shall contain standards which were established for the 1974 model year.

"(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of enactment of the Clean Air Act Amendments of 1970), shall be prescribed by regulation within one hundred eighty days after such date.

"(3) For purposes of this part—

"(A)(i) The term 'model year' with reference to any specific calendar year means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term 'model year' shall mean the calendar year.

"(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b), the Administrator may prescribe regulations defining 'model year' otherwise than as provided in clause (i).

"(B) The term 'light duty vehicles and engines' means new light duty motor vehicles and new light duty motor vehicle engines as determined under regulations of the Administrator.

"(4) On July 1 of 1971, and of each year thereafter, the Administrator shall report

to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this Act. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 307(a) (relating to subpenas) shall apply.

"(5)(A) At any time after January 1, 1972, any manufacturer may file with the Administrator an application requesting the suspension for one year only, of the effective date of any emission standard required by paragraph (1) with respect to such manufacturer. The Administrator shall make this determination with respect to any such application within sixty days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination, prescribe by regulation, interim emission standards which shall apply (in lieu of the standards required to be prescribed, by paragraph (1)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during the duration of these standards.

"(B) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers, except that no technology shall be allowed that is not compatible with the expected ultimate system or that is likely to induce significant waste of scarce energy resources.

"(C) Within sixty days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States; (ii) all good faith efforts have been made to meet the standards established by this subsection; (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that suitable technology, processes, or other alternatives are available to meet such standards.

"(c)(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences and other concerned Government agencies to conduct a comprehensive study of the entire vehicle emission problem. Factors considered should include but not be limited to:

"(A) available technology for engine design and emission control systems,

"(B) energy conservation aspects of the desired solution,

"(C) air quality requirements and reasonable time frame for achieving them,

"(D) costs versus effectiveness for incremental levels of control, and

"(E) effect of alternate strategies such as transportation controls and land use planning or air quality.

"(2) Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

"(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Administrator shall request the National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the Congress, beginning not later than January 1, 1974, and continuing until such study and investigation is completed, not later than July 1, 1976.

"(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this Act (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this subsection.

"(5) Upon review of the report the Administrator shall recommend, after such hearings as he may deem advisable, additional congressional action necessary to insure implementation of the optimal engine-fuel-hardware strategy for emission control.

"(d) The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a)(1) of this section and section 207. Such regulations shall provide that useful life shall—

"(1) in the case of light duty vehicles and light duty vehicle engines, be a period of use of five years or of fifty thousand miles (or the equivalent), whichever first occurs; and

"(2) in the case of any other motor vehicle or motor vehicle engine, be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate.

"(e) In the event a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 206(a), the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers the public health or welfare but for which standards have not been prescribed under subsection (a)."

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF SCIENCE AND TECHNOLOGY,

Washington, D.C., November 1, 1972.

Memorandum for Mr. Donald E. Grabill, Office of Management and Budget.

From: Dr. Edward E. David, Jr.

Subject: EPA Proposed Regulation Affecting Lead in Gasoline.

OST has reservations with respect to both major thrusts of this regulation:

(1) The requirement that unleaded gas be made available nationally after July 1, 1974. Any individual who operates a single retail outlet which sells 200,000 or more gallons annually shall offer unleaded gas, or any person who operates six or more retail outlets shall offer unleaded gas at no fewer than 60% of such outlets.

(2) The requirement that the lead content per gallon in leaded gasolines be decreased from 2 grams to 1.25 grams per gallon during the period January 1, 1974 to January 1, 1977.

With respect to the first thrust of the regulation, the peak lead level specified of .05 grams and the peak phosphorous level of .005 grams per gallon seem adequate to meet the requirements of those catalytic emission control systems designed to meet the 1975–1976 standards. There is some question as to the sulphur content of gasoline and its effects on catalysts. While most modern refining techniques reduce sulphur considerably, we cannot be assured that only low sulphur gasoline would be available from all refineries. Experience to date indicates that sulphur may collect on catalysts and poison them when the driving cycle is mild. A demanding driving cycle seems to burn off deposited sulphur from catalysts. If sulphur does become a problem presumably EPA could regulate its content in gasoline at some future time but hopefully before catalysts in consumers cars are destroyed.

NO NEED FOR A NATIONAL AUTOMOTIVE EMISSION STANDARD

However, OST does not believe it is in the interest of the consumer or the nation to have a uniform national automotive emissions standard. At least 30% of the nation's autos are in a region with an air quality that is unimpaired by cars meeting 1972 emissions standards. Much larger portions of the country have an air quality that would be unimpaired utilizing thermal reactors, some exhaust gas recirculation, and lead particulate traps if needed. Only a small portion of the country requires the most expensive emission abatement equipment, namely, catalytic converters mandated by the current automotive emission standards. Lead-free gasoline is needed only for this equipment.

The Clean Air Act should be modified to diminish the enormous financial burden with few compensatory benefits to the consumer required by present legislative requirements. Should the Clean Air Act be rationally modified, the requirement for unleaded gasoline to be nationally available in large quantities diminishes to a requirement for large quantities of unleaded gasoline in those regions where catalytic converters must be used and enough unleaded gasoline to provide reasonable mobility in those regions where cars equipped with catalytic converters may drive but are not required. The issue for the government is whether to require retailers to plan to have a uniformly widespread distribution of unleaded gasoline even though this would not be required if rational modifications to the Clean Air Act could be obtained.

With respect to the second thrust of these regulations, OST has reviewed the medical evidence that supposedly supports the EPA Administrator's desire to reduce the lead content of gasoline. OST finds the Administrator's position in this regard unsupported by the evidence. OST also finds that there are better strategies should the health issue be supportable than the one selected, namely, the use of lead traps in car exhaust systems rather than a general reduction of lead in gasoline.

LACK OF MEDICAL EVIDENCE TO SUPPORT FINDINGS

With respect to the medical evidence, there is no correlation between airborne lead and lead levels in blood for the range of airborne lead levels encountered in rural or urban communities, as the following Table 1 indicates:

TABLE 1

	Airborne lead density (micrograms/M³)	Lead blood level (micrograms/100 ml)
Pasadena	3.4	17.5
Ardmore (Philadelphia suburb)	1.15	18.0
Los Alamos	.2	15.0

On the average, it is true that urban populations have somewhat higher lead blood level concentration than suburban populations—19 micrograms as compared to 17 micrograms—of the order of 10%. However, there is the same difference in lead level concentration between smokers and nonsmokers. While it is true that airborne levels were higher in 1968–1969 than in 1961–1962, there is no indication that lead blood levels in either urban or rural populations are approaching clinically significant levels of 40 micrograms per milliliter.

EPA's health concern seems to focus on the ingested as compared to respired lead due to lead particulates exhausted by automobiles. EPA reports levels of lead in dust fall on some urban streets of 0.3% to 0.5%. They also point out that this is comparable to the current standard of lead paint, 1%, and that the proposed standard for leaded paint is .06%.

However, the lead dust fall in Los Angeles should be greater than lead dust fall in most other communities because of the greater dependence on the automobile. Airborne lead measurements seem to support this conclusion. Nevertheless, to the best of our knowledge, no lead poisoning attributed to ingestion of urban lead dust has occurred in the Los Angeles area in the last decade. However, in the older ghettos of urban areas with less automotive dependence than Los Angeles and lower concentrations of airborne lead, there are cases of deaths due to lead poisoning. It seems to be attributable to the very high concentrations of lead in paint (30%) in houses built before 1940. Both the stucco construction and the small number of houses predating 1940 in Los Angeles seem to minimize exposure to the lead in paint in Los Angeles.

Thus the urban area problem does not seem to be the dust fall due to lead in gasoline or even the lead in paint at the 1% level but the legacy of high lead concentrations in paint (30%) used before the 1940–1950 era. It would seem reasonable to concentrate abatement strategy on the greatest threat. There is no evidence that the lead in dust fall (at most 1.5% of the lead in old paint) is the critical exposure that leads to lead poisoning in children in older urban areas. There is no evidence that the high level of roadside lead in dust is correlated with regions where children are likely to play. There is no evidence of the duration of such levels as a function of wind or rainfall. In other words, EPA's presentation does not correlate high instances of urban roadside lead dust with exposure to children who might ingest it or to known instances of high lead blood levels. Before a lead abatement strategy could be promulgated by the Administrator on this basis it would seem that these issues would have to be addressed.

LEAD ABATEMENT STRATEGIES

Should further analysis justify a general lead abatement strategy, OST believes that lead traps in muffler systems are an effective approach that will not diminish fuel economy and that will be more cost effective than the reduction of lead in gasoline. Long-term—in the 1980's—engine technology will probably develop so that low octane fuels without lead additives can be efficiently used.

While EPA grants the effectiveness of lead particulate traps for the large particle size, they seem concerned about the ability of lead particulate traps to operate on smaller particle sizes. This is an unrealistic concern for two reasons:

(a) The literature continues to report improvements in the ability of lead particulate traps to catch small particles.

(b) The smaller particles, less than 0.3 microns, probably are airborne for considerable periods of time and do not cause the high concentrations noted in roadside dust. For example, the settling time of 0.1 micron particles is 3–4 hours to fall one centimeter. The settling time for a one-micron particle is 5 minutes for one centimeter. The smaller range of particles contribute to the general burden of atmospheric lead but certainly not to roadside lead. Therefore, if the medical concern of EPA is roadside lead dust levels, particulate traps effective to 0.3 microns may be quite adequate.

The average muffler is replaced every two years. A lead abatement strategy that calls for a muffler that includes lead particulate traps would increase the price of installed mufflers by approximately 20%. A lead abatement strategy could require that all replacement mufflers include lead particulate traps. In a short time at low cost the bulk of the car population would be so equipped. Lead particulate traps within mufflers can contain the lead volumes that would be generated during 100,000 miles of driving. The cost of such a muffler replacement program would be less than the cost of altering the refining capacity to obtain the proposed lowering of the lead content of leaded gasoline and would provide greater lead reductions.

COSTS OF REMOVING LEAD

Since there is no indication that lead is biologically helpful, one would naturally desire to remove lead unless there were a penalty in some other portion of the social system. That penalty is substantial. The penalty can be understood in terms of the automotive emission standards achievable by various technologies. Table 2 is a comparison of California 1975 standards, the standards achievable by use of a lean thermal reactor and the 1976 federal standards that may be achievable with catalytic converters and unleaded gasoline.

TABLE 2.—EMISSION STANDARDS

[gram/per mile]

	California 1975	Thermal reactor	1976 Federal
HC	1.0	0.6	0.41
CO	24.0	9.0	3.4
NO_x	1.5	1.5	.4

In current technology engines there is a fuel penalty due to lowering of compression ratio. In current technology engines lead additives are required to maintain compression ratio. This fuel penalty is variously estimated from 5.4% to 11.9%. The cost over an 85,000 mile car lifetime due to the decrease in compression ratio and the necessity to use nonleaded gasoline, is estimated to be a total of $160 per car—$30 due to increased fuel cost and $130 due to decreased mileage due to lower compression ratio. This cost penalty is based on the lower fuel penalty estimate, namely 5.4%.

Table 3 compares the cost of alternate approaches to meeting emission standards over the car lifetime. Because of measurement errors in background NO_x levels and because of the penalties in meeting the 1976 NO_x requirement, the costs are calculated in Table 3 for the current federal NO_x standard at 0.4 grams per mile and an assumed change in that standard to 0.8 grams per mile. Furthermore, since it is by no means certain that catalysts can last for 25,000 miles, the costs have been calculated for two cases (1) where the catalyst is assumed to last for 25,000 miles and (2) where the catalyst is assumed to last for 50,000 miles.

By comparing Tables 2 and 3 it can be seen that the lean thermal reactor at a cost of $230 over the car lifetime can more than meet the California 1975 standards. The catalytic converter cost varies from $700 to $1100, over the car lifetime, and may not be able to meet the federal 1976 standards.

It is probably true that only 10–20% of the cars in the U.S. have to meet the 1976 federal standards in order to satisfy ambient air quality. The remainder would be satisfied either by cars utilizing 1973 technology or a lean thermal reactor. The net savings to the country is approximately $6 billion annually.

TABLE 3.—COSTS OF ALTERNATE APPROACHES OVER CAR LIFETIME (85,000 MILES)

[Dollars]

	Lean thermal reactor	Catalytic converter (a)	Catalytic converter (b)
Initial equipment	230	390	390
Fuel penalty:			
Compression ratio		160	160
To achieve NO_x:			
At 0.4 gram/mile		230	
At 0.8 gram/mile			40
Dual catalyst replacement (per change net costs):			
25,000 mile lifetime		330	
50,000 mile lifetime			110
Total	230	1,110	700

Table 4 represents the annual import cost of the catalytic converter relative to lean thermal reactor approach.

TABLE 4.—IMPORT COSTS RELATIVE TO LEAN THERMAL REACTOR

[Millions of dollars per year 1985]

	NO_x 0.4 grams/mile	NO_x 0.8 grams/mile
Platinum/palladium[1]	500	500
Fuel ($4 barrel)[2]	2,000	1,000
Total	2,500	1,500

[1] Platinum imports are a function of recycling capability which is not taken into account here.
[2] Fuel costs are lowest estimate provided.

It is well known that the costs exceed the benefits of the nationally imposed federal 1976 standards by considerable margins—approximately $6 billion per year. One should consider the costs to the consumer, the impact of the additional imports, and the cost/benefit relationship when evaluating the health threat.

TECHNOLOGICAL FORECASTS

Engines developed for the 1980 time frame will probably be less dependent on compression ratio and flame front propagation than current engines. This means that lead additives would be unnecessary and low octane fuels would be appropriate. This is probably true for external combustion engines, gas turbines, compression ignition engines, spark ignited dual chamber and stratified charge engines. Most of these engines have promise of meeting the 1976 federal standards in the 1980's at lower cost and far greater fuel efficiency than the current spark ignited internal combustion engines. It would not be a wise expenditure of national funds ($2 billion) to provide for the refining and distribution of no lead gasoline when there is a strong possibility that alternate propulsion systems using an entirely different fuel may be predominant in the 1980's.

By Mr. MAGNUSON (for himself and Mr. CANNON):

S. 2401. A bill to promote safe transportation of people and property in commerce by establishing the National Agency for Transportation Safety as an independent agency of the United States to investigate transportation accidents, to make recommendations for avoiding such accidents, to represent the safety interests of the public before regulatory

agencies, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, when Congress enacted the Department of Transportation Act of 1966, we simultaneously created the National Transportation Safety Board. The Board is charged with the responsibility of conducting a continuing across-the-board review of safety in all modes of transportation; of determining the cause or probable cause of transportation accidents of conducting special studies and investigations on matters pertaining to safety in transportation and the prevention of accidents.

The legislative history of the 1966 act clearly indicates that while the Safety Board is to rely on the Department for administrative services, that it is lawfully independent from all other branches of Government. However, Senate Commerce Committee hearings held this summer revealed that the Board has been subject to pressure, harassment, and in some cases intimidation by officers of the executive branch on matters of substance involving policy and personnel. Not only is this in clear violation of the letter and spirit of the 1966 act, but it has also handicapped and impeded the Board in exercising its lawful responsibilities to protect the public from transportation accidents.

Several specific situations were uncovered which indicate the degree to which the independence of the Board has been compromised. The most serious have been attempts by the administration to intervene in the affairs of the Board regarding substantive matters over which the Board has authority. In 1970, in a well-documented incident, the Federal Aviation Administrator and his Deputy sought, in a closed door meeting with the Board, to intervene in an attempt to pressure the Board to change its procedures in accident investigations in a manner which would be more friendly and less critical to the Federal Aviation Administration.

Similarly, in April of 1973, another attempt was made to interfere with the Board's activities. In that instance, an Assistant Secretary of Transportation told Chairman Reed that unless the Republican members of the Board concurred on certain DOT views relating to the Board's annual report, that they would be "disciplined" by the administration. The threat was conveyed by Chairman Reed to three other members. The threat was subsequently "canceled" although that fact seems never to have been communicated to the Safety Board members.

In addition to this direct interference with the Board's activities, the hearing also revealed instances of political appointees being hired at the Board to replace competent and qualified civil servants. In early 1971, a highly regarded and competent manager was removed from the position of Executive Director of the Board on order of the administration and was replaced by the White House by a man without former government managerial experience or without any specific background in transportation. The position was changed from a career civil service to a noncareer executive appointment.

Clearly, whereas Congress intended to create a highly skilled and professional agency to insure the safety of our transportation network, in reality, that agency has become politicized and its attention has been diverted from its crucial safety mission. The legislation which I am proposing today will complete the job we set out to do in 1966: to create a truly independent National Agency for Transportation Safety (NATS).

As a new independent agency, NATS would not only assume all of the responsibilities of the National Transportation Safety Board, but it would also take on an expanded role in investigation, oversight and safety advocacy functions.

The Agency would be headed by a single administrator appointed not because of his political qualifications, but because he is an individual who, by education, training and experience is a professional in the field of accident reconstruction and safety engineering. He must also have distinguished himself in the field of transportation safety, safety systems, or design safety by writings, teaching or meritorious performance and must also have had administrative experience. The proposed bill would further insure the independence of the Administrator by limiting his service to one 6-year term.

The proposed bill mandates the new Agency to maintain its current level activity in assuring the safety of air travel but would also require a more active investigatory role in surface transportation accidents. In 1972, the NTSB undertook only 18 major surface accident investigations. Under the proposed bill, NATS would be required to investigate all marine accidents in which there is a fatality or property damage in excess of $500,000; a minimum of 500 motor vehicle accidents selected by the Agency which involve a fatality, all railroad accidents in which there is a fatality or property damage in excess of $500,000 and all pipeline accidents in which there is a fatality. Furthermore, the Agency would have the option to investigate any other accident which occurs in connection with the transportation of people or property which is catastropic, involves problems of a recurring character, or would otherwise carry out the policy of the act.

In addition to increasing the scope of safety investigations, the proposed legislation is designed to facilitate the implementation of those recommendations. Specifically, whenever the Agency submits a recommendation regarding transportation safety to the Secretary of Transportation, the Secretary must, within 120 days indicate his intention to accept, in whole or in part, or reject such recommendations and his reasons therefor. This procedure will not only insure serious department consideration of each and every recommendation, but will also serve as a record of disposition of those recommendations, thus increasing the accountability of Federal agencies.

In addition to this expanded investigatory mission, other new roles would be assigned to NATS. The Agency would become an advocate of transportation safety. Under the proposed bill, the Administrator could intervene in certain Federal and State proceedings where the result of the proceeding would substantially affect an important interest of the public in transportation safety, accident avoidance, or accident loss reduction, For example, if the Federal Railroad Administration which implements the Federal Railroad Safety Act is proceeding with a rulemaking function, it would have the benefit of NATS' comments on the proposed rule.

The new Agency would also pursue an oversight function of each of the modal administrations in the Department of Transportation. As part of its duties, NATS would evaluate, assess the effectiveness, and publish its findings with respect to the safety consciousness and efficacy in preventing accidents of other Government regulatory agencies. This would serve not only as an invaluable independent analysis for the subject agency, but also would alert Congress to weaknesses in our Federal structure designed to insure safe transportation.

Mr. President, so important is the issue of the independent status of the National Transportation Safety Board, that the Board itself has made a plea to Congress to enact such legislation. In its 1971 Annual Report, the Board said:

> Unfortunately, since the inception of the Board, its status within the Department has been misunderstood by the media, the public and other government agencies. To often it has been assumed that the Board is not independent, but a subordinate part of the Department, despite the legislative history of the Act which makes it clear that the Board is fully independent of the Department.

The Board has reiterated this plea in its 1972 report by stating:

> The Board now is constrained not only to reaffirm its previous position but to make an even stronger plea to the Congress to establish the Safety Board as a completely independent agency. The Board believes that legislation is required.

Clearly, there is inherent conflict in a department of the Federal Government performing an investigative function of itself. To be truly meaningful, that oversight activity must be from outside of the department, in an independent agency. It is for this reason that I have emphasized the need for independence.

In short, Mr. President, the legislation which I am proposing today will form the basis for the development and maintenance of a sophisticated and refined Federal capacity to monitor, inspect and make recommendations for improving the safety systems of our Nation's transportation network. In 1972, 60,275 Americans lost their lives in transportation accidents while an additional 2.1 million were injured. Clearly, this legislation deserves a high priority and I have scheduled hearings on this bill for September 12. I urge my colleagues to expedite consideration of this important legislation.

Mr. President, this bill which I am introducing along with Senator CANNON is a start toward reasserting the independence and the technical integrity of the NTSB. The bill is not necessarily in final

form, nor do Senator CANNON and I necessarily support all the recommended changes embodied in the bill. Rather the bill is a draft, reflecting the work of our staff over the past several months and a focal point around which we may assess possible other alternatives in seeking to achieve the goals which I have outlined today.

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

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

S. 2401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Agency for Transportation Safety Act of 1973".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress hereby finds and declares that—

(1) The National Transportation Safety Board was established by statute in 1966 (Public Law 89-670, 80 Stat. 935) as an independent government agency, located within the Department of Transportation, to promote transportation safety by conducting independent accident investigations and by formulating recommendations for safety improvement.

(2) The Board, while being lawfully independent from other branches of Government, has been subject to pressure, harassment, and in some cases intimidation by officers of the executive branch on matters of substance involving policy and personnel. This interference has handicapped and impeded the Board in exercising its lawful responsibilities to protect the public from transportation accidents.

(3) The governmental body which is charged to investigate transportation accidents, to review continually and assess the operating practices and operating regulations of governmental agencies involved in transportation, and to make recommendations to improve transportation safety should be totally separate and independent from any other department, bureau, commission, or agency of the United States.

(4) The current structure of the National Transportation Safety Board, which closely resembles a regulatory agency, is not appropriate for a government agency which exists only to ascertain facts and to make recommendations regarding transportation safety. The diversity of social, political, and economic viewpoints which characterize multimember Boards or Commissions is unnecessary in a government agency which has no regulatory role. An independent agency, headed by a single administrator selected and appointed on the basis of high qualification and experience in transportation or systems safety and the engineering sciences is a more appropriate structure for such a body.

(b) PURPOSE.—It is the purpose of this Act to promote safety in transportation by—

(1) establishing the National Agency for Transportation Safety as an independent agency of the United States;

(2) directing the Agency to assume the duties of the National Transportation Safety Board, which shall cease to exist, and to—

(A) study and investigate transportation accidents in commerce and reports of transportation accidents prepared by other governmental agencies and to make a determination of the cause or probable cause or causes of aviation, marine, motor vehicle, railroad, and pipeline accidents;

(B) report such findings and the facts, conditions, and circumstances relating to such accidents;

(C) recommend and advocate corrective steps and meaningful responses to reduce the likelihood of recurrence of such accidents, including, but not limited to, safety-oriented improvements in transportation systems, equipment, methods, and procedures; and

(D) assess the effectiveness of other government agencies in preventing such accidents; and

(3) authorizing the Agency to advocate the cause of safety in transportation by representing the safety interests of the public before Federal, State, and local agencies and instrumentalities.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Administrator" means the Administrator of the Agency.

(2) "Agency" means the National Agency for Transportation Safety established pursuant to section 4 of this Act.

(3) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

(4) "Secretary" means the Secretary of Transportation.

NATIONAL AGENCY FOR TRANSPORTATION

SEC. 4. a) ESTABLISHMENT.—The National Transportation Safety Board, previously established in the Department of Transportation, shall, on and after the ninetieth day after the date of enactment of this Act, be known as the National Agency for Transportation Safety and shall be an independent agency of the United States. Such Agency shall function continuously pursuant to the provisions of this Act.

(b) ORGANIZATION.—The Agency shall be directed and administered by an Administrator, pursuant to the provisions of section 5 of this Act. The Administrator shall establish and maintain within the Agency distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation: aviation; marine and maritime; highway and motor vehicle; railroad and rail; and pipeline. The Administrator shall also provide for an appropriately staffed bureau, division, or office to oversee efforts for the safe transportation of hazardous materials.

(c) GENERAL.—(1) The General Services Administration shall furnish the Agency with such offices, equipment, supplies, and services as it is authorized to furnish to any other agency or instrumentality of the United States.

(2) The Agency shall have a seal which shall be judicially recognized.

(d) STAFF.—The Administrator is authorized to—

(1) appoint, fix the compensation, and assign the duties of—

(A) three or more Associate Administrators: *Provided,* That any such Associate Administrator shall only take office upon issuance of a resolution, by both the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate, endorsing such appointment; and

(B) a General Counsel;

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. No individual shall be appointed to such position unless he is specifically qualified by education and experience and competent to perform the specialized duties of the position and signifies his willingness to appear, upon reasonable request, before any appropriate congressional committee. Compensation shall not exceed the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(2) appoint, fix the compensation, and assign the duties of such other employees of the Agency as he deems necessary, including but not limited to, attorneys, investigators, scientists, engineers, researchers, and clerical personnel;

(3) request in writing from any department, agency, and instrumentality of the executive branch of the Federal Government and any independent regulatory agency of the United States, on a reimbursable basis or otherwise, such assistance as the Administrator deems necessary including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating; and

(4) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for an individual.

(e) DUTIES.—The Agency shall—

(1) investigate or cause to be investigated in such detail as the Administrator shall prescribe, analyze and determine the cause or probable cause or causes of any—

(A) aircraft accident which is within the scope of the functions, powers, and duties transferred from the Civil Aeronautics Board under section 6(d) of the Department of Transportation Act (49 U.S.C. 1655(d));

(B) marine accident in which there is a fatality or property damage in excess of $500,000 on navigable or territorial waters of the United States, in conjunction with the Secretary and the Commandant of the Coast Guard;

(C) motor vehicle accident that it selects but not less than five hundred such accidents which involve a fatality each year, in cooperation with the highway departments of the States;

(D) railroad accident in which there is a fatality or property damage in excess of $500,000;

(E) pipeline accident in which there is a fatality; and

(F) other accident which occurs in connection with the transportation of people or property which, in the judgment of the Agency, is catastrophic, involves problems of a recurring character, or would otherwise carry out the policy of this Act;

(2) report in writing on the facts, conditions, and circumstances of each accident investigated pursuant to paragraph (1) of this subsection and cause such reports to be issued to the public at reasonable cost and cause notice and a brief summary of such reports to be published in the Federal Register;

(3) issue periodic reports to the Congress, Federal, State, and local agencies concerned with transportation safety, and other interested persons recommending and advocating meaningful responses to reduce the likelihood of recurrence of transportation accidents similar to those investigated by the Agency and proposing corrective steps to make the transportation of persons as safe and free from risk of injury as is possible, including steps to minimize human injuries from transportation accidents and to improve the availability and quality of emergency health and medical and vocational rehabilitation services for victims of transportation accidents;

(4) advocate the cause of safety in transportation in accordance with section 6 of this Act;

(5) initiate and conduct special studies on matters pertaining to safety in transportation, including human injury avoidance;

(6) assess and reassess techniques and methods of accident investigation and prepare and publish from time to time recommended procedures for accident investigations;

(7) establish by regulation requirements binding on persons reporting accidents sub-

ject to the Agency's investigatory jurisdiction under this subsection;

(8) evaluate, assess the effectiveness, and publish the findings of the Agency with respect to the safety consciousness and efficacy in preventing accidents of other Government agencies;

(9) develop and maintain a sophisticated and refined capacity to monitor and inspect the adequacy of safeguards and procedures concerning the transportation of hazardous materials and continuously evaluate the performance of other responsible Government agencies charged with assuring the safe transportation of such materials; and

(10) review on appeal the suspension, amendment, modification, revocation, or denial of any operating certificate or license issued by the Secretary of Transportation, in accordance with the provisions of section 10 of this Act.

ADMINISTRATOR

SEC. 5. (a) APPOINTMENT.—The Administrator shall be appointed by the President within ninety days after the date of enactment of this Act, by and with the advice and consent of the Senate from lists of qualified individuals recommended by the Consumer Product Safety Commission and the Comptroller General of the United States. As used in this subsection, "qualified individual" means an individual who is by education, training, and experience a professional in the field of accident reconstruction and safety engineering, who has distinguished himself in the field of transportation safety, safety systems, or design safety by writings, teaching, or meritorious performance, and who has had administrative experience. Each list of qualified individuals recommended to the President shall to the extent practicable be accompanied by biographical materials and reasons in writing with respect to each individual recommended on such list. At the time of submission of a nomination under this subsection to the Senate, the President shall transmit therewith a copy of each list of qualified individuals recommended together with all accompanying material submitted.

(b) TERM OF OFFICE.—The Administrator shall serve for a term of six years. A successor to the Administrator shall be appointed in the same manner as the original Administrator and shall have a term of office which shall expire six years from the date of his appointment, except that a successor to an Administrator who resigns prior to the expiration of his term of office shall be appointed and hold office only for the unexpired portion of such term. No Administrator or former Administrator of the Agency may be reappointed to another term of office as the Administrator, except that the Administrator may continue in office as Acting Administrator until his successor is duly selected and sworn.

(c) POWERS.—(1) The Administrator, or an employee of the Agency duly designated by him, may for the purpose of carrying out any of the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such evidence as the Administrator or such employee deems advisable. Subpenas shall be issued under the signature of the Administrator, and may be served by any person designated by the Administrator. Witnesses summoned to appear before the Agency shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production of evidence may be required from any place in the United States to any designated place of such hearing in the United States.

(2) The Administrator, or an employee of the Agency duly designated by him, may conduct an inquiry to secure data with respect to any matter pertinent to transportation safety, upon publication of notice of such inquiry in the Federal Register, and may require, by special or general orders, Federal, State, and local government agencies and persons engaged in the transportation of people or property in commerce to submit written reports and answers to such requests and questions as are propounded with respect to any matter pertinent to the duties of the Agency. Reports and answers required under this paragraph shall be submitted to the Administrator or such employee within such reasonable period of time and in such form as the Administrator may determine, and copies shall be made available for inspection by the public at any office of the Agency.

(3) The Administrator, or an employee of the Agency duly designated by him, upon presenting appropriate credentials and a written notice of inspection authority, is authorized to enter any property wherein a transportation accident has occurred or wreckage from any such accident is located and do all things therein necessary for a proper investigation. The Administrator or such employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities relevant to safety in transportation which is owned by or within the control of any person engaged for hire in the transportation of people or property in commerce. Each inspection shall be commenced and completed with reasonable promptness and the results of such inspection made available.

(4) In case of contumacy or refusal to obey a subpena, an order, or an inspection notice of the Administrator or any duly designated employee by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Administrator, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(5) The Administrator is authorized to enter into, without regard to section 3700 of the Revised Statutes, as amended (41 U.S.C 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and the duties of the Agency under this Act, with any government agency or any person.

(6) The Administrator, or an employee of the Agency duly designated by him, is authorized to obtain and shall be furnished upon presentation of appropriate credentials, a copy of the report of any autopsy performed by State or local government officials on any individual who dies as a result of involvement in an aviation, marine, motor vehicle, railroad, or pipeline accident. If necessary in the judgment of the Administrator, he may order an autopsy or seek other tests as he deems necessary to a proper investigation of the accident, consistent with local law.

(7) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act and to amend or rescind such regulations at any time. The Administrator shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this paragraph shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(8) On or before August 1 of each year, the Administrator shall prepare and submit concurrently to the President and to the Congress budget estimates to carry out the provisions of this Act and all other authority of the Administrator for the following year. Whenever the Administrator submits or transmits any budget requests, supplemental budget estimates or other budget information, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to the President or to the Office of Management and Budget, he shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to request or require the Administrator to submit his budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(9) The Administrator is empowered to designate representatives to serve or assist on such committees as he determines to be necessary or appropriate to maintain effective liaison with other Federal and with State and local government agencies in independent standard-setting bodies carrying out programs and activities related to transportation safety.

SAFETY ADVOCACY

SEC. 6. (a) FEDERAL PROCEEDING.—Whenever the Administrator determines that the result of any Federal department or agency proceeding which is subject to the provisions of section 553, 554, 556, or 557 of title 5, United States Code, or which is otherwise conducted on the record after opportunity for an agency hearing, may substantially affect aviation, marine, motor vehicle, railroad, or pipeline safety, the Administrator or any duly designated employee of the Agency may as of right intervene on behalf of the Agency as a party by entering his appearance or otherwise participating in such proceeding, and, upon intervening or otherwise participating for the purpose of representing the interests of safety in such proceeding. The Administrator or such employee shall comply with statutes and rules of procedure of general applicability governing the timing of intervention or participation in such proceeding, and, upon intervening or participating in such proceeding, shall comply with statutes and rules of procedures of general applicability governing the conduct thereof: *Provided*, That in the absence of statutes or rules of procedure authorizing such intervention, the Administrator or such employee shall have full opportunity to present to responsible officials of such Federal department or agency, orally or in writing, in an orderly manner and without causing undue delay, relevant information, briefs, and arguments.

(b) STATE OR LOCAL PROCEEDING.—The Administrator or any duly designated employee of the Agency is authorized to intervene, or otherwise to participate, in any State or local agency or court proceeding, where the Administrator determines that the result of such proceeding may substantially affect an important interest of the public in transportation safety, accident avoidance, or accident loss reduction and such intervention or participation has been requested in writing by any of the following:

(1) the Governor of a State or any official designated by him for such purpose;

(2) an agency or official duly authorized by a State to represent the interests of safety before any State or local agency or court; and

(3) the State or local agency or court conducting the proceeding.

ANNUAL REPORT AND EFFECTIVENESS EVALUATION

SEC. 7. The Administrator shall report to the Congress on July 1 of each year. Such report shall include—

(a) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Agency during the preceding twelve months;

(b) a survey and summary, in such detail as the Administrator deems advisable, of the recommendations made by the Agency to reduce the likelihood of recurrence of such accidents together with the observed response to each such recommendation;

(c) a summary of the activity of the Agency in advocating the cause of safety in transportation, including a detailed listing of the interventions and appearances made on behalf of the Agency and the action, if any, taken in response to such intervention, participation, or appearance;

(d) an appraisal in detail of the accident investigation and accident prevention activities of other government agencies charged by Federal or State law with responsibility in this field;

(e) a biennial appraisal and critical evaluation and review, including recommendations for legislative and administrative action and change, with respect to—

(1) aviation accident investigation and aviation safety;

(2) marine accident investigation and marine safety;

(3) highway and motor vehicle accident investigation and motor vehicle safety;

(4) railroad accident investigation and railroad safety, including grade crossing accidents;

(5) pipeline accident investigation and pipeline safety; and

(6) competence, training, and resourcefulness of Agency executives and employees; the organization, management, and conduct of operations of the Agency; and the performance of the Agency's hazardous materials transportation and safety advocacy activities.

Such evaluation and review shall be conducted and prepared separately by a person who is independent of the Agency but retained by the Agency, specifically for this purpose and no other, as a consultant, at rates not to exceed $200 a day for an individual. The same person shall not prepare such an evaluation and review for the Agency more than once. Each such evaluation and review shall be published in the annual report exactly as submitted to the Agency except for proofreading corrections; and

(f) an introductory and concluding statement by the Administrator, including responses, if any, to critical observations and appraisals in the biennial independent review of Agency activities.

PUBLIC ACCESS TO INFORMATION

SEC. 8. (a) GENERAL.—Copies of any communication, document, investigation or other report, or information received or sent by the Administrator or any employee of the Agency shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released pursuant to subsection (b) of this section. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(b) EXCEPTION.—The Administrator shall not disclose information obtained by him under this Act which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed—

(1) upon request, to other Federal Government departments and agencies for official use;

(2) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;

(3) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(4) to the public in order to protect health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

In no event shall the name or other means of identification of any person injured in a transportation accident be made public by the Agency without the consent of the injured person or his survivor or survivors.

RESPONSE TO AGENCY RECOMMENDATIONS

SEC. 9. Whenever the Agency submits a recommendation regarding transportation safety to the Secretary of Transportation, the Secretary shall respond formally and in writing to such recommendation not later than one hundred and twenty days after receipt. The response to the Agency by the Secretary shall indicate his intention to—

(a) adopt such recommendation in full and provide a proposed timetable for such adoption;

(b) adopt such recommendation in part, provide a proposed timetable for such partial adoption, and explain in detail why the remainder of such recommendation will not be adopted; or

(c) refuse to adopt such recommendation and explain in detail his reason or reasons therefor.

The Agency shall cause each such recommendation and response to be published in the Federal Register.

REVIEW OF OPERATING CERTIFICATE OR LICENSE ACTIONS OF THE SECRETARY

SEC. 10. The Administrator and Assistant Administrators shall constitute a Review Board.

(a) Such a Board shall receive, hear, and decide upon any petition for review filed with the Agency by any person aggrieved by the final decision of the Secretary (including any agency subject to the jurisdiction of the Secretary) suspending, amending, modifying, revoking, or denying any certificates in accordance with section 609 of the Federal Aviation Act (49 U.S.C. 1429).

(b) Such Board shall also review, upon request, decisions of the Commandant, United States Coast Guard, on appeals from orders of the hearing examiners revoking licenses, certificates, documents, or registers in proceedings under Revised Statutes 4450, as amended (46 U.S.C. 239); Act of July 15, 1954 (46 U.S.C. 239 (a) and (b)); or section 4, Great Lakes Pilotage Act (46 U.S.C. 216(b)).

CONFORMING AMENDMENTS

SEC. 11. (a) The Department of Transportation Act is amended by striking out section 5 thereof (49 U.S.C. 1654) in its entirety.

(b) The Department of Transportation Act (49 U.S.C. 1651 et seq.) is amended by striking out the words "National Transportation Safety Board" and "the Board" wherever the same shall appear in any section of such Act.

(c) Section 5314 of title 5, United States Code is amended by striking out the words "Chairman, National Transportation Safety Board" and inserting in lieu thereof the following words: "Administrator, National Agency for Transportation Safety".

(d) Section 5315 of title 5, United States Code, is amended by striking out the words "Members, National Transportation Safety Board.".

(e) Subsection (e) of section 8336 of title 5, United States Code is amended by inserting between "of service" and "is" the following words: "or an employee who serves a complete term of office as Administrator of the National Agency for Transportation Safety".

(f) Section 19 of the Act of February 28, 1871 (46 U.S.C. 239(a)) is amended by striking out the words "The Commandant of the Coast Guard" in the first sentence thereof and inserting in lieu thereof "The Administrator of the National Agency for Transportation Safety" and by striking out the word "made" in the last sentence thereof and inserting in lieu thereof the word "submitted".

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. There are hereby authorized to be appropriated for the purposes of this Act such sums as are necessary, not to exceed $14,000,000 for the fiscal year ending June 30, 1974; $16,000,000 for the fiscal year ending June 30, 1975; and $18,000,000 for the fiscal year ending June 30, 1976. Moneys appropriated for the Agency shall not be withheld by any agency or official of the United States.

By Mr. McGOVERN (for himself and Mr. ABOUREZK):

S. 2402. A bill authorizing the construction of a dam and reservoir on the Little White River, South Dakota (Rosebud site). Referred to the Committee on Public Works.

LITTLE WHITE RIVER PROJECT

Mr. McGOVERN. Mr. President, I introduce for appropriate reference on behalf of myself and Senator ABOUREZK a bill to authorize a dam and reservoir on the Little White River in South Dakota.

One of my first activities on coming to the Senate 10 years ago was to ask the Senate Committee on Public Works to look at the potential of multiple purpose development of the White River and its tributaries in South Dakota and Nebraska.

The committee, by resolution, directed the U.S. Army Corps of Engineers to study the river basin. That study has been completed.

The engineers surveyed a number of possible sites in a 10,200-square-mile area of southwestern South Dakota and northwestern Nebraska, an area which includes two major Indian reservations.

The report of the Missouri River Division Engineers to the Board of Engineers for Rivers and Harbors is not encouraging. None of the 25 sites examined was found, by the Corps of Engineers' standards, to be feasible when measured on a strict cost-benefit formula.

The Engineers did report, however, that the proposed Rosebud site, 1½ miles north of the Mellette-Todd County line, on the Little White River—

Might provide regional opportunities for increased economic activities through expansion of the tourism industry.

Although the Corps of Engineers determined that the Rosebud site has a benefit-cost ratio of 0.3, or 30 cents of measurable benefit for every dollar of cost, the fact that the agency has identified clear economic benefits to the affected area is sufficient for me to introduce this legislation and urge its enactment.

The area which would benefit from the proposed dam and reservior on the Little White River is not unlike many rural areas in this Nation—it is losing population rapidly. The 1970 population of the White River Basin was 47,000—a decrease of 13 percent since 1940. Within the basin are two Indian reservations with the highest unemployment, the lowest per capita income, and the poorest health and housing and living conditions to be found in this Nation.

The Rosebud project is a modest proposal. It would cost, based on present estimates, about $7.5 million. It would create a scenic lake of 4.3 miles in length, with 26 miles of shoreline, and 2,400 acres of surface area. The dam itself would be 120 feet high and 4,000 feet long.

In the Agricultural Act of 1970 and the Rural Development Act of 1972, the Federal Government committed itself to a sound balance between rural and urban America. In the words of the 1970 act:

> The Congress considers this balance so essential to the peace, prosperity and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

Mr. President, the Rosebud project would assist the revitalization and development of one rural area. It would bring new dollars into the White River Basin, create new jobs, and provide opportunities for young men and women who would prefer to stay, rather than flee to the great cities. I urge enactment of this bill.

By Mr. McGOVERN (for himself and Mr. ABOUREZK):

S. 2403. A bill to authorize the Secretary of the Interior to construct, operate, and maintain a larger and adequate spillway, and to improve the upstream slope protection on Belle Fourche Dam, Belle Fourche project, Belle Fourche, S. Dak., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

BELLE FOURCHE DAM IMPROVEMENTS

Mr. McGOVERN. Mr. President, I send to the desk for appropriate referral a bill that will authorize the Secretary of the Interior to make some badly needed repairs and replacements in the spillway of the Belle Fourche Dam in South Dakota. The dam is a multipurpose structure that provides water for irrigation as well as protection against frequent flooding in the area. In its present condition, it is barely capable of fulfilling either of those functions. In a letter dated August 17 of this year, the acting Commissioner of the Bureau of Reclamation, Mr. William Graham, stated that he recognized—

> The need for replacing the existing spillway and for providing permanent protection of the upstream slope at Belle Fourche Dam.

He went on to say that the needed work should be given high priority. This, then, is the legislation that is needed to provide the authority to make the necessary repairs and I urge the Senate Interior Committee to give this bill prompt and favorable attention. I am pleased to announce that one of the members of that committee, my distinguished colleague, Senator JAMES ABOUREZK, joins me in sponsoring this measure.

ADDITIONAL COSPONSORS OF BILLS

S. 2022

At the request of Mr. TUNNEY, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2022, to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes.

S. 2179

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2179, the demonstration loan program for the elderly bill.

S. 2180

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2180, the Housing Security Act of 1973.

S. 2181

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2181, the Intermediate Housing for Elderly and Handicapped Act.

S. 2185

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2185, the extension of section 202 housing for the elderly and handicapped program.

S. 2248

At the request of Mr. WILLIAMS, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2248, the Mobile Health Unit Act of 1973.

S. 2255

Mr. BEALL. Mr. President, on July 26, 1973, I introduced S. 2255, which would amend the Washington Area Transit Authority Compact to require the inclusion of rail commuter service in the mass transit plan.

Senator HARRY F. BYRD, JR., was a strong supporter and cosponsor of this bill in the previous Congress and I am pleased that he has again consented to cosponsor this legislation.

I ask unanimous consent that his name be added at the next printing of the bill.

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

SENATE RESOLUTION 167—SUBMISSION OF A RESOLUTION RELATING TO INVESTIGATION OF THE NEWSPRINT SHORTAGE

(Referred to the Committee on Commerce.)

THE NEWSPRINT SHORTAGE

Mr. PEARSON. Mr. President, newspapers in the United States are faced with a severe shortage of newsprint. This shortage is immediate and expected to grow more intense over the coming months. According to industry experts and the National Newspaper Association, the basic demand and supply picture indicates that the shortage will continue for a period of years.

At the outset, Mr. President, let me set down my view that the Congress of the United States should be concerned with the well-functioning of a free and viable press as guaranteed by the first amendment. For many people, and particularly those who live in sparsely populated or isolated areas, the daily or weekly newspaper is the single most important source of information available.

Because the immediate newsprint shortage has its heaviest impact on small independent papers, it seems to me incumbent upon the Congress to seek means of reducing the impact of the shortage, before competition for available supplies begins to force more of these papers to stop publication. Already we have reports of weekly newspapers in the State of New Jersey which have closed for lack of available paper. The impact of the shortage is also being felt by large metropolitan dailies which are reportedly cutting back special editions. In my own State of Kansas, conditions are acute because the area lies at a great distance from domestic newsprint mills which are concentrated in a few areas of the country.

During the last several weeks, strikes of Canadian paper mills and railroads seriously curtailed production of newsprint in Canada, which supplies over 65 percent of all newsprint for U.S. domestic use. Even if all these labor disputes were settled tomorrow, the short term impact on American newspapers, which are literally running out of newsprint stocks, will be an immediate shortage that can cause the closing of many papers.

Over the past year the capacity of our domestic newsprint mills has been fully utilized as the consumption of newsprint has continued its rapid rise. In the past year the use of newsprint in this country increased by nearly 500,000 tons from a level of 10.2 to a level of 10.7 million tons, and this rate shows no sign of leveling off. In spite of this, however, we can expect no added domestic mill capacity before 1974. This situation leaves newspapers in the United States heavily dependent on the importation of newsprint from Canada and other sources, and makes it necessary to approach this shortage with a full understanding that any short term relief depends upon cooperation between the paper industries of the United States and Canada.

The resolution I am submitting today is intended to reinforce initiatives of several of my colleagues in calling the attention of the Congress to this serious national problem. The resolution calls on the Senate, acting through the Commerce Committee, to conduct a broad investigation into the problem to determine its nature and scope and recommend means of alleviating it. It would be my hope that, among other subjects, the investigation would address itself to determining the actual state of newsprint supplies in the country and projections for future supply and demand.

The question of whether our domestic mill capacity can be increased to help relieve the shortage, and how this could be done, would seem an appropriate one. A consideration of the process by which newsprint is manufactured and means of making it more efficient is needed. And we should approach this entire mat-

ter with the conservation of our timber resources well in mind.

I think we should also give most careful attention to the requirements of a rapid increase in recycled newspaper production, a method which conserves our paper supply and reduces solid waste at the same time. Finally, the price structure of the entire industry, including the price of old newspapers used for recycling, has an important bearing on the present and future capability of the newsprint industry to meet the production needs of America's newspapers.

These are only a few aspects of the broad subject before us. I think we find ourselves faced with a situation where the activities of government, business, industry, labor, and agriculture could all suffer unless we sort out this problem soon. If newspapers in the United States find themselves compelled to reduce the frequency or quality of their publications, the public would be the loser. Early steps to inform the Congress and the public about the newsprint shortage are vital to those small and independent newspapers which do not have an assured supply of newsprint. A severe newsprint shortage in the country over a period of 6 months could destroy a large number of these publications.

I do not know where the answers lie, Mr. President. My resolution seeks only to focus the energies and attention of the Senate upon the problem. It calls on the committee to report its findings and recommendations before the end of this session. I am confident that if the Commerce Committee determines to investigate the matter, the Congress and the country will have a much better understanding of what should be done.

The resolution is as follows:

S. RES. 167

Resolved, whereas newspapers in the United States are facing a severe shortage of newsprint with which to produce their publications, and this shortage is expected to continue for a period of years;

Whereas the Congress of the United States must be concerned with the continuance of a free and viable press as guaranteed by the first amendment of the Constitution, and therefore must also be concerned with the problems of the press in obtaining adequate supplies of newsprint to fulfill their functions in a democratic society;

Whereas government, business, industry, labor, and agriculture all depend upon newspapers to keep the public informed of their activities;

Whereas small, independent newspapers which inform citizens in isolated and sparsely populated areas are often most vulnerable to the effects of newsprint shortage; and

Whereas strikes and labor controversies have seriously curtailed production of newsprint from Canada during the last several weeks, thus creating an immediate shortage that can cause the closing of many newspapers: Now, therefore, be it

Resolved, That the Committee on Commerce, or any duly authorized subcommittee thereof, is authorized and directed under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study and investigation with respect to the economics, production, and supply problems of the newsprint manufacturing industry in the United States, the problems relating to the importation of newsprint, and the effect of these problems on the publication of newspapers in the United States.

Sec. 2. The Committee shall report to the Senate at the earliest practicable date, during the first session of the 93rd Congress, the results of its study and investigation, together with such recommendations as it considers appropriate.

THE DISCLOSURE STANDARDS FOR WRITTEN CONSUMER PRODUCT WARRANTIES AGAINST DEFECT OR MALFUNCTION—AMENDMENT

AMENDMENT NO. 474

(Ordered to be printed, and to lie on the table.)

Mr. HARTKE. Mr. President, I submit an amendment to S. 356 and ask that it lie on the table and be printed.

Mr. President, this amendment establishes used-car warranty requirements. It requires all used cars to be sold with a written warranty unless the contract of sale contains a statement: "All repairs are the responsibility of the buyer." This statement must also be brought to the attention of the buyer orally.

It requires the used-car dealer to disclose certain basic information to purchasers and prospective purchasers. Among this information is a statement of any mechanical defects known to the dealer and any repairs made by that dealer to the car after he acquired it. If the vehicle is sold with a written warranty, then the dealer must disclose the place where repairs can be made and the exact extent of the warranty coverage.

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

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

AMENDMENT NO. 474

On page 68, following line 9, add the following:

TITLE IV—USED CAR WARRANTIES

DEFINITIONS

SEC. 401. As used in this title—

(1) "Dealer" means any supplier selling used motor vehicles to a consumer.

(2) "Mechanical defect" includes any damage, malfunction, or failure, in whole or in part, which affects the safety or normal use of the used motor vehicle.

(3) "Motor vehicle" means any vehicle propelled by mechanical power, manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails.

(4) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, American Samoa, or any other territory or possession of the United States.

(5) "Used motor vehicle" means any motor vehicle which is offered for sale to a consumer after—

(A) such vehicle had previously been sold to a consumer; or

(B) such vehicle had been used by a dealer or any other person for the personal transportation of persons, or as a rental, driver-education, or demonstration motor vehicle and driven more than two hundred and fifty miles or so used for more than fifteen days.

WARRANTY REQUIREMENT

SEC. 402. (a) No dealer shall sell or offer for sale a used motor vehicle to a consumer without a written warranty which conforms to the requirements of this title and this Act, except as provided in subsection (b) of this section.

(b) A dealer may sell or offer for sale a used motor vehicle to a consumer without a written warranty if the contract for sale of such used motor vehicle contains the following notice in conspicuous type: "ALL REPAIRS ARE THE RESPONSIBILITY OF THE BUYER." If such contract is not written in the English language then such notice shall be expressed in the same language as the contract. In addition the dealer shall orally disclose to the purchaser that all repairs are the responsibility of the buyer.

(c) A written warranty shall meet the requirements of section 103 of this Act.

DISCLOSURE OF INFORMATION

SEC. 403. (a) No dealer shall sell a used motor vehicle unless he furnishes to the purchaser a written statement which contains the information required by subsection (b) of this section. The statement shall be furnished prior to the signing of any contract of sale by such purchaser.

(b) The statement required by subsection (a) of this section shall contain—

(1) a complete description of such used motor vehicle including but not necessarily limited to—

(A) the make model year of manufacture and any identification or serial numbers of such vehicle;

(C) a statement of the written warranty coverage of the used motor vehicle, except that if the used motor vehicle is sold without a written warranty, the dealer shall enter the words "As Is—all repairs are the responsibility of the buyer" in the space provided for warranty coverage;

(D) the date on which such vehicle will be delivered to such purchaser and the maximum number of miles which will appear on the odometer on such date;

(2) if the vehicle is sold with a written warranty, the name, address, and telephone number of each facility within a radius of fifty miles of the place of business of such dealer where such vehicle may be brought to have repairs, replacement of parts, and other service under the warranty performed;

(3) if the vehicle is sold with a written warranty, the mileage and the date on which the warranty will terminate.

(c) If the vehicle is sold with a written warranty, the dealer shall warrant that such vehicle can pass any applicable state inspection requirements.

(d) At the request of a bona fide prospective purchaser of a used motor vehicle, the dealer shall furnish such purchaser the name and address of the previous registered owner of such vehicle (for purposes other than resale), whether such vehicle was used principally as a passenger vehicle or was commercially or publicly owned, and the type of sale, transfer, or other means through which the dealer acquired such vehicle, to the extent such information is reasonably available to such dealer. When such previous registered owner sells such vehicle to a new or used motor vehicle dealer, such owner may request that his name be withheld from the subsequent purchaser.

APPLICABILITY OF TITLE I

SEC. 404. The provisions of title I of this act are applicable to the extent not inconsistent with a provision of this title.

(B) a statement of any mechanical defects known to such dealer on the basis of his examination and evaluation of the vehicle prior to his acquisition of such vehicle or which otherwise becomes known to him while in his possession, and any repairs made by or under the direction of such dealer following his acquisition of such used motor vehicle;

(C) a statement of the written warranty coverage of the used motor vehicle, except

that if the used motor vehicle is sold without a written warranty, the dealer shall enter the words "As is—all repairs are the responsibility of the buyer" in the space provided for warranty coverage;

(D) the date on which such vehicle will be delivered to such purchaser and the maximum number of miles which will appear on the odometer on such date;

(2) if the vehicle is sold with a written warranty, the name, address, and telephone number of each facility within a radius of fifty miles of the place of business of such dealer where such vehicle may be brought to have repairs, replacement of parts, and other service under the warranty performed;

(3) if the vehicle is sold with a written warranty, the mileage and the date on which the warranty will terminate.

(c) If the vehicle is sold with a written warranty, the dealer shall warrant that such vehicle can pass any applicable state inspection requirements.

(d) At the request of a bona fide prospective purchaser of a used motor vehicle, the dealer shall furnish such purchaser the name and address of the previous registered owner of such vehicle (for purposes other than resale), whether such vehicle was used principally as a passenger vehicle or was commercially or publicly owned, and the type of sale, transfer, or other means through which the dealer acquired such vehicle, to the extent such information is reasonably available to such dealer. When such previous registered owner sells such vehicle to a new or used motor vehicle dealer, such owner may request that his name be withheld from the subsequent purchaser.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 448

At the request of Mr. GURNEY, the Senator from Texas (Mr. TOWER), the Senator from Kansas (Mr. DOLE), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Amendment No. 448 to the bill (S. 1866) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

NOTICE OF HEARINGS ON NOMINATIONS

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Public Welfare has scheduled public hearings at 9:30 a.m., on Tuesday, September 18, 1973, in room 4232, Dirksen Office Building, on the following nominations:

John H. Powell, Jr., of Maryland, to be a member of the Equal Employment Opportunity Commission.

Marjorie W. Lynch, of Washington, to be an Associate Director of ACTION.

Harry J. Hogan, of Maryland, to be an Associate Director of ACTION.

Lowell J. Paige, of California, to be an Assistant Director of the National Science Foundation.

ADDITIONAL STATEMENTS

A MATTER OF BALANCE

Mr. ROBERT C. BYRD. Mr. President, on Friday, August 10, during the recess, I had the pleasure of addressing the annual meeting of the Peabody Coal Co. in St. Louis, Mo.

Peabody Coal is the Nation's largest coal company with mining operations in 12 States of the Union and overseas. This important coal company, along with many other producers of our most abundant fossil fuel, will make a significant contribution toward the alleviation of our energy crisis over the next decade and beyond, provided that they are given a reasonable opportunity to do so.

As I believe I made clear in my speech, I am fully conscious of the need for sensible application of the conditions of the Federal Clean Air Act. I have sympathy for, and understanding of, the aims of environmentalism and ecology. I am also aware, however, that further stifling and stagnation of the industry that guarantees this Nation a secure energy future, will be too great a price to pay when technology, money, and serious scientific effort, if applied now, could eliminate the environmental shortcomings now associated with this precious energy asset.

I ask unanimous consent that my speech may be printed in the RECORD.

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

SPEECH BY U.S. SENATOR ROBERT C. BYRD

Mr. Chairman and Gentlemen:

As a West Virginian to whom coal has been an integral part of life, it gives me a great deal of pleasure to be in the presence of the gentlemen who run the nation's biggest coal company.

I am also glad to visit once again, the great State that produced a President of the United States of whom every American can be proud.

Of all the many qualities that President Truman possessed, one of the greatest was his ability to cope with crisis, either foreign or domestic, and to these crises he applied a generous measure of sound, common sense. We, too, in our day and in our way, have a crisis, and it is long past time that we applied to it the common sense that was Harry Truman's trademark. I refer, of course, to the crisis in our energy fuels.

We all know that truth is sometimes hard, and we are faced, in America today, with the harsh truth that many years of profligacy in the use of our one-time abundant supplies of fossil fuels has brought us to a point where continued reluctance to face that truth will surely result in economic catastrophe.

Our options are clear: (1) we can increase production at home; (2) we can increase to a dangerous degree our dependence on foreign sources of energy fuels; and (3) we can so scale down our domestic consumption of energy as to make our requirements fit our capability to meet them.

Of the three options, the third will be the hardest to accept. It will involve a monumental task in public education and public responsibility to persuade the American citizen to forego some of the luxuries and conveniences of life to which he and she have become so accustomed. But some measure of it has to be attempted, and, after all, life will be very little different if we don't have electric toothbrushes or automobiles that look like battleships and travel only five miles on one gallon of gasoline. I am sure that the American people are resilient enough to handle whatever sacrifices are necessary, once the initial period of shock has passed.

The sacrifices will not all be personal. Industry must also tighten its belt and eliminate its wasteful and inefficient activities. It does not make sense to dump natural gas under boilers when it is a clean premium fuel that is needed to heat our homes and provide essential feed stocks for the chemical industry.

The nation needs vastly improved technology for the more efficient generation of electrical power. From the current 30% efficiency, we must reach at least twice that in the next fifteen years if our energy fuels consumption is to be kept within reasonable bounds. The research laboratories must mount a relentless effort to pinpoint waste, re-use heat values, and recycle raw materials. Our garden of plenty needs better husbandry.

It has long been a favorite slogan of the oil companies that the world runs on oil, and there is a great deal of justification for that claim. Certainly, in the industrial and technological history of this nation, oil has played a vital role. Along with natural gas, it has significantly fueled the developments that have made the United States the world's leading industrial country. These two energy resources have been plentiful, available, and relatively low-cost. These factors, combined with the relatively recent upsurge of environmental and ecological considerations, led us to use these fuels with what can only be described as complete abandon. We have enjoyed the orgy. Now comes the hangover. and this hangover cannot be dispelled with two Alka Seltzers and half-an-hour in the steam room. It will be cleared up only by a dispassionate analysis of exactly where we stand in the field of energy fuels, and an intelligent and workable plan for where we want to go. That analysis must recognize the fact that this nation will never again be self-sufficient in oil and natural gas. And, unlike the words of the old song, wishing will not make it so.

Certainly, we will have to turn to our second option of importing energy from foreign sources—as dangerous as that may be. At current rates of consumption, and in view of projected growth in the next decade, the United States will be importing more than half of our needs in oil and gas by the year 1985. I will not, at this point, go into the implications that that prospect has in terms of international relations and the international monetary picture, but as you know, these loom very large.

Even though we become more efficient and less wasteful, we still cannot avoid increased reliance on foreign crude oil and products; therefore, it is a national imperative that we develop new domestic systems of energy to alleviate a shortage in the supply of energy without which our comfortable lifestyle in the United States would retrogress. You know, and I know, that the answer is to utilize to the fullest, the one fossil fuel with which we are blessed in almost limitless quantities. It is imperative that our national attitude toward the use of energy fuel be directed away from mere convenience and cosmetics, to a practical, common-sense approach. It is projected that the coal industry will be required to increase output by 2½ times in the next ten or twelve years. An annual production of 1.5 billion tons is the figure most frequently mentioned. As far as proven reserves are concerned, this is no problem. For that matter, that figure could be doubled without any trouble, if availability were our only concern. Unhappily, it is not enough to have the coal in the ground. It also has to be extracted, processed, and marketed. In order to do this with maximum efficiency in the future, it will be necessary for us to come up with a complex, new coal production and conversion system that will incorporate more sophisticated technology than currently exists. In addition to whatever innovations are instituted by the industry, there will have to be parallel innovations in the attitude of government. I am not speaking only of long term prospects—I speak of changes that need to be made right now. It doesn't take a genius to understand that spending billions of dollars

of public and private money on coal research and development is just so much wasted effort if governmental restraints prevent the manifestation of that research and development.

As I am sure everyone in this gathering is fully aware, the Supreme Court recently upheld the rulings of the United States District Court and the Court of Appeals in the *Sierra Club et al versus Ruckelshaus* case, in which a preliminary injunction was granted against any "significant deterioration" in air quality in areas where the air is already cleaner than the Clean Air Act requires. I fear this decision virtually precludes the construction of new industrial plants for the development of gas and oil from coal in areas of the country where the supply of coal is well nigh unlimited.

To my knowledge, the words "significant deterioration", have not been clearly defined, and it is hardly likely that industry will gamble with sizeable capital investment in new plants, unless and until a clear definition is given, and reasonable give-and-take is indulged in between environmentalism and industrial growth. If there can be no reasonable adjustment of such interests, the result will be economic and industrial paralysis.

It may well be that the answer is for Congress so to amend the Clean Air Act, to give the Environmental Protection Agency powers to modify the primary and secondary requirements to the States in the overall national interest—or at least extend the time limits.

According to EPA reports in April of this year, the Nation is well on its way to meeting the primary air quality standards, though the limits may be exceeded in some places. This is gratifying, and necessary, as we all know, but it is being achieved at a very serious cost in lost coal markets. In the face of the crucial shortage in energy fuels that faces us today, it is absolutely imperative that we find some mutual beneficial accommodation. Surely, the technology of which we are so justly proud can overcome the dilemma. American ingenuity has always been equal to every task that confronted us. It is inconceivable that we cannot conquer this problem, given the lead time that circumstances make necessary.

All of us would like to see Minnehaha living once again in the wigwam of Nokomis, by the shining Big-Sea Water. But that wigwam is now a power plant, and Minnehaha—who used to live in the wigwam—is making two hundred dollars a week working in the office of the President of the power plant, while Hiawatha is working his tail off in the plant to keep up the payments on a split-level, a station wagon, and a boat. Like it or not, ours is an industrial society, and unless we are prepared to sacrifice our entire life-style, we will remain an industrial society. That being so, we must make concessions to its continuance. I am not saying for a moment that the environmentalists of America do not have a case. Of course they have. All our luxuries of living won't mean a thing if we can't breathe enough to enjoy them. But I am convinced that the preservation of clean air need not mean the destruction of industry. As a matter of fact, if we cannot practice the art of the possible in the interests of both, we do really deserve neither.

We are all aware that the coal research that is now proposed by the Administration, and by legislation pending in the Congress, should have been started long ago. Because it was not, we will be forced to wait until the results of the research are available. We don't know exactly how long this will be, and the energy shortage is now. There really is no choice. There must be some review of the very rigid policies that have almost totally choked off any expansion in the coal industry for too many years. If this does not happen, the chances of the industry making a meaningful contribution to our current crisis are slim.

The people of this nation do not comprehend the enormity of the task involved in bringing coal to the consumer. If we were to produce, say, an additional four hundred million tons of coal annually, we would need more than 200 new mines for an annual production of 2 million tons each, requring a capital investment of approximately $6 billion. Additionally, more than 100 thousand new miners would have to be recruited, and trained qualitatively to work in the industry.

There are some things that can be said without fear of contradiction: (1) without a major breakthrough in mining technology, the industry cannot hope to produce the fuel that will be demanded of it in the next decade; (2) without concentrated research efforts in the liquefaction and gasification of coal, much of its potential will not be realized; and (3) without an easing of present government restrictions on the use of coal as an energy source, in all probability the industry will be unable to provide the grace period that the accelerated research will require before it can become effective.

I am sure that with goodwill on all sides, and a softening of bureaucratic dogmatism, an accommodation could be arrived at that would alleviate the burden on the coal industry without plunging the country into insufferable pollution.

It is very easy to argue with theories, but it is immensely difficult to argue with figures. It is estimated—and it was so noted by the President in his recent energy message to the Congress—that if the strict compliance with secondary standards demanded by EPA and the states in 1975 is not reconsidered, up to 155,000,000 tons of coal annually cannot be utilized. This is the equivalent of 1.6 million barrels of oil per day, which even at current import prices represents an expenditure of one-and-a half to two or more billion dollars a year. And that assumes that our oil imports will not be affected in the future by political upheavals in the Middle East, or by economic blackmail on the part of King Faisal or the Sheikh of Kuwait.

It will also be very difficult for the American people to argue when a light switch no longer provides instant light, or when a switched-on television volume control doesn't produce a picture on the screen. To be perfectly practical, I doubt that anybody is going to care a great deal whether eastern or midwestern coal has a sulfur content of 1.5% or 0.7% when the temperature in August is 95 degrees, and their air-conditioning unit isn't getting any power. I realize that the alternatives are tough, but I seriously doubt that we are ready and willing to accept the wholesale sacrifices that will be inevitable if environmentalism and ecology continue to wield the big stick, with not a bow in the direction of realistic review. Some sacrifice of luxuries the American people will accept, when they realize the alternatives, but total elimination of many of life's conveniences will not be tolerated without a calamitous upheaval in our lifestyle. The inescapable fact is that if we are going to avoid a paralyzing stoppage in almost every phase of our national life, we are just going to have to make accommodations.

It is absolutely imperative, and not something merely to be desired, that we arrive at a pragmatic agreement between the requirements of clean air, and a self-sufficiency in energy.

Furthermore, if we are going to formulate a truly realistic and durable national energy research policy, it must be keyed to the fullest possible utilization of coal, which, in fact, is really a national heritage. I am convinced that every penny spent on coal research now, will be a dollar earned in the future. It is also the only sure and certain way to lay down an invulnerable basis for future energy security. Coal is not glamorous like nuclear energy; it is not ethereal like solar energy; it is not romantic like windmills. But it is tremendously solid and dependable—and it's *there*.

It is because of my confidence in the contribution that coal will make to our energy future that I introduced an amendment, which was accepted by the Senate, to the Department of Interior appropriation for Fiscal Year 1974, adding $42 million for energy-related coal research. This additional money, including $3 million for the Pilot Test Facility at Cresap, West Virginia, will enable the Office of Coal Research and the Bureau of Mines to do even more than had been planned toward the goal of maximum coal utilization.

We know what coal has done, what it is doing, and what it can do. We also know its limitations. But some of these limitations, at least, can be eliminated by advancing technology. We must devote as much brainpower among our scientists and engineers to coal development as we have so studiously devoted to the development of atomic power generation. While I praise efforts to develop every possible means of producing power and energy by new methods for the future, I must deprecate, to some degree, the enormous investment of time and money that has gone into atomic power generation over the past fifteen years, to the detriment of progress in the utilization of more conventional fuels.

One does not need to be an expert to know that unless steps are taken immediately to spend a great deal more time and money on coal technology than has been previously spent, there is the very real danger that we will not have the coal to utilize, despite our enormous reserves.

Unless we truly dedicate our skills and our money to the development of coal technology, the production, distribution, conversion and consumption of this precious natural resource will encounter insurmountable barriers, and we will once again have lost an opportunity to enhance our national security and our national life style. Every ton of coal that can be gasified, liquefied, or burned reasonably cleanly in its natural state, is unquestionably a contribution to the future well being of this country. It is tragic that we have dragged our feet for so many years. It is deplorable that we are now faced with the crisis that these years of apathy and inaction have brought upon us.

Everyone can be a Monday morning quarterback, but when we consider that only five years ago the total monies appropriated to the Office of Coal Research for one year amounted to only $11,000,000 and contrast that with the billions that have been lavished on the more exotic experiments in the production of power that have not yet proved themselves, all of us should feel very sharp twinges of conscience. But while that conscience berates us, we can take a little solace in the knowledge that at long last, we are awakening from the trance of neglect and wishful thinking. Dormant as our common-sense has been toward the coal industry for so long, I am confident that in the next ten years, the coal industry will rise like the Phoenix, and will be, once more, the powerful factor in our lives that it was in the days of the iron horse and the warm hearth. Its form will often be different, but its contribution to our country will be even greater.

As a practical matter, if I were a man of means, instead of an impecunious member of the United States Senate, I would be investing a substantial portion of my money in

companies like Peabody Coal. Though my financial wisdom might not be apparent immediately, my children and my grandchildren would be very appreciative of such a legacy.

A CASE FOR AMERICAN NATIONALISM

Mr. TALMADGE. Mr. President, I was very interested to read an article in the September 1 edition of Business Week Magazine, "A case for American Nationalism," by Charles G. Bluhdorn, chief executive officer of Gulf and Western Industry.

Mr. Bluhdorn takes the position that he is an American nationalist and that when times are rough, the United States should look after its own interests first.

I completely concur with this point of view. I have long maintained that what we need down in the State Department is an "American Desk," and that what our Government and policymakers need to do is look after our own national interests above all others. That is what other nations do, and it is high time that we started doing the same thing.

We have gone on now for some 28 years in the post-World War II period trying to play policeman, banker, and Santa Claus for the whole world, and we have driven ourselves deeper and deeper into debt, almost to the tune of $500 billion. Inflation has been rampant for almost a decade, the dollar is in disrepute abroad, and American workers, taxpayers, and consumers are having to bear the burden of fast and loose fiscal policies of their government.

I found Mr. Bluhdorn's article right on target, and I bring it to the attention of my colleagues and ask unanimous consent for it be printed in the RECORD.

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

A CASE FOR AMERICAN NATIONALISM

(By Charles G. Bluhdorn)

Some of my friends in the European business community have recently described me as an American nationalist. I really consider that to be quite a compliment.

I have been, and I continue to be, very vocal in my insistence that in these times of international crisis the U.S. must first and foremost look out for its own interests.

This does not mean that I have abandoned my belief that I am an internationalist by nature. Nationalism and internationalism are not mutually exclusive concepts. They can—and they should—be reconciled.

Despite the heated controversy generated by some of the political acts we have taken as a world power in more recent times, I believe that there is no precedent in history for the unselfish course that the U.S. has followed in world affairs since World War II.

Twice within this century, America went to war to save Western Europe from the fate of oppression and tyranny. After World War II we did not behave like a conqueror seeking the spoils of victory. Quite the contrary. Where once we had been the "Arsenal of Democracy," we now became the "Arsenal of Rebuilding," not only by helping our allies but also by helping our erstwhile enemies. No wonder there is a standing joke that it pays to go to war against the U.S. and then be defeated.

It became a way of life for the world to look to Uncle Sam to be the provider, not only as a breadbasket but also as a free technological tutor who would faithfully train his impoverished students. Now we are in 1973, and these students are fat and rich. They are now the professors who have all the answers, but strangely they still want Uncle to go on being his usual generous self.

Specifically now, let's review some postwar history. I am going to cite only a few situations;

Japan and Germany were devastated after the war. We helped to build their industrial capacity, very often with more modern equipment and machinery than we had in our own country.

France was in such bad shape at the end of World War II that I remember Drew Pearson getting on the radio begging the American people again and again to send their spare clothing and food to help save the French people from starvation. It is obvious that the French Finance Minister—no matter how brilliant he undoubtedly is—does not remember those times when he delivers lectures to us today on how badly we are managing our economy and how responisble we are for today's monetary crisis.

Our wheat and our grain, which we shipped gratis in many cases, saved millions and millions of people from starvation in India, Bangladesh, and many other countries around the world. With only 6% of the world's population, we supported a good portion of the other 94%, as well as ourselves.

At the same time we delivered much of our know-how to our partners in the Free World, we opened our gates to allow them to compete freely with their goods in our marketplaces, often, and especially in the case of Japan, at artificially low prices, encouraged and even subsidized by their governments, who kept their exchange rates at unrealistic levels.

At the same time that American companies were severely restricted by our antitrust laws, we have been facing formidable foreign consortiums totally unrestricted in bidding and winning international contracts against us.

TIMING

All this is not to say that the U.S. can blame the rest of the world for the financial predicament in which we find ourselves today. We have been spendthrifts at home as well as philanthropists abroad.

The soaring inflation, which is occupying Americans today, is due to our lack of discipline, particularly in the last decade. The immediate postwar period, which saw America as the strongest economic power in the world, made us believe in our invincibility, and we failed to recognize that countries like Germany and Japan were becoming formidable competitors in the markets of the world.

In 1968, 1969, and 1970, I pleaded in Washington that the President of the U.S. should go on national television, again and again if necessary, to point out to the American people that the war on inflation was ultimately much more important than the war in Vietnam. I insisted that if such a Presidential appeal failed, the government should take the most drastic measures to institute wage and price controls.

Finally, circumstances forced the government to reverse its policy, and thus began the program that was carried out relatively successfully until January, 1973. At that time, the program was abruptly abandoned, and the nation turned back to the same classroom theories that had worked so poorly in the past.

I deplore the termination of Phase II, but not because I am an advocate of everlasting controls. Where I think we went terribly wrong was in our timing, and timing is everything.

Just when this country had begun to show the rest of the world that we meant business in containing inflation, we eliminated the controls. We did this at the very time that the nation was showing record balance-of-trade deficits. And we did it on top of the Russian wheat deal, which history will prove to have been a $10-billion disaster for the U.S. economy.

This was a classic example of one bad event feeding on another. When foreign holders of our dollars saw that after all we did not mean business in controlling our inflationary pressures, they lost whatever confidence had remained in the dollar. I said then, and I say now, that our second devaluation of the dollar in 14 months was a big mistake and a surrender to foreign speculators.

The record shows that we have done too many things too quickly and without giving enough thought to the consequences. The American taxpayer helped to finance a huge gift of wheat to the Soviet Union, whose own Communist system had been unable to cope effectively with the demands of their people. Our American taxpayers bailed out Mr. Brezhnev without considering what our own supply and demand picture in grains would look like after the sale.

So here we are today with an actual shortage of wheat in our own country and with the highest grain prices in history, with a devalued dollar, and facing a situation where we are suddenly aware of critical shortages in many areas. Not the least of these is oil, which we shall be forced to import in ever increasing quantities.

Our devaluation has made wheat cheaper for the Russians and oil imports more expensive for the U.S. I submit that this is not a very healthy way to solve our balance-of-payments situation or strengthen the dollar in the long run.

A PROGRAM

The solution to our problems must be a new attitude toward our failures at home and a new approach to our relations with other nations. In other words, a new American nationalism designed to conserve the economic strength of the U.S. instead of frittering it away. Here are some of the things we can do:

1. We must evolve an economic policy that is well planned and well explained and that does not shift from minute to minute and hour to hour. One day we say we believe in wage-price controls, and the next day we say we do not. One day we say we believe that the dollar is undervalued, and the next day we say we think that if it goes lower we will get a better trade advantage. One day we say it is great for our balance of payments to sell our grains abroad and the next day we realize that we have sold too much and now must suddenly stop selling to those we have criticized the day before for not buying from us. This type of zigzag policy is not likely to inspire confidence.

2. We must start to develop a program to produce in the U.S. smaller automobiles with lower gas consumption. This will have a double effect. It will reduce the number of imported small cars from abroad, and it will also reduce the long long-range growing demand for imported fuel.

3. We must go forward with all determination to develop oil resources in Alaska. It is folly to think of investing $6-billion in Siberian oil and then spending 10 or 20 years wondering what will be the fate of those developments—the same way we are now agonizing about our investments in the Middle East.

4. We must develop alternative sources of energy and treat this project with the same determination that we applied to the Manhattan Project in World War II and to the incredible achievements of our space program. What we need is an energy-space program on earth.

5. Our government should place the same restrictions on imports and investments in the U.S. that foreigners place on us. Why should we open our gates all the way when

many foreign gates are only half or one-quarter open to us?

6. We can no longer afford to be the unpaid policeman of the Free World. I am not unalterably opposed to keeping the U.S. military presence aboard. But I believe that it is up to the respective countries who are getting this protection to determine whether it is worthwhile for them to pay for these costs.

7. About $100-billion worth of our foreign debt should be converted into long-term, low-interest-bearing Treasury bonds. A year ago when interest rates were lower, I am convinced we could have gotten our major foreign creditors to accept 30-year U.S. notes at 3% or 4% interest, with a most important accompanying pledge that we would tightly control inflation in our country. This would have been cheaper for foreign central banks than the chaos and uncertainty that has ensued. We missed that opportunity, but it is not too late to institute such a program. In the light of history no one could call it charity toward the U.S.

DETERMINATION

Let me say that no price controls can work and no inflation be contained if there is not a real *will* exercised by the people. What I mean is that the American people must realize that we are at an important crossroads where we must exercise the discipline to help maneuver supply and demand in our favor. With a shortage of oil foreseeable in the future, we must, as I said before, find other means, and we must be prepared to reduce our consumption of fuel. If we find that meat prices become prohibitive, then we must curtail our use of meat. During the war in Europe, many people were able to get along on the barest amount of meat and, in fact, an exceptionally low death rate in Scandinavia was attributed to a low-meat diet.

What can we do to restore stability? It all comes down to one word: Confidence. By this I do not mean blind, unreasoning optimism and a policy of drift. I mean the determination to deal with our problems and find the answers to them. Confidence in our strength and in our ability to use that strength.

Ultimately, the answer to all our present problems is that we must find ways to restore faltering confidence in our economic system, in our government, in our leadership.

One thing we should all remember is the fact that America is bigger than any single American. Our system will survive this crisis as it has others in the past. We must have faith—and above all confidence—in ourselves and in our country.

ADDRESS BY ADM. THOMAS H. MOORER BEFORE NAVY LEAGUE

Mr. THURMOND. Mr. President, an important speech defining the current state of U.S. military strength vis-a-vis the Soviet Union was presented last Thursday, September 6, 1973, by Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff before the District of Columbia chapter of the Navy League here in Washington.

Admiral Moorer drew some important parallels between United States and Soviet strength. Also of equal significance he laid out indisputable facts which demonstrate a history-making reversal of priorities in the last 4 years away from defense and toward social and economic programs.

As the Senate approaches the debate on the fiscal year 1974 military authorization bill, I believe my colleagues will find the remarks of Admiral Moorer mostly timely and informative.

Mr. President, I ask unanimous consent that this speech be printed in the RECORD.

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

ADDRESS BY ADM. T. H. MOORER

As always, I welcome the opportunity to speak to the members of the Navy League, but I am especially pleased to attend this "Welcome Aboard" Luncheon and address directly both the newly arrived and newly appointed flag officers in the Washington area. Having spent a goodly portion of my service career in Washington I can understand and sympathize to a degree with those who often go to rather unusual ends to avoid Washington duty. But in the same breath let me state my very strong conviction that no flag or general officer can expect to experience a well-rounded and complete career without serving at the hub of our nation's activity. To state the case in an ungrammatical yet expressive mode of today's world, "If you're looking for the action, this is where it's at."

It is no exaggeration that decisions made in Washington ripple in impact throughout the world, and such decisions with respect to military forces and national security are no exception. To be a part of and participate in this decision process is both a challenge and an experience that cannot be found elsewhere. So, to our newcomers, I commend to you a capital city assignment and I am certain that I speak for all of us who have been on the scene for a while in bidding you a hearty "welcome aboard."

We are now entering a period which I foresee as one of unusual challenge and complexity in national defense planning. Many factors and events contribute to the controversial pushes and pulls impinging on US defense programs. To highlight, I would cite the end of US combat involvement in Southeast Asia; pressures to achieve a peace dividend through reduced defense spending; the substantive arms build-up of the Soviet Union; a growing optimism towards détente; a persistent effort by some to discredit defense programs; the goal of an all-volunteer armed force; an apathy toward military service among too many of our nation's youth. I could go on and on, but the point should be clear that national security issues, and especially the American public's focus on these issues, are subject to many opposing and counteracting influences. What needs to be done and what we in Defense must energetically strive to do is to place the issues in a perspective that is understandable and meaningful to the American people. I am confident that our people do not want and will not accept a military force posture inferior to any other nation. I am equally confident that they will support those defense programs which are essential to insure against inferiority. But in order to make objective judgments and in order to have confidence in their public officials who must make the decisions, they must be aware of both the realities and the myths which surround national defense planning.

I want to spend my short time with you today in bringing into focus some of these myths and realities.

Let me begin with the reality of US strategic posture vis-a-vis that of the Soviet Union, for it is this relationship which is fundamental to our national strategy of deterrence. As you are aware, three weeks ago the Secretary of Defense officially announced that the Soviet Union has successfully demonstrated in flight tests a MIRV capability. Although this technological achievement by the Soviets is a vital advance, it came as no great surprise. Earlier this year, in my Report to the Congress on the U.S. Military Posture, I stated the view of the Joint Chiefs of Staff that the Soviet Union would soon succeed in its efforts to develop an effective MIRV system for its strategic missiles. Now that they have done so, it simply indicates a further diminution of the US technological lead that has been steadily narrowing over the past decade. It results from a very aggressive Soviet research and development program which continues to gain momentum, and as I have said many times, it underscores the imperative need for the United States to move decisively to protect our future options.

As you are aware, the initial rounds of the strategic arms limitation talks with the Soviet Union—now commonly referred to as SALT I—resulted in a formal treaty with respect to ABM system deployments and an interim agreement of five years' duration in regard to offensive systems. One of our primary objectives in pursuing the offensive weapon agreement was to stem the tide of Soviet momentum in both ICBM and SLBM deployments. While US missile deployments were fixed quantitatively because of prior decisions, Soviet deployments, prior to the agreement, were accelerating at a rate which could have resulted in a 2 to 1 advantage in their favor by 1977. We were successful in braking this trend—the interim agreement constrained the Soviet missile deployments to those operational or under construction at the time of signing. But even under these terms it was recognized that the Soviets would have a quantitative advantage in missile launcher deployments. This Soviet advantage—and let me emphasize that such advantage would have accrued with or without the agreement—was balanced on an interim basis by US qualitative advantages such as missile guidance and MIRV technology and by our superiority in intercontinental bombers, which were not subject to the agreement.

With the Soviets having now acquired the MIRV technology, US qualitative advantages begin to erode and I think it is quite obvious that should the Soviets marry the MIRV capability to their quantitative missile edge the result could prove unacceptable for the United States. The seriousness of such an eventuality would be compounded by the fact that Soviet missiles have a much greater throw-weight than do ours and thus the potential for greater imbalance in the total missile-warhead-megatonnage equation exists in favor of the Soviet Union.

The course of action for the United States is clear. We must be just as aggressive as the Soviet Union in the field of research and development if we expect to maintain technological leadership. We must not permit our country to slip backward into a position of technological inferiority.

Maintaining leadership in the field of advanced technology is always the most difficult task—the leader is always poking into the unknown, whereas the followers can capitalize on the known.

A vigorous research and development program is the only means whereby the United States can maintain the technological superiority so necessary to facilitate arms negotiations and at the same time hedge against the possibility of a breakdown in these negotiations. This is why the Department of Defense and the Joint Chiefs of Staff have urged the continued development of systems such as the B–1 and Trident. Those who wish to slow down or curtail these programs and adopt a "wait and see attitude" are, in my view, submitting our national security to unacceptable risk and thus courting disaster.

While I am speaking of negotiations, let me refer briefly to the coming talks on the mutual reduction of armed forces and armaments in Europe which will begin on October 30th. No one close to this problem expects that these negotiations will be other than very difficult and complex. The asymmetries in force posturing between and among the NATO nations and the Warsaw Pact coun-

tries and the very fact that the security goals of so many nations are involved militate against easy and rapid resolution. Yet, I believe that all parties in these negotiations are resolved to approach the question seriously in an effort to create a more stable military balance in Europe at lower levels of forces and costs.

You are aware that some members of the U.S. Congress are now seeking a reduction of American armed force strength in Europe. The objectives offered by the proponents of reduction are to reduce defense spending, help to alleviate the balance of payments strain and to contribute to detente and peace in the world. Their underlying philosophy with respect to the American commitment to the defense of Europe is that our intent will remain equally credible at the lower force levels.

I respect the sincerity of those who hold such views but I do not agree with them. I believe that unilateral reductions by the United States at this critical juncture would jeopardize the negotiations which will soon commence. We have persevered for more than twenty-five years awaiting the opportunity that now presents itself to achieve mutual accords on reducing the tensions in Europe. It would be a rash act indeed to initiate unilateral action which could undercut the goals and aspirations of our allies as well as ourselves.

Consider this comparison. Since 1961 the United States has reduced its troop level in Europe by 35 percent. The Soviets, on the other hand, have increased their troop levels by about 20 percent in the last five years. Is it now prudent to believe that U.S. unilateral withdrawals would be greeted by reciprocal action on the part of the Soviets? I think not. We must be firm in our insistence that change be mutual, not unilateral.

Let me turn now to one of the myths surrounding national defense—the contention that the defense budget is claiming a growing and excessive share of our national resources. The reality of the myth is borne out by the reality of the facts.

Let me use the FY 68 defense budget as a starting point for this discussion since that period marks our peak involvement in Vietnam. Comparing the FY 68 and FY 74 defense budgets in current dollar outlays—that is, the dollar value of outlays at the given time—the figures are $78 billion in FY 68 versus $79 billion for the current fiscal year.

There is no dispute that this is, in fact, an increase of $1 billion in current dollar outlays. But let us now compare these same defense outlays in constant FY 74 dollars; that is, adjusting for inflated costs and pay increases. The comparison now becomes $113.8 billion in FY 68 versus the $79 billion for FY 74. This means simply that the purchasing power of the defense budget has decreased by $34 billion since FY 68. The reality of the FY 74 defense budget is that, measured in dollars of constant buying power, it is at its lowest level since the Korean war.

Now let me return to the FY 68–FY 74 period to see what has happened to non-defense spending. Since FY 68, while the defense budget increased by $1 billion in current dollars, non-defense Federal spending increased by $93.9 billion and state and local government spending increased by $103.2 billion. The increases in Federal non-defense spending and state and local spending both exceed by far the total defense budget. So to those who clamor for a reordering of national priorities to meet our expanding domestic needs, I can only say that the priorities have already shifted. Defense spending, as a percentage of total Federal spending, is down from 42.5% in FY 68 to 28.4% in FY 74. As a percentage of GNP, it is down from 9.4% in FY 68 to 6.2% in FY 74. These figures are the realities and it is high time to put an end to the myth that the defense budget is the panacea for all other domestic needs.

There is one other subject I wish to bring to your attention before I close—the all-volunteer force. As you know, the induction authority under the Selective Service Act has expired and the President has not asked for its extension. Our experience in the no-draft environment is, of course, limited but presently there are some shortfalls in recruiting volunteers in the quantity and of the quality desired. These shortfalls can be overcome, but the prospects for doing so dim if the volunteer force goal continues to be regarded solely as an administration goal or a DOD goal or a military goal. I have repeatedly tried to bring home the point in my public appearances that the volunteer force goal must have the support of the American people—it must be their goal too. Young people who have an inclination for a military career must have the encouragement of their families and friends and they must foresee a public recognition that their service deserves. They will soon lose their inclination if military service is discouraged and maligned. So if the American people truly want a volunteer force they can have a volunteer force. It commands only their attention and their support.

We are, I recognize, now emerging from a period where public confidence in national defense policies has been diminished by the controversial aspects of a long, difficult war. Our military forces, as the instrument of national policy, are not immune from this loss in confidence. I am not here to argue for or against immunity. I will only say, as emphatically as I can, that the restoration of public confidence in our defense establishment must be a priority objective. That confidence is absolutely essential to the manifestation of national will that gives credibility to our strategy of deterrence.

Those of us serving in the military profession must continue to stringently abide by the Constitutional dictate of civilian control of the military. The option to obey only those orders and support only those policies that we like is not open to us—we must obey or support all. As I have said before, my only options, in this respect, are to obey orders or resign. The quality of personal integrity is one of the hallmarks of the military profession. It is a quality in which Americans will bestow their trust. It is up to you and to me to insure that that trust is inviolate.

WENTWORTH-BY-THE-SEA, MARKING ITS 100TH YEAR

Mr. McINTYRE. Mr. President, 100 years ago, one of America's great hotels was born.

Today this hotel, Wentworth-by-the-Sea, in New Castle, N.H., is known throughout the world.

Early in this century, Wentworth-by-the-Sea was the headquarters for the Russo-Japanese Peace Conference. Throughout the years many other distinguished Americans and foreign dignitaries have been guests at the hostelry.

Owned and operated since 1945 by Mr. and Mrs. James Barker Smith, the hotel continues to add to its services and facilities to accommodate guests. When Life magazine did its review of the most famous international hotels, Wentworth-by-the-Sea was included.

Mr. President, a history of the hotel recently appeared in the Portsmouth, N.H., Herald. I ask that this history be printed in the RECORD.

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

WENTWORTH-BY-THE-SEA MARKING ITS 100TH YEAR

According to an article in the Portsmouth Times of July 1, 1873, the N.H. Legislature authorized the construction of a bridge at Little Harbor River, to connect the Island of New Castle to Rye (on the mainland). It was expected that the expense of the bridge construction would be paid by taxes from New Castle. The bridge was built and completed and opened to traffic in 1875.

It is reasonable to assume that the projected new bridge encouraged Charles E. Campell and his partner Daniel Chase of Somerville, Mass., to proceed with the construction of the Wentworth. Construction was begun in August of 1873 and the original building consisting of 82 rooms was completed and opened for business July 1, 1874, under Campell's management. The following year a wing consisting of 20 rooms was added at the side of the building toward the "back channel."

In 1879 the hotel was purchased by Frank Jones, who made some structural changes during his term of operation, including the addition of a third floor, addition of new rooms, the towers at each end of the building, and the "Swiss type" roof. In 1888 the dining room wing was added as part of the main building.

In 1898 the Colonial Wing was started as a separate venture. Separate, because at that time the size of wooden building was restricted by law. In 1902 when the restrictions were lifted the Colonial Wing was joined to the main building.

An interesting fact is that the Colonial House, as it was then known, was designed to accommodate a dining room on the top floor—a beautiful seaview restaurant serviced by a steam elevator! However, the restaurant was not a success and was closed in 1902.

After Frank Jones death in 1902 the hotel was held in trust by the Jones estate, and was operated by Messrs. Harvey and Wood of the Bellevue in Boston. These gentlemen were the managers of the hotel during the Russo-Japanese conference.

In 1898, when Jones needed water for the Wentworth he had 11,000 feet of 8 inch main laid from Miller Avenue and Spring Street, in Portsmouth, to the hotel property—at his own expense. After his death the trustees of the estate sold the system to the city of Portsmouth for $3,121.50, with the stipulation that the hotel could buy any amount of water until June 4, 1908, at .06 cents per 1,000 gallons.

During the Russo-Japanese Peace Conference the negotiators stayed at the Wentworth (Aug. 8 to Sept. 5, 1905). Portsmouth and the Wentworth were chosen as the site of the conference through the efforts and recommendation of President Theodore Roosevelt who had found this area attractive and pleasing. Informal peace negotiations were done at the Wentworth where the treaty was drawn up and initiated, but the actual signing took place at the Portsmouth Naval Base.

From 1906 until 1920 the hotel was owned and operated by Henry Priest and his partner Al Shaw—a wealthy lumberman from Bangor, Maine.

In 1920 Harry H. Beckwith purchased the property and immediately launched into a program of rehabilitation, adding bathrooms, cutting in new windows, building a regulation size bowling alley, and importing and installing beautiful furnishings, antiques and rugs. Among the outstanding pieces is the antique tall-boy in the dining room, and the

beautiful grandfather clock in the lobby. Another interesting feature is the ceiling of the Rotunda with its handsome painting.

Originally, swimming activities were accomplished at a small "beach" cleared at the water's edge on the "back channel." Under Beckwith's regime, a "proper" bathhouse was built on the Little Harbor side of the property where there is a small pleasant beach. Still later, Beckwith and his brother designed The Ship and the huge outdoor pool—reputedly the East Coast at that time. Beckwith's brother engineered the pumping system that supplied sea water as required above the water supplied by the tide.

Still later, a pool for the little children was added, to supply heated water for their swimming pleasure. Yet another project—the vegetable gardens at the back of the hotel—proved a source of fine fresh vegetables for the hotel tables all season long.

Another feature developed by Beckwith was the nine-hole golf course for the pleasure of his guests. Mr. Beckwith's projects really revitalized the Wentworth because until he took over the 265 rooms were serviced by about one bathroom per floor!

In 1945 the Wentworth By The Sea was purchased by Mr. and Mrs. James Barker Smith who have continued a program of modernizing and improving all along the way.

All the public rooms as well as the sleeping rooms have been redecorated and refurnished, more bathrooms have been added and old ones modernized, porches along the front of the Colonial Wing were enclosed and incorporated as suites, the North Wing was extended to accommodate the Avenida Lounge and Capri Room, and on the lower level The Tally-Ho Room, The Hunt Room and The Derby Room.

A new modern pool with spacious sundecks has been added and the pool complex contains modern air-conditioned dressing rooms, plus an Ocean Terrace for sandwich and bar service. The gardens which are constantly being beautiful, have been enlarged from 50 to 215 acres. The golf cource has been enlarged to 18 holes and the clubhouse remodeled to accommodate Fairways members with locker space and a dining room to take care of hungry golfer's appetites.

Putting greens have been installed, and there is a challenging nine-hole Pitch-and Putt course. Four fine clay tennis courts are a source of pride to the owners and a joy and challenge to some of the top tennis stars of the country.

To keep all this establishment operating, there is a huge new heating plant, carpenter shop, plumbing shop, refrigerator rooms, and ultra modern kitchens, plus a staff of 350 persons!

While many of the staff return year after year, there are several long time employes, and Mrs. Alice Hackney and Joseph Bellevieu have 50 years continuous employment to their credit.

The display of memorabilia on the occasion of the 100th anniversary of the Wentworth includes pictures of the hotel during its construction, menus and souvenirs of the peace conference era, photographs of the negotiators, as well as scenes of the negotiations of the peace conference. There are photographs and registers of many famous persons who have visited here. A collection of letters from Governors who attended the conference in 1948 is noteworthy, as well as the permanent exhibit of letters and photographs of famous people in the 1874 room.

For tennis fans, there is the "gold" tennis racquet—given by Wright and Ditson in 1884 at the third annual lawn tennis matches, as well as numerous pictures of tennis stars.

For the golfers, there is a display of early trophies—while swimmers will be intrigued with the pictures of the early bath houses and "beach" bathing facilities.

Scrapbooks of activities at Wentworth By The Sea since it was purchased by Mr. and Mrs. James Barker Smith in 1945 are available in the Portsmouth Room.

A very special item is the hand-hooked rug designed and made by Mr. and Mrs. Fred Freed (the chef at Wentworth and his wife) and presented by them to Mr. and Mrs. Smith as a memento of this 100th anniversary. The rug occupies a place of honor on the wall in the Writing Room. Its design of the familiar symbol of the dolphin entwined in a "W" stands above the words "One Hundredth Anniversary".

Looking through the literature and pictures put out by 100 years of hotel owners one cannot help being impressed by the fact that the Wentworth has been a great attraction in this area.

Tying the exhibit together is the display of the collection of fans belonging to Mrs. Smith. These include two courting fans, several fans from Canton, China, in 1895, and given by Jeannette Trevor Pierce when she celebrated her 90th birthday and her 20th year as a Wentworth Hotel guest. There are feather fans, hand fans, ivory fans, and a brise fan, as well as one with lilacs—the New Hampshire state flower. This occupies a place of honor near a copy of the recording of the Robert Brunton Wentworth Symphony Orchestra! Music has had a favored place in hotel entertainment as early programs indicate.

The exhibit will remain open in the Geranium Room through tomorrow.

CONGRESS SETS NATIONAL PRIORITIES

Mr. SCOTT of Pennsylvania. Mr. President, it is somewhat revealing to have President Nixon challenging the Congress to act favorably on dozens of his major proposals only to have us respond by passing a bill to ban television blackouts of certain sporting events. This kind of legislation hardly commands a priority as high as better schools or better communities.

I ask unanimous consent to have Tim Kelly's article entitled "Congress Sets National Priorities," from the Philadelphia Inquirer of September 8, 1973, printed in the RECORD.

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

CONGRESS SETS NATIONAL PRIORITIES

It's time for a short quiz in political science. Name five powers invested in Congress by the Constitution.

Well, there's the power to:

Lay and collect taxes.

Coin money.

Declare war.

Raise and support armies.

And lift the television blackout of professional football games.

Well, that's not quite how the Founding Fathers wrote the last one. What they said was "Congress shall have the power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

The way things have gone this week, it's obvious Congress ranks the National Football League right up there with the Indian tribes.

If you believe the NFL, the Senate's action Wednesday to ban television blackouts of home games sold out 72 hours in advance is roughly akin to Wounded Knee. And it may be right.

Sure, the bill applies to all sports, but the thrust obviously is toward the NFL.

The measure passed the Senate, 76–6, and has been sent to the House, which is conducting hearings on four similar bills. Subcommittee action is expected Monday or Tuesday, full committee on Wednesday and goes to the House floor for passage Thursday. Unless the House adopts the Senate bill, a joint conference committee will have to consider the two measures. Amazing how quickly the Congress can act when it wants. And it wants to now—the pro football season opens next Sunday.

The key provision in the Senate bill is that it would expire in one year, at which time Congress would review its action. The NFL feels that lifting the blackout will result in fewer fans in the stands—hence less concession and parking money—and the same studio atmosphere that killed boxing.

Both Pennsylvania senators voted for the bills, although Sen. Hugh Scott admitted he had "grave reservations" about the Congress picking on one segment of private enterprise.

But, as a Scott aide pointed out, "It's a motherhood issue." Indeed. Who could vote against it—and what kind of a President would veto it? Certainly not the kind of President who makes phone calls to locker rooms.

One person who would have voted against the measure is Don Kelly. Unfortunately, general managers of radio stations aren't allowed to vote in Congress. Kelly heads WIP Radio, which shells out well over $100,000 a year to broadcast Eagles games.

"It's not in our best interest," he admits. Obviously. Given the choice of watching an Eagles home game on TV or listening to it on WIP, most people would prefer TV. "This would also hurt the people who listen to an Eagles game on radio and watch another on TV," Kelly says.

So what's to do? Nothing, apparently, except to watch the NFL endure this year—and listen to it loudly pointing out the number of no-shows at supposedly sold-out games.

RESOLUTIONS ADOPTED BY THE SONS OF THE REVOLUTION

Mr. HARRY F. BYRD, JR. Mr. President, on June 27, the National Society of the Sons of the American Revolution concluded its 4-day annual congress, the 83d to be held by this organization.

During its proceedings, the Society adopted 10 resolutions dealing with some of the major issues facing the United States at home and abroad.

I feel the Sons of the American Revolution are to be commended for their patriotism and for their wide-ranging interest in public affairs.

I ask unanimous consent that the text of the 10 resolutions adopted by the society at its 83d annual congress be printed in the RECORD.

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

TEXT OF 10 RESOLUTIONS

The National Society of the Sons of the American Revolution, at its 83d Annual Congress, assembled from June 24th through June 27th, 1973, at The Breakers, Palm Beach, Florida, adopted the following resolutions:

RESOLUTION NO. 1

Whereas, in seeming disregard of, the provisions of the Tenth Amendment to the Constitution of the United States, there appears in recent years to have been an increasing tendency to centralize in the federal government certain powers over subjects and matters not properly within the scope of federal authority or jurisdiction, and

Whereas, one area of vital and significant importance to the continued progress and well being of our great nation upon which such encroachment of federal power has

seriously intruded in the field of education of our young people upon whom will devolve the responsibility for the conduct and preservation of our country, its institutions, and its form of government as we have known them,

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress Assembled, that the design, structure, and administration of publicly supported educational systems is, and ought to be, the exclusive duty and responsibility of the individual and separate States of the Union in such manner and by such means as each of said States shall independently determine, and

Be it further resolved, that all federal agencies, including the Congress, the executive branch, and the courts should refrain from any interference, whether by coercion, force, persuasion, or otherwise, with the orderly performance by the several States of their responsibilities in the field of education.

RESOLUTION NO. 2

Whereas, on the ill-founded premise that access to biographical data as contained in federal census records constitutes an invasion of privacy, and

Whereas, there is presently pending in the House of Representatives a Bill (H.R. 7762), some of the provisions of which will permanently restrict accessibility to the 1900 and later census records, thereby detrimentally affecting historians, researchers, genealogists and applicants for admission to memberships in many worthy organizations wherein lineage is among the factors determining eligibility, of the valuable information and data available in such records, and by so doing, seriously endangering the future growth of such organizations, including our own,

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it opposes any efforts to restrict accessibility to the 1900 and later census records, whether by legislation, executive or administrative fiat, or by any other means.

RESOLUTION NO. 3

Whereas, Pollution of the nation's air, water, and land and the misuse of our natural resources are a threat to our health and to our very existence, and

Whereas, widespread public concern has expressed itself to establish curbs on litter and pollution, and to encourage conservation of natural resources through the development and utilization of our technology and scientific research, and

Whereas, in response to the critical need for environmental education and action to combat and overcome pollution, and to expedite acceptance of resource recovery to conserve our natural resources, the nationwide, action-oriented environmental awareness program—Johnny Horizon '76—"Lets Clean Up America For Our 200th Birthday"—was developed by the United States Department of the Interior, with the support and cooperation of the Department of Defense, General Services Administration, the U.S. Postal Service, the President's Council on Environmental Quality, the Civil Service Commission, the Federal Highway Administration and the Tennessee Valley Authority, among others, along with more than 1,500 business, industry and citizens' groups and organizations, and

Whereas, the Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Program has widely demonstrated its ability to translate citizen concern into positive action such as community and country-wide cleanups, inner city beautification and conservation programs; in consequence whereby the American Revolution Bicentennial Commission in Washington, D.C. has officially recognized the Johnny Horizon '76 Program as an activity in furtherance of, and as a part of, the National Bicentennial Program and that it has been awarded the use of the Official Symbol.

Now, therefore, be it resolved:

1. That the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, acknowledges the overwhelming importance of the emerging environmental ethic in America based on the public demand that our air, water and land be cleaned up, and that our natural resources be conserved through resource recovery, all to the end that the quality of life might be improved for all our citizens.

2. That the said National Society agrees that the objective of cleaning up America, visually and ecologically, represents an important and highly desirable Bicentennial goal, as well as an ultimate objective for the well-being of all of us.

3. That the said National Society itself, and through its State Societies and local Chapter Program Committees—working in harmony with local civic and community organizations—do actively and consistently seek to help plan, develop and implement local Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Action Programs as a vital and significant part of our Nation's Bicentennial celebration effort.

RESOLUTION NO. 4

Whereas, the United Nations membership has grown in number to 132 nations and

Whereas, each of the Nations has a vote in the United Nations, equal to the vote of the United States, and

Whereas, a two-thirds voting majority in the general assembly can be formed by nations with less than ten percent (10%) of the world's population and which contribute approximately five percent (5%) of the United Nations' assessed budget.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, that, pending the withdrawal of the United States from the United Nations entirely, we recommend to the consideration of our representatives and senators in Congress that the United States' financial support of the United Nations be re-adjusted to a more reasonable proportion, based upon a consideration of equal responsibility of all members.

RESOLUTION NO. 5

Whereas, we deplore the abandonment of the actual dates of George Washington's Birthday and Veterans Day for random weekend dates, unassociated with the patriotic and reverent purpose of their inception, and

Whereas, our Society has as one of its purposes the preservation and reverence for such patriotic occasions,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, urges the observance of the actual dates of February 22nd and November 11th as the proper dates for honoring and commemorating George Washington's Birthday and Veterans Day respectively.

RESOLUTION NO. 6

Whereas, the South Carolina Society has developed a project for the purchase and restoration of the home of Edward Rutledge, one of the signers of the Declaration of Independence;

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it endorses the action of the aforesaid South Carolina Society and urges the establishment and maintenance of the Edward Rutledge home as a permanent memorial to his memory.

RESOLUTION NO. 7

Whereas, reliable reports indicate that the United States is rapidly eroding its international position of strength in regard to its military, air and naval capabilities, and

Whereas, George Washington admonished us, in the time of peace, to prepare for war,

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that the preservation and security of American liberty and our Republican form of government make it imperative that the military capabilities of this country be continually maintained in such strength and posture as to enable the United States to successfully repulse all threats to its existence from within and without the territorial boundaries of this nation.

RESOLUTION NO. 8

Whereas, the American people have paid tender tributes to the sacrifices of their sons who gave their lives in battle in World War I, World War II and the Korean Conflict by selecting unknown soldiers for special honors and respect at the tombs of the unknown soldiers in Arlington National Cemetery,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the United States Congress to honor in like manner the unknown soldiers, unidentified in death, who were victims of the Vietnam War, for their supreme sacrifice in the service and uniform of the United States of America.

RESOLUTION NO. 9

Whereas, our armed services have traditionally constituted the shield and sword of the Republic against aggression by a foe, and

Whereas, such mission has been executed in the past in a brave and honorable manner by officers and men dedicated to the rigors and hazards of the armed forces, and

Whereas, during the past decade, there has developed a permissiveness, laxity in discipline, disrespect for authority, lowering of standards of personal appearance, and lowering of mental and physical standards, and

Whereas, such ideas have resulted in near-mutinies on fighting ships and at land bases, and have further resulted in a widespread decline in standards of morale and discipline as well as fighting capability,

Now, therefore, be it resolved, that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the President of the United States, as commander-in-chief of the armed services, to correct this troublesome situation by restoring a policy of traditional high military standards of conduct and discipline.

RESOLUTION NO. 10

Whereas, it is reiterated and re-affirmed that all previous resolutions submitted at prior Congresses be re-affirmed.

LAND USE PROGRAM

Mr. FANNIN. Mr. President, when the Senate debated S. 268, the Federal Land Use Policy and Planning Assistance Act. this past summer I warned that it has a frightening potential to destroy traditional American rights. My views have not changed—in fact, I am more concerned than ever about the final form of this legislation.

It is encouraging that across the Nation people are becoming aware of this legislation and the danger it poses.

Columnist James J. Kilpatrick performed a public service by pointing out the shortcomings of this legislation in his column which appeared last Friday in the Washington Star-News. The headline on the column, "Bill on Land Use Ominous," is appropos.

Mr. President, I ask unanimous consent to have the column printed in the

RECORD for the benefit of Members who are concerned about this issue.

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

BILL ON LAND USE OMINOUS

(By James J. Kilpatrick)

SCRABBLE, VA.—Some years before he became the Father of Our Country, George Washington spent the summer of 1749 surveying in Northern Virginia. On July 24 he laid out the town that eventually would bear his name and become the county seat of Rappahannock County. That was the last significant planning done in our county until last Thursday evening, when everybody went down to the courthouse to talk about a zoning law.

I mention our local situation by way of backing into some observations on the Federal Land Use Policy and Planning Assistance Act. The bill, sponsored chiefly by Sen. Henry Jackson, D-Wash., passed the Senate by a vote of 64–21 on June 21. The House Interior Committee has completed its own hearings on a batch of similar bills, and a House version will reach the floor in a couple of months.

In its present form, the Senate bill may be a mildly useful bill. Potentially, in terms of our political values, it is the most dangerous and destructive piece of legislation ever passed by the Senate.

At the moment, the bill is no more than an enabling or authorizing bill. It would provide $100 million a year for the next eight years in federal grants to the states. The money would be used to foster the development of comprehensive plans within each state for the use of land. If this is truly all there is to the bill, about the worst that could be said of it is that it is obviously expensive and probably unnecessary. If Rappahannock County, Va., pop. 5,199, can finally get around to a zoning law, no community in the nation need despair of local action. We are not what you would call impetuous up here.

But I suspect there is vastly more to this bill than meets the eye. This bill has a nose like a camel; it has an edge like a wedge. I listen to the fervent declamation of its sponsors, whooping it up for states' rights, and I ask when Scoop Jackson and Hubert Humphrey got all that crazy about states' rights. What I hear is the squeak of a door opening; I hear the first shoe falling.

Back in June, when the bill was before the Senate, Jackson offered a little amendment. It was an amendment "to provide additional encouragement to states to exercise states' rights and develop state land-use programs." His additional encouragement went this way: If the states failed to adopt land-use programs in line with Jackson's idea of how land should be used, the states would lose part of their federal aid for highways and airports. In parliamentary jargon this device was described as a "crossover sanction." What it was, was extortion.

Jackson's amendment failed, but it failed by only eight votes. It is a fair assumption that his "sanctions will be urged anew in, the House, for such compulsions lie at the very heart of the liberal's view of the federal role. Such a liberal sees the countryside as unplanned, ugly, inefficient, helter-skelter and disorderly; he longs to impose professional planning that is rational, sensible, balanced, orderly, prudent and sound.

The need for wise planning in the use of our land is self-evident. It has been self-evident since Augustan Rome, when zoning laws first were decreed. But cherished principles of private property will be undermined and old safeguards of federalism will be destroyed if ever we leave it to a federal bureaucracy to say what planning is wise. Except where regional interests truly are involved, such decisions ought to be made down at the courthouse on a Thursday night.

Democracy is a charming form of government, Plato remarked, "full of variety and disorder." This element of "disorder" is vital to freedom. I do not want our beautiful country despoiled by the ticky-tacky Monopoly houses of a sub-divider—I pray our new law will prevent this—but neither do I want the use of our land determined, in effect, not in Washington, Va., but in Washington, D.C. Jackson and his fellow liberals insist this is not what they have in mind. So be it. They may not have it in mind for right now, but be forewarned: They have it in mind for later on.

MARY McGRORY'S COLUMN ABOUT A NEW HAMPSHIRE INN

Mr. McINTYRE. Mr. President, I do not always agree with Columnist Mary McGrory. Indeed, on some issues our differences have been pronounced. But I have always respected Ms. McGrory's indignation over social inequities, political improprieties, and man's inhumanity to man, and I have admired her ability to articulate that indignation.

Moreover, I have long suspicioned that Ms. McGrory's capacity for outrage stemmed from a sensitivity that could respond with equal fervor to the bad or the beautiful, and her column of September 9 on "The Quiet Spell of a New Hampshire Inn" confirmed my suspicions.

Perhaps this New Hampshire native was ripe for a bit of sensitive prose about clean air, pure water, pine, birch, fern, and mountain, and the captivating charm of a traditional Yankee inn—given the last several weeks of Washington's smothering heat and suffocating air—but whatever the case, I was captivated by Ms. McGrory's essay and I ask my colleagues' unanimous consent to have it printed in the RECORD so that others may savor it as well.

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

QUIET SPELL OF A NEW HAMPSHIRE INN

(By Mary McGrory)

WASHINGTON.—To go to Antrim, N.H., after a summer in Washington, D.C. is to make a number of important discoveries.

First of all, there is a sky. It is blue by day and pitch-black by night, studded with thousands of stars. And you can breathe, actually take breaths deeply, and nothing terrible happens. The sun does exist after all. It rises over the Monadnocks in the morning. It sets over Lake Gregg in the evening, sometimes with long streamers of pink and violet.

Then if you stay at the Maplehurst Inn, and we never go any place else, you discover that you can live without a telephone. An impasse was reached over a mysterious, variable balance on the bill, and the service was discontinued last January. It's novel but nice to be somewhere where you know the only bugs are flies or mosquitoes.

Most innkeepers would find the lack intolerable. But Mrs. Danforth, who runs the place along the lines of a medieval hospice—travelers require comfortable beds and good food, not communication—is philosophical.

"Many, many enterprises were transacted before Marconi was ever dreamed of," she says firmly.

Mrs. D., as she is called, is a small woman, but indomitable. Her back was bent now, and since she broke her hip a couple of years ago—she was carrying the cashbox through the dark dining room and collided with a tray-stand—she moved about rather like a bird. She lives on coffee and cigarettes, as far as anyone can tell, and the occasional official tasting of the gourmet dishes she prepares for her company.

The Maplehurst, I should explain, is an old-fashioned country inn. Not resolutely quaint like many New England Inns which feature reproductions of spinning wheels and spanking new-old hunting prints. The floors heave a bit, and there's one stretch where the list is so pronounced my brother says he feels he's at sea.

The dining room is superb. It is plain and low-ceilinged, with the original darkened beams, almost two centuries old. It is dazzlingly white, from the tablecloths to walls. The sun pokes in through the back window, gleams through the old bottles of colored water on the shelves, splashing ruby and aquamarine on the floor.

Sometimes Mr. Danforth, the breakfasters out of the way, goes to the upright piano in the corner. The strains of Sigmund Romberg and Victor Herbert, of "Tea for Two" and "Bye, Bye, Blackbird," drift through the ancient rooms.

The dinner menu is the most imposing thing about the Maplehurst and, like everything else, it is for real. The roast beef gives way under the fork, the potato cheese balls float off the plate. The baked Indian pudding is dark and rich and made on the premises. Verna, Mrs. D.'s chief of staff, bustles about with the trays and gives the reviews to the kitchen.

Sometimes the city travelers, replete with lobster pie and strawberry-filled meringue shell, looks about and sees a gold mine. Once, indeed, it was contemplated to make the old barn into a cocktail lounge. The stalls had been buffed to a honeyed glow by generations of itchy cows. And once they thought of digging up the meadow, which lies in the shadow of Mt. Crotchet, and putting in a swimming pool. These dreams of glory, which unnerved the aficionados, have faded like the wallpaper.

Lake Gregg is just up the road. When you approach it through the pine and birch along the fern-lined path, it looks blue, as blue as the hills which ring it on three sides. But when you're actually in it, it is the color of chablis. The sun shines through the ripples and makes a mosaic floor of the sandy bottom. Its consistency is silk but, like most things Yankee, it has a bite. Mountain springs bubble up polar pockets.

It is the one hotel where I have ever stayed where the leave-taking often is marred by a dreadful scene over undercharging. I've heard tell of a long-ago Boston gangster who put up there between engagements and was, like many Maplehurst clients, outraged over the small size of his bill. "It's all there, dear," Mrs. D. said to him, as she does to everyone.

Mrs. D. firmly believes in providence. Several years ago, lightning struck the belfry of the Presbyterian church next door. It knocked out the bells that chimed the hours, to the dismay of wakeful guests. The matter was clearly taken care of by a higher power. If thunderbolts, why not a telephone?

WASHINGTON POST IGNORED PRESIDENT'S POSITION ON FORCED BUSING OF CHILDREN

Mr. HELMS. Mr. President, I read the Washington Post this morning to see what kind of coverage would be given to the President's message of yesterday and I was amazed to find that only a line and a half was given to the President's remarks on forced busing of

schoolchildren. The paragraphs on busing were not quoted. No reference was made to them in the accompanying interviews and commentary. Nor was the slightest indication given in the summary of the topics covered by the President.

I find it rather interesting that the Washington Post, after giving extensive coverage both in the news columns, editorials, and letters to the editor to the local situation in Alexandria and Prince Georges County in an effort to convince its readers that busing is desirable, should suddenly become silent the moment that the President gives his views on the subject. Moreover, compulsory busing is a question of high interest in every section of the country. Constituents of many Members of Congress give it a high priority amongst their concerns. Yet, if those same Members of Congress relied on the Washington Post for their information about the President's views on this subject, they would scarcely know that the President had spoken.

Even the New York Times had the fairness to include the President's remarks on busing in the excerpts printed from his statement, although the accompanying sidebar story consisted only of 21 column inches of derogatory comment exclusively from those who favor forced busing.

Nevertheless, the President made a fine statement which exhibits his deep concern. It is a statement which any fair-minded person could subscribe to:

Another area of renewed interest this fall is busing. I am opposed to compulsory busing for the purpose of achieving racial balance in our schools. I continue to believe that busing is an unsatisfactory remedy for the inequities and inequalities of educational opportunity that exist in our country, tragic as those discrepancies are.

We have been working to end those discrepancies, and we will continue to do so. But we should also place effective and reasonable curbs on busing in a way which would aid rather than challenge courts.

I commend the President for his attitude. I might also point out that I have sponsored original legislation in this area, the proposed Public School Jurisdiction Act of 1973 (S. 2336), which meets the President's criteria. The Public School Jurisdiction Act is drafted within the constraints of recent Supreme Court decisions so that public school systems can be speedily removed from Federal court jurisdiction as soon as they meet the requirement of achieving a unitary school system.

My bill would allow the Federal courts to issue orders eliminating any inequities with regard to pupil assignment, and give a full school year to insure that the court orders were carried out. But once a unitary system has been achieved, the system would be removed from Federal court jurisdiction, and school boards could adopt any nondiscriminatory pupil assignment plan. Granting the nationwide sentiment against busing, I am sure that few school boards would adopt compulsory busing plans on their own. The schools could comply with recent Supreme Court decisions, and yet local control would return.

Thus, it would provide objective definitions of unitary school systems for uniform court enforcement and relieve the congestion of court calendars by providing for the orderly release of continuing Federal jurisdiction over desegregated schools. If any of my colleagues would be interested in cosponsoring S. 2336, I would be happy to discuss it with them further.

FURTHER INSIGHTS ON EXPULSION OF JACQUES LESLIE

Mr. TUNNEY. Mr. President, late in July the Thieu regime in South Vietnam demonstrated once again its single-minded pursuit of dictatorial power, and its continued attempts to shield those facts from the American people. Without reason, a talented reporter for the Los Angeles Times, Mr. Jacques Leslie, Jr., had his press credentials revoked and was forced out of the country. Jacques Leslie's only crime was to practice his profession too well. His reporting to the American people was obviously becoming too embarrassing for the Saigon government, so they took the step which all dictatorships have refined to an automatic response: it stifled the source of the unwanted press coverage.

Practically from the day after the peace agreements were signed in January, the Thieu regime cracked down on domestic and foreign journalists. By the time American troops had been completely removed from South Vietnam, American journalists were finding it very difficult indeed to learn what was going on inside the country. One well-publicized example was the conscious policy of the South Vietnamese to prevent any press contact with North Vietnamese and Vietcong representatives who came to Saigon after the peace agreements were signed. It is clear that Thieu now feels that, with U.S. troops gone and therefore much less pressure available from the U.S. Government, he can transform his country more thoroughly to one-man rule, free of the glaring light of journalistic exposure. This is how much the South Vietnamese ruler thinks of the American people who sacrificed blood and money on behalf of his country.

With this in mind, I think my colleagues will be interested in excerpts from a press conference in Saigon held by the South Vietnamese Government press spokesman, Bui Bao Truc. I think it shows the transparency of the South Vietnamese attempt to stifle a free press in that counrty. At this point, I ask unanimous consent to print excerpts from this press conference.

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

EXCERPTS

Q. I have heard that Mr. Jacques Leslie has been expelled. Can you tell me how many more days he can stay before he is expelled?

TRUC. We don't expel him. We just don't give him any press card any more. That is the decision that came from Mr. Nha's office (Hoang Duc Nha, commissioner general for information) because for the last three or four months he has been writing articles attacking us, seriously. Imagine that kind of thing happened in Hanoi. The correspondent like that would some night go out and just disappear. We don't do that. We don't expel him. He can be here—he can continue to be here as a civilian doing any other thing. But we cannot help him—as we can help you foreign correspondents doing your job—anymore. He could get help from the other side.

Q. You said that he wrote articles attacking the government seriously. Are any of the articles inaccurate, in other words could you give us a list of the articles that were inaccurate?

TRUC. Well, I'm sorry but I don't have the article here with me. But I have them downstairs and many of the articles proved to be inaccurate.

Q. Can you give us some examples?

TRUC. Well there are so many.

Q. Just one then?

TRUC. But I'm afraid I don't have the answer right now. But you see that while he's in Saigon enjoying the security provided by the soldiers of the Republic of Vietnam (He is attacking our soldiers). We cannot have that.

Q. Mr. Truc, you said he could get help from the other side. (Could you elaborate?)

TRUC. Well, he would get help from the other side. But not from our side anymore. We cannot help people like him anymore. But we don't expel him.

Q. What do you call it then? Does he have three days or does he not have three days in which to get out of the country?

TRUC. Well, we don't order him to get out of Vietnam. We just take back his press card.

Q. Can he stay beyond three days or must he be out of the country by Monday?

TRUC. Well, that is up to the immigration service. But we don't make the decision.

Q. What has the immigration service said? How much time does he have left in the country?

TRUC. Well, look here. He came here as a journalist.

Q. He is here as a journalist, representing a legitimate newspaper. Is that correct?

TRUC. That is correct.

Q. He has had legitimate news credentials issued by the Vietnamese government. Is that correct, sir?

TRUC. Yes, but we cannot do that anymore.

Q. Is that being revoked?

TRUC. Well, we cannot give him a press card anymore.

Q. What does that mean, ultimately?

TRUC. That means he can be here as a civilian doing any other thing. But not as a foreign correspondent anymore.

Q. Does that mean that the South Vietnamese government would deny him the right to report for a legitimate news organization. Is that correct?

TRUC. Well, he can live here in Vietnam. He can do whatever he can but we cannot give him any help anymore.

Q. Does that mean that you will give him a visa beyond Monday?

TRUC. Well, he can try.

Q. As a civilian?

TRUC. He can try.

Q. And if he fails, then what?

TRUC. He can try but we cannot help him. If he fails we are not going to give him any assistance.

* * * * *

BENNETT. Would you mind telling, Mr. Truc, precisely what is the charge against Mr. Leslie?

TRUC. It is not your business. I'm sorry.

Q. I think that is a legitimate question.

TRUC. Well, you see, Mr. Leslie asks me then I'll answer Mr. Leslie. But I'm not going to answer you.

Q. You are not going to give me an answer?

TRUC. I'm not going to answer you. It is none of your business.

Q. It's none of my business?

TRUC. That is right.

Q. Isn't it any of the business of the press at all?

TRUC. All right then. If Mr. Leslie, if he asks me then I will answer him.

LESLIE (from back of room). All right, I ask you then.

TRUC. Do you have a press card? (Laughter.) All newsmen coming here must have a press card. If you don't have a press card I ask you to leave the room immediately. Mr. Leslie, do you have a press card?

LESLIE. No. I don't have a press card. You know that.

TRUC. Please leave the room. Thank you. Goodbye.

Q. That still didn't answer the question.

TRUC. I did answer him. In my office.

Q. You did not answer the question here. The question is what are the charges against Mr. Leslie?

TRUC. I answered him in my office. I'm not going to . . .

Q. Why don't you answer it here?

TRUC. Because he comes here not as a journalist.

Q. Is that a form of censorship, sir?

TRUC. It is not censorship.

Q. Then why don't you answer the question?

TRUC. It is the order (SIC).

Q. It is a legitimate question. I am not demanding. I am asking you the question. What are the charges against Leslie?

TRUC. I don't have to answer you.

Q. You don't have to answer?

TRUC (with sarcasm). I don't have to answer you.

Q. Or won't?

TRUC. I will not answer you.

THE RECURRING WATERGATE QUESTION

Mr. SCOTT of Pennsylvania. Mr. President, Robert L. King, who served from 1955 to 1957 as an assistant to then Vice President Nixon, gives us insight into one of the most complex Presidents in history with his illuminating article in today's New York Times. His description of President Nixon's personal philosophy answers the recurring Watergate question, "How could Mr. Nixon not have known?" I would like to share this article with my colleagues and ask unanimous consent that it be printed in the RECORD.

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

WATERGATE AS PART OF THE PURCHASE PRICE

(By Robert L. King)

SAN MATEO, California.—Since most of the Watergate testimony is now in, and the President has again stated his case, perhaps it is time for an additional perspective. My own frame of reference is built on long friendship with Mr. Nixon and whatever insight and understanding of his character I have gained from my association with him.

Perhaps I can offer at least a partial answer to the question: "How could Mr. Nixon not have known?" In his instructions to me when I first went to work for him in January 1955, Mr. Nixon told me that one of my prime duties would be to "protect" him so that he would have sufficient time to study, read, think and concentrate on the problems with which he was dealing. His overseas missions for President Eisenhower, even then, gave him his first and abiding interest in foreign policy and world politics. Much time was taken up in preparation for these trips and much time was absorbed in meetings of the Cabinet, National Security Council, Government Contracts Committee and other duties. He needed protection, and I, as the only male member of his immediate staff in those days, was the chief buffer. But Mr. Nixon's instructions embraced one other point. He said that in addition to protecting him, I had to protect myself. Otherwise, I couldn't do the necessary job for him.

However, too literal an interpretation on the part of top staff people in a highly political situation can lead to blindness and insensitivity on the part of both master and servant. Such phrases as "the Berlin Wall," and rumors that the top staffers were harder to see than the President, could have arisen only because of too strict a conformance with the admonition of "protect yourself." The result was to almost form a double moat around the Oval Office.

Such a system breeds an inordinate delegation of power. This, in turn, carries with it the seeds of its own destruction when such power reposes in individuals whose experience, capacity and political instincts are limited. Such a modus operandi might well have worked in other circumstances. In this instance, sincere, hard-working, intelligent, dedicated and patriotic young men were victims of a power-bred myopia which made them vulnerable to their own inexperience—particularly political inexperience.

These thoughts are offered by way of explanation, not absolution, as both the delegator and receiver of Presidential power share in the responsibility for what happened. But the daily inferences and outright charges that Richard Nixon has lied to the American people is a cruel lie itself. A reporter recently wrote that Mr. Nixon, in 27 years of political life, has never been caught in a lie. In my own 30 years of friendship and intermittent association, I have known a man who I think is constitutionally unable to lie, particularly about such an overriding question of morality and integrity.

In addition, he is simply too intelligent to even consider the risk of a "second-story job" on Democratic headquarters. It is completely out of character for a man who voluntarily denied himself the Presidency when it was probably within his grasp. I refer to 1960 when it is reported that J. Edgar Hoover and many friends urged him to contest the election because of known and provable vote frauds in Illinois, Missouri and Texas. I can imagine no more venal assault on the American system than that of the actual theft of ballots and perversion of the citizens' basic voting right at the ballot box.

Watergate happened because Mr. Nixon's remoteness and that of his top staff people made the latter vulnerable to an excess of power. The irony is that equal excesses of zeal and dedication to a great President (which normally are admirable qualities) were short-circuited by this fatal juxtaposition which gradually eroded the judgment of otherwise good men.

I have no doubt over the outcome. It will be proved to the satisfaction of the American people that President Nixon did not participate in either the planning or cover-up of Watergate. The scars he must inevitably bear for a staff system and personnel selection that made such a thing possible are only a part of the punishment for him. I'm sure he can accept this burden much more easily than the knowledge of what has happened to close personal friends and loyal supporters.

Mr. Nixon's "remoteness" is well-catalogued. But perhaps this remoteness, with the time it has given him to think and plan policy toward Russia and China, has been a key ingredient in today's peace and hope for the future. If so, and I personally believe this, perhaps Watergate, painful though it is, is part of the purchase price.

ECOLOGY AND ENERGY

Mr. FANNIN. Mr. President, it is encouraging to find in the press a new understanding of the need to strike a balance between those measures which will protect the environment and those measures needed to protect our economy.

For a time the tide ran entirely in favor of the environmental extremists and it was woe to anyone who spoke otherwise. Now we have an awakening, an understanding that one of the worst things we could do to our environment would be to destroy our economy.

In last night's Washington Star-News there was a very good column by Richard Wilson pointing out the need for more rational actions which will enable us to meet our energy needs while doing our utmost to protect the environment.

Mr. President, I am pleased that we are starting a realistic discussion of environmental protection measures. We must have some frank debate and a determination that we will act on the basis of facts rather than wishful thinking.

Mr. Wilson in his column gives us some good points to consider in this debate. I request unanimous consent that the column be printed in the RECORD.

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

ECOLOGY CRAZE BLOCKS VITAL ENERGY

(By Richard Wilson)

Nature has finally cleared the air over the Eastern seaboard after weeks of envelopment in putrid smog which even extended into the usually refreshing atmosphere of the Blue Ridge Mountains.

It seemed as if the whole summer was spent in a dingy haze which robbed the mountain landscape of definition and cast a depressing pallor over all familiar objects in the urban scene.

The experience was enough to persuade skeptics they should join in the environmental craze—but not quite enough. Able to breathe freely again, the doubter can more easily assess what it is about the environmental craze that invites skepticism.

The environmentalists have taken up a cause which is bigger than they are. There were just as many cars spewing out pollutants and as many factories and refineries belching out filth after mother nature had enough and lifted the atmospheric inversion which trapped the East Coast in a suffocating blanket. But the air was clear again.

No doubt there will be other clean-air crises in the future, and it is not being said here that a lively concern for a clean environment is not urgent. But there are realities which do not yield to the naturist yearnings of the dedicated environmentalist. Among these realities are keeping people employed, getting them to work, keeping them warm or cool, maintaining production and distribution essential to life and order, and, it now becomes evident, conducting a foreign policy.

Because we are short on oil and other sources of energy, we are being blackmailed by Arabian potentates, we scramble for Siberian gas, and face the possibility of a winter heating crisis and power shortage.

So let's examine as concisely and succinctly as possible how the environmental craze is paralyzing the development of energy sources which the nation absolutely must have in the future. Here is a partial list.

1. The biggest single petroleum discovery in the Western Hemisphere, on Alaska's North Slope five years ago, will not produce oil for the American market before 1977 even if there are no further delays by the environmentalists.

2. Tremendous reserves of oil and gas in the outer continental shelf go undeveloped owing to environmentalist obstruction following the 1969 oil spill in the Santa Bar-

bara Channel off the California coast, which was not permanently damaging.

3. The full utilization of coal, the most plentiful energy source, is prevented by the Clean Air Act, court decisions and short-sighted policies heading the coal industry for a major depression. The problem is susceptible to solution but at great cost or modified air standards.

4. The cost of emission control on automobiles eventually will be enormous, running into the billions in a few years, using more gas, and adding up to $500 to the cost of a car.

5. Environmentalist opposition accounts in part for a standstill in oil refinery construction.

6. Environmental objection has blocked conventional steam and hydroelectric plants, as well as nuclear power plant construction. Construction of a new hydroelectric plant on the Hudson River has been blocked for 10 years while New York clamors for more power.

There is this much to be said for environmentalism: It has been effective. Also it has been disillusioning to some of its effective supporters, including Sen. Henry Jackson of Washington, one of its early champions and author of the National Environmental Policy Act of 1969, who insists on building the Alaska pipeline.

With impeccable credentials as an environmentalist, Sen. Bob Packwood of Oregon supported a federal ban on the powerful insecticide, DDT, but now has reversed himself because there is no other effective way of attacking the Tussock Moth which has destroyed 800,000 acres of Oregon timber this year.

Reality thus gets in the way of idealism, and the modern age does not give in to Rousseau, either the naturist philosopher or the naturalist painter who provided so much inspiration for the environmentalist idea.

Somewhere a balance will have to be struck between environmentalist ideals and national requirements for more energy. The chances are it will be struck somewhere short of cold houses, limited car uses and strangled economic expansion. Enlightened environmentalists should recognize that before an overabundance of zeal discredits the movement.

THE UNITED NATIONS

Mr. McGEE. Mr. President, in late August of this year, U.N. Secretary General, Kurt Waldheim, released an extraordinary report on the work of this vital international organization.

At a time when all nations of the world, particularly the United States, should be seeking innovative means to make the United Nations a more effective and efficient tool of the international community, I found the Secretary General's remarks quite poignant and exceptional in their scope.

I was particularly impressed with the following observations in which the Secretary General noted:

Of course, there is infinite room for improvement in the way the United Nations is used on immediate issues. It would be a far more effective Organization, for example, if Member States developed the habit of consistently responding to and respecting the decisions and findings of the main organs. It would be a more effective Organization if Member States were always prepared to put their influence behind the implementation of decisions of its organs. It would be a more effective Organization if the majority of Governments of Member States were more interested in pursuing long-term international aims, and in providing leadership in the pursuit of those aims, than in using the United Nations to achieve narrow goals and to protect short-term national interests. It would be a more effective Organization if there was a general recognition, in deeds as well as in words, that the present conditions of life on our planet demand much more of international cooperation than only the protection of national interests, and that the ability to co-operate in the pursuit of common interests and common goals may well in the end be a matter of human survival.

In a world that has become so interdependent, and with such a wide range of needs to be met, it is apparent that time is running out on us if we cannot achieve international cooperation on resolving these issues. It is painful that we must always pay a tremendous price for shortsightedness and selfish instincts. The price will be much greater, in almost geometric progression, unless we get down to the serious business of building upon the only supranational organization we have which is prepared to deal with our supranational problems. We no longer exist in the 18th or 19th century. We cannot escape from the rest of the world without affecting our own survival as a nation and as a people.

It is for these reasons that I found the Secretary General's remarks to the point and reflective of a wisdom and urgency we cannot ignore.

I ask unanimous consent that the document entitled, "Introduction to Report of the Secretary General on the Work of the Organization," be printed in the RECORD.

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

INTRODUCTION TO THE REPORT OF THE SECRETARY GENERAL ON THE WORK OF THE ORGANIZATION—AUGUST 1973

I

In recent years the United Nations has taken important steps towards universality of membership, and for the first time in history an organization representing the whole of humanity is within our reach. It will be very different from the organization which the founders had in mind at San Francisco, but, if its Members so desire, it could have a vitality, a variety and a potential unmatched by any human institution which has existed before.

The necessity for international—even global—co-operation on a wide range of human activities has never been so great or so urgent. Quite apart from the political and security-related challenges of our time, there is now a whole range of global problems which can probably only be dealt with effectively through institutionalized multilateral channels. This fact also fundamentally affects the future of international organization.

The growing involvement of the United Nations in the fields of environment, natural resources, population, outer space and the sea-bed is a testimony to the awareness of States of this necessity. But while this development is to be welcomed, we must not lose sight of the fact that an important aspect of public disillusionment and disenchantment with the United Nations lies in the fact that a world in need as never before of peaceful and legitimate order to ensure its survival appears to be still institutionally incapable of assuring it.

Inevitably it will require time for us to learn how best to use wisely such a unique instrument as a universal organization, for it will present great problems as well as great possibilities. Nor will it always be easy to adjust international instruments created more than a quarter of a century ago to the global challenges which we now face. But time is not on our side, and we need action as well as thought, innovation as well as criticism, determination as well as idealism, if mankind is not to be overtaken once again by the destructive side of human nature.

The main purpose of this introduction is to provide a basis for constructive debate on the present state of our Organization and on some of the problems of its future development as a universal instrument in a world of interdependent sovereign States.

II

The United Nations and its family of organizations were set up to deal with the problems of a world very different from the one we live in today. The past quarter of a century has seen an unprecedented degree of change in the political, military, economic, social and technological circumstances of our planet.

The fact that, after 28 years, the United Nations is very different from the organization envisaged at San Francisco has given rise in many countries—and especially among some of the founding Members of the Organization—to considerable disappointment with its performance and effectiveness. This disappointment sometimes has tended to overshadow the promise of the new directions and forms of United Nations activities which have been developing. Indeed, the flexibility of the United Nations and its adaptability to new problems and possibilities has been one of its major strengths. This promise, however, can only properly be fulfilled if there is a widespread willingness to make a realistic assessment of the Organization's capacity and potential, and to decide on constructive, contemporary and imaginative ways in which it can be used to meet the present and future problems which we face. In this process, many fundamental adjustments will inevitably be necessary.

The United Nations Charter sets forth a series of objectives and ideals which are of lasting value in providing a broad framework within which differing political groupings and ideological systems can meet and reconcile their aims and interests. Some of the mechanism provided in the Charter for achieving these aims, however, has not proved workable in the rapidly changing world situation. Thus, as far as international peace and security are concerned, the Charter is very much associated with the international situation at the end of the Second World War, and with the developments which led up to that war. The cold war, the revolutionary development in weapons-systems of mass destruction, the change in the relative status of various major Powers, the rapid process of decolonization, and the increasing imbalance in economic resources between nations are only a few of the major postwar developments which have to some extent affected the machinery for maintaining international peace and security which was created at San Francisco. As a result the United Nations—and especially the Security Council—has often been frustrated and has developed various procedures and techniques in order to meet the challenges of the contemporary world. Such developments, though often less precise and decisive than the full range of activities provided for in the Charter, nevertheless demonstrate the vitality and resourcefulness of the world Organization.

On the economic and social side, many of our present world-wide problems were scarcely foreseen at all when the United Nations system of organizations was created. The pressing and global nature of such interrelated problems as development, trade, population, natural resources and environment requires an integrated response which is often hard to achieve through the international machinery set up for far more limited purposes over a quarter of a century ago. In fact in the economic and social fields the United Nations, far from being side-

stepped, has become increasingly involved at so rapid a pace that institutions created in 1945 often no longer correspond to current needs.

It is in no spirit of defeatism that I have referred to some of the short-comings of our international institutions in relation to the world of today. On the contrary, I believe that these institutions provide an indispensable and solid foundation for future activity. But I am convinced that, if the United Nations is to live up to the resounding aims of the Charter and is to engage the confidence and support of the peoples of the world, the Member States, the Secretary-General, the secretariats and all the organizations and individuals—including the mass media—that play an important part in international co-operation, must consider the realities of the situation frankly and with a full measure of critical appraisal. The United Nations will not develop through ritual public statements of approval and support which are not backed by inner conviction, realism and wholehearted participation. If the United Nations is to become the organization which the Governments and peoples of the world require and which their problems demand, we have to make a continuous effort to assess the challenge of the radical changes in the world, to make the necessary adjustments and, where needed, to develop new machinery and methods.

Let there be no doubt about the crucial importance and difficulty of this task. It does not require only that States should examine the United Nations with care and imagination; they must also ask themselves whether their own attitudes, their assumptions, their goals and their machinery are adequate or appropriate for our times. We need to take a hard look at matters as they are, and to compare our high ambitions with our actual performance, our bold claims with our actual achievements.

III

The original concept of the United Nations as an organization of which the primary function was to maintain, and if necessary impose, international peace and security has long been replaced by a more pragmatic approach. At the risk of oversimplification, the present efforts of Governments within the United Nations framework may be summarized under three forms of activity which proceed simultaneously.

There is the day-to-day effort to maintain peace and security, to deal with, and if possible prevent, conflict and to face immediate international problems in the political or other fields, as for example in emergency relief operations. There is the middle-term activity, which represents the vast proportion of the Organization's effort in terms of manpower and money. This deals with urgent problems requiring sustained efforts over a longer period, such as disarmament, development, trade, population, environment and natural resources, as well as preparing for the future in such questions as the sea-bed and outer space. Finally, there is the long-term goal for which these activities are the workshop, preparation and experimental ground. This is the process through which the present association of States in the United Nations may develop by practical experience into a more reliable instrument of world order and co-operation, accepted and respected by all Governments and capable of safeguarding the common interests of mankind in a crowded world of increasingly interdependent but sovereign States.

IV

It is the first of these categories of activity which attracts most public attention and gives rise to much of the doubt concerning the Organization's effectiveness. Here especially the actual development has been very far from what was foreseen at San Francisco, and this has given rise in some countries to a disillusionment which has tended to obscure what the United Nations has actually done or can do in matters affecting peace and security. One difficulty here is the widespread idea that international problems invariably can and should be solved by logical and reasonable means and through established institutional procedures. This popular illusion accounts for much of the criticism of the political organs of the United Nations, especially the Security Council. The reality of the kind of hard-core political problems which come to the United Nations is of course very different. The proceedings of the Security Council, the work of Governments of Member States on these problems within the framework of the United Nations, and the efforts of successive Secretaries-General and the Secretariat have, it seems to me, been far more useful than is widely supposed.

Past experience has shown that the United Nations cannot either successfully deal with disputes if the Governments concerned do not wish it to do so, or, against their opposition, impose the settlement of a dispute. But throughout its history the Security Council has played a vital role on many occasions in defusing and de-escalating the problems brought before it by great and small Powers alike.

A large part of the agenda of the United Nations is a list of the chronic ailments of the international community. The United Nations may not often be able to cure these ailments, but it can, and does, do a great deal to prevent them from getting worse and from spreading and infecting new areas. In fact the conflict situations, or potential conflict situations, where the United Nations has been involved have tended to be far less violent and destructive than those where it has not been involved, even when the Organization has been unable to effect a settlement of the basic problems concerned.

The use of multilateral preventive diplomacy and good offices by one or other organ of the United Nations are activities which can certainly be further developed. Such efforts are not in competition with the normal bilateral dealings of Government but are complementary to them. They reflect the fact that there are some problems which are not soluble either by bilateral negotiations or through the general improvement in the international climate or *détente* among the great Powers. Examples of such problems are the Middle East conflict, the burning problems of southern Africa, and the situation in Cyprus. In such situations—and one could give other examples—the multilateral approach of the United Nations is complementary to normal bilateral diplomacy. It is necessary to emphasize that there is no inevitable clash between bilateral and multilateral diplomacy. They are, or should be, mutually supporting, each having particular advantages in particular situations. There is no single road to peace—we have to try all roads.

The fact that the international climate has greatly improved—especially as regards the relations among the great Powers—is an encouraging development. Great-Power confrontation, with all its potentially disastrous consequences, has begun to give way to constructive negotiations which have already produced results in some important and particular difficult problems. Recent personal meetings between leading statesmen are encouraging cases in point.

Obviously the relaxation of international tension by any means contributes to the general search for peace in the world. Thus, for example, the opening session of the European Conference on Security and Co-operation at Helsinki in July of this year, whatever difficulties may lie ahead, is an important and promising event. A Europe living harmoniously within itself, responsive to the needs of others and aware of its great international responsibilities and potential, would be a positive element in the establishment of a durable peace in the world.

Another example of an important initiative by a group of States in the general search for peace is the annual meetings of non-aligned Governments, the latest of which is taking place in September of this year in Algiers. The non-aligned countries have constantly expressed their full support for the United Nations and play a vital role in the work of the General Assembly and other United Nations organs.

It is to be hoped that the effects of great-Power *détente* will have an important influence in areas of special United Nations concern, such as disarmament, although the achievement of political *détente* is no automatic guarantee of progress in this field. Quite apart from the peril which the continuing world-wide escalation of armaments presents to world peace, mankind will continue to be deprived of vast human and material resources urgently required for more constructive purposes unless real progress can be made in disarmament. It is self-evident that a major relaxation of international tensions is an essential prerequisite for any significant advance. Bilateral and regional negotiations are an important part of the effort to achieve the larger objective of a more general process of disarmament.

The Convention concerning bacteriological (biological) weapons is one example of real progress, and it is to be hoped that the international community will soon move towards an effective prohibition of chemical warfare. Over almost two decades the issue of nuclear testing has been under active negotiation. The conclusion of the partial nuclear test ban treaty 10 years ago was a significant first step in this process. The time has now surely come for a general agreement to stop all nuclear weapons testing.

In all these matters the United Nations, in its pragmatic way, provides a wide range of possibilities. It can be an agency for mediation and conciliation; it provides a recourse for the oppressed and a safety-valve for the frustrated; it challenges even the most powerful States to account for their actions, and it permits even the weakest and poorest States to press their claims. Although such activities seldom provide the clear-cut and decisive actions and solutions which people originally were led to expect of the United Nations, they unquestionably have a cumulative effect. The ceaseless flow of United Nations activity in negotiation over the most difficult problems and in attempts to reconcile and adjust the differences of national policies and interests, quite apart from specific results achieved, compels Governments to turn their attention from domestic preoccupations to important and difficult international problems and to give continuous thought to one of the most important phenomena of our time—the increasing interdependence of nations.

V

The activities of our Organization on specific problems are reported on in full in other documents. In this introduction, therefore, I shall touch only briefly on some which have particular significance in the context of the effectiveness and future direction of the United Nations.

This year has seen a new effort by the Security Council—the first since 1967—to tackle the problem of the Middle East as a whole. In the past six years many efforts have been made, both within and outside the United Nations, to assist the parties to finding a just and lasting settlement to this infinitely complex problem. My predecessor and I have both worked with the Special Representative to this end, and we have been constantly on the alert for new possibilities and approaches which might offer some promise of success. But despite all of these efforts and the recent deliberations of the

Security Council, a peace settlement in the Middle East remains elusive.

The intractable nature of this extremely complex problem lies not only in the deep emotions which it arouses in all the protagonists concerned, but also in the fundamental principles involved—the sanctity of the territorial integrity of States, the right of every State to be secure within its territorial boundaries, and the inalienable right of self-determination of peoples. These principles are of crucial importance in the formulation of any peace agreement.

Time is not on our side in this highly explosive situation. While much can be, and is, done through the United Nations to reduce tension and prevent escalation, the search for a settlement is crucial and must continue. In this search, the co-operation of the parties concerned is of decisive importance.

In Cyprus also the quest for a basic settlement continues, while the United Nations does its best to keep down tension and prevent a recurrence of conflict. As I have reported to the Security Council, the reactivated intercommunal talks, in which my Special Representative as well as constitutional experts from Greece and Turkey are present, have shown considerable promise of progress towards an agreed settlement, but have as yet not succeeded in overcoming certain fundamental obstacles. In this situation it has been necessary to maintain the United Nations peace-keeping force in the island despite increasing financial difficulties. I shall be reporting to the Security Council in detail on this matter at the end of the year. Here I shall only say that it is my intention to urge and assist the parties to the talks to expedite their search for a solution, not only for its own sake and for the good of the people of Cyprus, but also in order to relieve the United Nations of a heavy burden which it has now been bearing for over nine years.

In the South Asian subcontinent certain basic problems largely stemming from the 1971 conflict have political as well as humanitarian aspects. The three Governments concerned are making serious efforts to find solutions to these problems. In line with my policy of going to areas of special concern to the United Nations, I visited the subcontinent in February and had the opportunity to discuss the situation with all the Governments concerned. I have been encouraged by recent efforts of the three Government to overcome their difficulties and to find solutions to their unresolved political and humanitarian problems, which are closely interlinked. I hope these efforts will succeed. It goes without saying that I and my representative in Dacca, as well as the United Nations High Commissioner for Refugees, will continue to be of what assistance we can to the Governments concerned.

Despite all United Nations efforts, the completion of the process of decolonization is painfully slow. The fact that millions of people are still deprived of their fundamental rights to self-determination, freedom and independence is an anachronism which also constitutes a major obstacle to the relaxation of international tensions. In southern Africa especially, where colonialism, racial discrimination and *apartheid* are still prevalent, the situation has assumed proportions which, if it continues, will inevitably have serious consequences far outside the confines of the region itself.

It is a matter of continuing and grave concern that the Governments principally involved have so far failed to implement the resolutions of the General Assembly and the Security Council addressed to them on these matters. Nor have all States been willing to give effect to the mandatory sanctions imposed by the Security Council against the illegal régime in Southern Rhodesia.

In this connexion I wish to refer to the recent resolutions of the Security Council and the Economic and Social Council calling on all Member States, and on the United Nations system, to assist Zambia in rerouting between 50 per cent and 60 per cent of its foreign trade, previously transported through Southern Rhodesia, as a result of the closure of its southern border. The task here is not only to assist Zambia to maintain its flow of exports, but also to enable it to continue to apply the earlier Security Council decision on mandatory sanctions against Southern Rhodesia.

The Security Council in 1972 invited me, in consultation with a group of three members of the Council, to initiate contacts aimed at achieving the objectives of the United Nations with respect to Namibia. The contacts and efforts which I undertook have not produced the desired results, although they have served to clarify important issues. In view of the special responsibility which the international community has towards the Territory and people of Namibia, it is important that the competent organs of the United Nations, and the Security Council in particular should continue to seek effective approaches in their endeavour to bring about a solution based on the inalienable rights of the Namibian people to self-determination, national independence and preservation of the unity and territorial integrity of Namibia.

Delay in resolving the residual colonial problems of Africa can only lead to sharper confrontation and increasing bloodshed and suffering. The longer the impasse continues, the more difficult it will be to arrive at peaceful solutions and to restore genuine and lasting harmony between the conflicting parties. It is in the long-term interest of all the Governments concerned, and indeed of all Member States, that the right to self-determination and independence for the colonial peoples be respected and implemented without delay.

VI

The United Nations has in recent years become increasingly involved in urgent and large-scale relief problems of various kinds.

In Bangladesh, after two years of intensive activity, the United Nations relief operation will be phased out by the end of 1973. This operation has demonstrated the generosity of the world community and its willingness to respond to the urgent needs of a new country in distress. It has also shown the capacity of the United Nations system to work effectively as a unified team in an emergency situation and to provide a co-ordinating element which enhances the effectiveness not only of multilateral but also of bilateral aid and of the work of voluntary agencies. It has shown that bilateral and multilateral aid can complement each other and be administered in a co-ordinated and effective fashion. I hope that good use will be made of this experience in the future.

I have had occasion in the past year to stress two related questions—the global problem of ensuring adequate availability of food, and the need for greater international action to prevent the further spread of deserts and to reduce the unproductiveness of arid lands. The tragic drought which has brought devastation to several countries in the Sudano-Sahelian zone of west and central Africa has forcibly brought both these problems to the attention of the world. In line with the call of the Economic and Social Council to organize co-ordinated assistance, I requested the Director-General of the Food and Agriculture Organization of the United Nations to arrange for that organization to serve as focal point for the United Nations effort.

Large quantities of aid have been forthcoming in response to this catastrophe, both on a bilateral basis and through the effective mechanism which the Food and Agriculture Organization has established. The predictable persistence of drought conditions in the area, however, will require the continuing and intensive applications of external assistance. For such assistance to be effective, it is of paramount importance that the international community, and the United Nations system in particular, approach the problems in the Sudano-Sahelian zone in a well co-ordinated manner and with one voice. I have therefore recommended, and the Economic and Social Council had endorsed, the framework of an over-all international strategy to provide the required co-ordination for medium- and long-term assistance to the affected countries. I am confident that the international community will respond generously to this urgent challenge.

VII

Of course there is infinite room for improvement in the way the United Nations is used on immediate issues. It would be a far more effective Organization, for example, if Member States developed the habit of consistently responding to and respecting the decisions and findings of the main organs. It would be a more effective Organization if Member States were always prepared to put their influence behind the implementation of the decisions of its organs. It would be a more effective Organization if the majority of Governments of Member States were more interested in pursuing long-term international aims, and in providing leadership in the pursuit of those aims, than in using the United Nations to achieve narrow goals and to protect short-term national interests. It would be a more effective Organization if there was a general recognition, in deeds as well as in words, that the present conditions of life on our planet demand much more of international co-operation than only the protection of national interests, and that the ability to co-operate in the pursuit of common interests and common goals may well in the end be a matter of human survival.

I know that such standards will take a long time to become generally accepted and I also know that many Governments make steadfast efforts to live and abide by them. Until they are generally acknowledged, however, the Charter will inevitably remain to a large extent an as yet unrealized blueprint for world order.

The protection of human rights is an area where the credibility of the United Nations is especially at stake. Over the past years the international community has been faced with a number of matters affecting human rights, which have posed—sometimes in a very acute form—the difficulty of reconciling the sovereign jurisdiction of Member States with the principles laid down in the Universal Declaration of Human Rights. The United Nations has been active in attempting to improve fundamental human rights and freedoms in some areas but has proved unable to act in other cases. This has provoked considerable criticism. It has been possible for the Secretary-General to exercise his good offices in certain humanitarian situations, but it is clearly necessary that Member States continue to address themselves to the problem of developing more effective action by the Organization on problems of human rights wherever they occur. The twenty-fifth anniversary of the proclamation of the Universal Declaration of Human Rights, which will occur on 10 December this year, might be the occasion for renewed efforts in this field. Further steps to ratify the International Covenants on Human Rights would be one significant advance.

VIII

The second category of activities, which I called the middle-term activities, absorb by far the largest proportion of the United Nations effort in terms of money and manpower. Although the bulk of the work in this category is more or less within the economic and social field, much of it has political overtones and implications as well. The value of the Organization's effort in these fields is that it constitutes a continuous endeavor to formulate approaches to global

problems from the point of view not of a few great Powers but of the international community as a whole. It is essential that United Nations activities be undertaken in this spirit. Such enterprises as the United Nations Conference on the Human Environment and the forthcoming World Population Conference, for example, are not undertakings imposed on Member States. They are approaches to global problems undertaken essentially in the interest of all mankind.

In the economic and social field it seems to me that the time has come for a concerted effort to use the international system to re-establish confidence. The prevailing mood of uncertainty is not confined to the developing world, but now besets even the basic system of commercial and monetary interchanges between great trading nations. It is becoming increasingly clear that rich countries as well as poor ones are in need of a comprehensive new look at the world they live in, at the resources they depend upon, and at the organization and machinery of international co-operation.

The review and appraisal undertaken this year of the International Development Strategy for the Second United Nations Development Decade makes it plain that we face a major task in breathing new life into the global development effort. The fact that the growth rates of many countries are below the average, that debt burdens are threatening to get out of hand, and that aid levels are gravely short of target expectations requires our immediate and critical attention. Obviously negotiations now under way on the future shape of the international monetary system and on the world-wide trading arrangement under the General Agreement on Tariffs and Trade will have a very important bearing upon the future of development and of the poorer countries.

The concept of collective economic security has recently been brought forward for renewed attention in the sessions of the Economic and Social Council. I believe this step comes at a most useful time. The United Nations represents, among other concepts, the idea of a community of nations with interests that encompass the welfare of all its Members. Such an idea—valuable and even essential as it evidently is—cannot survive in stagnation, but on the economic as well as on the political side the will to collective international action has tended to weaken in recent years. Collective international action in any field needs the discipline of repeated practice if it is to prove effective. Co-operative international action in the economic and social field is undoubtedly also a vital factor in reducing political tensions. This fact and the growing realization that many problems are interrelated and cannot be solved in isolation or be contained within national boundaries make a renewed interest in collective responsibility and in collective economic security especially timely.

Certainly the attempt to assure the economic security of all Member States through collective action is a highly ambitious undertaking, but it should not be beyond the capacity of the United Nations system to make substantial progress toward this goal if the Members really desire it. Many of the tools for such a task are at hand if Governments wish to use them. But if this great attempt is to be made, there will have to be a wide-ranging reassessment of our international economic institutions. Such a reassessment is already beginning in the complex of trade and monetary matters, a reassessment in which all nations have, or should have a large interest, for it will determine the nature of the world economy in which they are to live. It is essential that such a reassessment take full account of the interests and special problems of developing countries.

The sustained efforts now under way to translate much of the consensus of the United Nations Conference on the Human Environment into programme terms demonstrate the international community's ability to act when the will to act exists. In another field of vital international concern, the oceans and the sea-bed, a large-scale effort is under way to combine such action with the safeguarding of a considerable diversity of national interests, an undertaking which involves adaptation of the law of the sea to meet new realities. The United Nations, as the centre for harmonizing the actions of States, has an essential interest in this process and will no doubt continue to play a major part in bringing this undertaking to a successful conclusion. Our new knowledge of the seas and oceans shows clearly the immense possible benefits and resources that should be used and husbanded for the good of all mankind. However, the potential which this domain holds for new disputes and conflicts, if international agreement is not reached or is too long delayed, is a factor to be given equal weight in an Organization devoted to peaceful and friendly relations among States. It is therefore of major importance to the Organization and to the international community that the present opportunity for broad and viable accords not be missed, as it will be if the pace of developments is such that agreement, when it is reached, has already been overtaken by events.

The demographic evolution of the world also underlines the urgency of assuring the future of marine resources, for they will be needed desperately and needed soon. The outlook is still for the doubling of the world's population in 30 years. The World Population Conference, to be held at Bucharest in August 1974, should help us to see the demographic situation more clearly in all its many dimensions.

The problems of the future only serve to underline the gravity of the problems of the present. Of these the persistence of mass poverty and unemployment is particularly striking as a phenomenon where only generous aid from the community as a whole, combined with massive and imaginative programmes by Governments, can be expected to defeat an evil which in itself constitutes a powerful impediment to progress.

The problems I have just mentioned call urgently for effective international action, but such action can only result from a general political will to solve them. Obviously legitimate national interests can never be ignored, but it is essential to increase our capacity for striking a balance national interests and the international goal of the welfare of all mankind.

IX

Another obstacle to be surmounted is the temptation to take on problems piecemeal and out of context and to look for swift and easy solutions to issues which are inherently complex and which together form a pattern of interrelationships where each part affects all the others. The increasing interdependence of nation States has been matched by the growing complexity of the network of economic social, technological and political interrelationships in which these States must live. The United Nations system is poised at the apex of this pyramid of relationships which are in constant and precarious motion. The task of the United Nations system, and especially of the Economic and Social Council, is, or should be, to assist Member States to move towards agreed goals at a steady pace and rhythm under conditions of equilibrium. This immensely complex task requires continuous and patient negotiation and a clear vision both of the different parts of the puzzle and of the over-all conception of the world which the international community wishes to make a reality.

If the United Nations system is to succeed in this Herculean task, a continuous scrutiny of the instrumentalities and organization of international effort is also necessary. It cannot be denied that at present we are better equipped to deal with parts of the problem than with the whole and that, in spite of a high level of specialized expertise, the system is in constant danger of losing its way through excessive fragmentation.

This tendency has historical roots. The United Nations economic and social system was deliberately set up as a group of independent specialized agencies linked to the United Nations itself through the Economic and Social Council. This was done largely to enable specialists in various disciplines to meet and seek solutions to problems in forums where they would be more or less undisturbed by political considerations. While much of the rationale for such a system remains valid, the changes in the nature of problems to be solved that have taken place since 1945 and the emergence of a series of more or less global problems have given an unanticipated importance to the necessity for the various specialized organizations and their representatives in the field to work coherently together.

Over the past 28 years the United Nations system has developed rapidly in response to new challenges, very often through the establishment of new agencies and mechanisms. In fact, in the last decade hardly a year has gone by without the establishment of one or two important new international bodies. Although this development demonstrates the vitality of the system, it has also inevitably tended to make it cumbersome and to limit its coherence and ability to adopt an integrated approach to complex problems. The natural desire of different groups of Governments to give effect to their particular conception of the nature and goals of international co-operation has had an important impact on the way the system as a whole has developed. It is, I believe, vitally important that this natural tendency should be matched by a parallel effort to achieve the maximum degree of co-operation and thus to bridge the divergence of interests between major groups of countries.

X

The United Nations system is confronted with the problem of striking an effective balance between the decentralization of functional responsibility and the necessity for maintaining a co-ordinated and coherent approach to complex problems. I fully recognize the value of diversity, decentralization and freedom of initiative in the different parts of the United Nations system. Certainly nothing could be less useful than to try to impose the control of an all-embracing central bureaucracy on all of the parts of the system. On the other hand, many of the problems we face require an integrated, disciplined and highly co-ordinated approach if the United Nations system is to operate with maximum effectiveness and if it is to be capable of clearly identifying degrees of urgency and of setting priorities in full knowledge of what is involved—in fact, of formulating a general policy. In an emergency such as the relief operation in Bangladesh, we have seen the striking efficacy and resourcefulness of the United Nations system operating as a team and speaking with one voice. Although not all situations call for such an approach, I feel very strongly that a determined effort must be made on all sides to exploit the advantages of interdependence rather than to succumb to the temptation to fragment and proliferate the system. This applies equally at the planning and operational end and at the administrative, financial and managerial level, where some degree of uniformity and common practice is essential if the United Nations system is to avoid becoming an increasingly disunited and undirected enterprise.

The reassertion of the constitutional authority of the Economic and Social Council within the system and it fulfillment of the function of providing the conceptual framework for the entire system of United Nations organizations would certainly be an important step in balancing the tendency to fragmentation. Ultimately the shape and content of the work of the United Nations system emerges from the combined views and policies of Member States as expressed through the councils and governing boards of the various organizations. The pressures and influences under which Governments act are diverse and often contradictory, and this fact is reflected in the differences that sometimes appear in the attitudes of Governments as expressed in various organizations. The leadership of the Economic and Social Council could do much to mitigate such contradictions and to underline the undoubted fact that the effectiveness of the United Nations system in pursuing global goals depends in large measure on its ability to schedule its work in a rational and coordinated manner. I urge Member States to keep these problems in mind when formulating their positions in the governing organs of the various United Nations bodies.

A most important development in the administrative field holding great promise for the achievement of higher levels of effectiveness in management has been the inauguration of programme budgeting and of a biennial budget cycle, replacing the annual budget presentations of past years. The adoption of programme budgeting is designed to give to Member States, when they consider the budgetary requirements of the United Nations at the General Assembly, a clearer insight into the actual programmes being planned or undertaken, the objectives towards which each programme or project is directed, what it is hoped or expected to achieve within the budget period as well as over the longer term, and what the programme or project is expected to cost. In this way the substance, the value, the worth of the programme can be set alongside its cost. Budgeting by programmes and by projects also gives to Governments and their delegations a better opportunity to detect duplications and overlaps with similar projects in the programmes of other international organizations. It is unfortunate that the first attempt at presenting a budget for a two-year period based on the principles of programme budgeting coincided with a grave currency exchange crisis which masked much of the effectiveness of this new system. The contrast in effectiveness of presentation under this new arrangement with the previous system based on primary objects of expenditure such as salaries, travel or publications—which explained what the required funds would be spent on, but not the purposes of the expenditure—will, it is confidently anticipated, become more evident with succeeding biennial presentations.

XI

The Organization has continued to make every effort to solve its financial problems. As a result of a policy of austerity, accompanied by a temporary freeze on recruitment, adopted early in 1972, a further deterioration of the Organization's debt position was held in check for that year. In addition, a number of Member States have made their payments at earlier dates than in previous years, which has helped further in covering the financial requirements of the earlier months. Despite these actions, however, a further special effort will be required of Member States in order to meet our obligations during the latter part of 1973.

As regards the problems of the liquidation of the Organization's debts, a special account established last year by the General Assembly has attracted pledges of voluntary contributions from a number of Member States willing to assist in the resolution of the Organization's financial problems, but a much wider response from Member States is essential if the United Nations is to be placed in a sound financial position.

The exchange fluctuations which have disturbed the money markets of the world during the early part of 1973 have had a serious effect on the Organization's current financial position. While roughly two thirds of the Organization's regular budget expenditures require United States dollars, one third or more requires other currencies. The decline in the value of the United States dollar since January 1973 has increased by as much as 25 per cent or more the cost, in dollars, of purchasing the currencies required to meet United Nations regular budget obligations in Geneva, Vienna and elsewhere. As a consequence, losses due to these currency exchange fluctuations are estimated to amount to at least $US 9 million in 1973–only a portion of which can, it is expected, be covered through offsetting savings or withholdings elsewhere in the regular budget. The effect on important humanitarian programmes—in particular the United Nations Relief and Works Agency for Palestine Refugees in the Near East—has been correspondingly serious. The experience of the specialized agencies in this connection is similar to that of the United Nations. Some of them have had modest reserves to draw upon while others have been obliged to resort to expenditure reductions, special assessments and other policies in order to maintain financial stability. The United Nations has no financial reserves to draw upon, and consequently supplementary appropriations by the General Assembly will be necessary. I assume that the Assembly will wish to consider the general aspects of this important problem at its forthcoming session.

In the preceding pages I have touched upon a number of trends and developments which I believe to be significant for the life and future of our Organization. As always, an institution works and develops only if there exists among its members the political will to make it work and develop. I hope that some of my comments may point to ways in which this political will might be usefully applied

There can be little doubt that a world organization such as the United Nations is necessary and even essential. At present there seems, however, to be no clear understanding among the Member States as to which road the Organization should take, and it is sometimes hard to avoid the feeling that not all Governments are fully prepared to accept the consequences of their membership in the United Nations or the need to orient their national policies in the ways required to make such an organization work.

Two questions inevitably arise. What kind of world organization do we need? And what kind of world organization are Governments prepared in reality to accept? An analysis of the problems which we undoubtedly face should provide a logical response to the first question, but the second is more difficult to answer. Do the majority of Member States really want an organization which is more than a conference machinery and a forum for the pursuit of national policies? Do they really want an organization which can play a useful and active role in focusing international efforts on the solution of the most difficult and controversial problems and which in doing so will in certain situations develop an impetus of its own? This is the basic question facing Member States in formulating their policies in the United Nations and other international organizations.

As in most political institutions we see in the United Nations the clash between idealism and realism, between the code of international behaviour of the Charter and the interests and pressures which confront Governments. Earlier in this introduction I mentioned the very long-term goal, for which all our efforts are in a sense the preparation—the goal of a reliable instrument of world order and co-operation, accepted and respected by all Governments and capable of safeguarding the common interests of mankind. In spite of present shortcomings and disappointments, it is essential to keep that goal in mind and develop our capacity to co-operate in reaching it. Only by doing so can we hope to shape a universal Organization which will really serve the needs of future generations.

KURT WALDHEIM,
Secretary-General.

August 23, 1973.

A CHRISTIAN'S VIEW OF WATERGATE

Mr. SCOTT of Pennsylvania. Mr. President, the negative aspects of human nature often give us an un-Christian perception of life and the nature of man. This is the thesis of Dr. D. Elton Trueblood as it pertains to the Watergate affair.

In his latest quarterly newsletter, Dr. Trueblood, a distinguished Quaker author, gives us four human qualities which he says have influenced our thinking on Watergate and asserts that—

The only possible solution of the present crisis is one in which the entire issue is raised to a higher level.

Dr. Trueblood's theory is an interesting one and adds another dimension to our thinking on Watergate. I ask unanimous consent that it be printed in the RECORD.

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

QUARTERLY YOKE LETTER

DEAR FRIEND: Most of my Quarterly Letters in the recent past have dealt with theological problems and I had another in mind for this particular letter. However, because of many requests from my valued readers and neighbors, I think it right to deal now with the issue which is on all our minds. The present predicament in our country is, by any standard, a great sorrow. It hurts, not merely those who are the targets of criticism, but the entire country. In so far as Watergate monopolizes discussion, it makes people forget the immense advances of the recent past, such as the conclusion of a long painful war and the bringing home of the prisoners of war. It also hinders effective planning for the future. Unfortunately, a deep sickness has settled on our land, and we who claim to be Christians must seek to find a cure.

Meditating on sad current facts, and mindful of the people who read this letter, I have become convinced that I should employ this medium to try to say something about the Watergate tragedy from the point of view of a Christian. I do this, partly, because comment from this perspective has been conspicuously absent during the entire controversy. There is abundant discussion from the point of view of politicans, but who has spoken as a Christian? It may be that healing will come in this way, as in no other.

The Christian, if he is loyal to the New Testament vision of human life, will begin with several solid points of conviction. Among these are the following:

1. *Judgment.* While not condoning wrongdoing in any way, the Christian is keenly aware of the dangers which arise when we become judgmental. Christ warns against becoming judgmental, employing the phrase "with what judgment you judge, you will be judged" (Matthew 7:2). A paradoxical devel-

opment often occurs in human experience, in that the reaction to sin is really worse than the sin itself. In the Biblical story of the prostitute, the woman comes off better than her accusers, the suggestion being that these men may not be entirely clean themselves. "Let him who is without sin among you be the first to throw a stone at her" (John 8:7). Perhaps it is because I have not listened adequately, but, in the furor of the past few months, I have not heard any references of this kind. Part of my sadness has arisen because the prevailing mood has been one of extreme harshness.

2. *Self-Righteousness.* It is part of the paradox of the Gospel to recognize that there is more spiritual danger in feeling righteous than in feeling sinful. The supreme illustration of this is the story of the Pharisee and the publican, in which the Pharisee thanked God that he was not as the other man (Luke 18:11). That self-righteousness feeds upon itself has been amply demonstrated by journalists, broadcasters and members of Congress during the last few months. The trick is to take on the look of the moral crusader who is incensed at the sin of other men. Then the crusader can be as vindicative as he likes and seem more righteous in doing so. The worst aspect of Watergate is the evidence of how widespread the Pharisaical mood is.

3. *Glee.* One of the most obvious reactions on the part of the leaders in what has many of the characteristics of a "witch hunt" is the glee with which the victims are pursued. Each new revelation of wrongdoing is reported with a virtual smacking of the lips rather than in sorrow. This is understandable by purely pagan standards, but it is very far from the Christian way. At the heart of the inspired description of love, from the Christian standpoint, is the penetrating observation, "It does not rejoice at wrong" (I Corinthians 13:6).

4. *Sin.* Underneath all of the furore is the nearly universal expression of surprise that sins have occurred. How this is possible is hard to understand, except upon the assumption of natural human goodness. It is that the Christian position is manifestly more sophisticated than that of the known alternatives. No Christian is ever surprised at the existence of sin because he recognizes it in himself. Because the recognition of sin has always been an essential element of Basic Christianity, the Christian is not easily shocked. The people about us who become most bitter and violent are, in many instances, those who have begun with a naive view of human nature, and when they find that it is not true, they lash out in all directions. How strange it is that they can see sin in others, but never in themselves!

The Watergate affair is fundamentally a sad revelation, not merely of dishonest practices which have been allowed to mar our political system, but also of any ugly mood in the life of the nation. That the considerations mentioned above are so seldom mentioned makes us know how extreme is the erosion of Christian standards. Thereby Christians can see how serious the problem is and something of the magnitude of the task of renewal.

The most important conviction of the Christian in this or in any other situation is that, "with God, all things are possible" (Matthew 19:26). Because God, reigns, tragedy can be transmuted into victory. In Lincoln's words. "The Almighty has His own purposes," and if we can find out what these are we may become His instruments in the healing process. It is to the task of healing rather than recrimination, that we must turn. The only possible solution of the present crisis is one in which the entire issue is raised to a higher level.

Sincerely,

D. ELTON TRUEBLOOD.

ADDRESS BY REPRESENTATIVE GLENN ANDERSON

Mr. TUNNEY. Mr. President, my able colleague, Congressman GLENN ANDERSON, made some very poignant remarks recently concerning some of the more pressing problems facing the State of California and the Nation. I ask unanimous consent that Congressman ANDERSON's remarks be printed in the RECORD.

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

REMARKS OF CONGRESSMAN GLENN M. ANDERSON

Thank you, Mr. Chairman—Ladies and Gentlemen.

It is a great pleasure to be here today and to have this opportunity to speak about some of the problems facing our country and our state. I am particularly pleased to speak with you here in Orange County, although my own constituency lies in the harbor area of Los Angeles. Thus we are, in a manner of speaking, neighbors, and I hope today that we can reason together in a neighborly fashion. I might as well begin by admitting what I am sure you already know: Some Democrats—particularly those of a liberal bent—do not habitually break into cheers at the mention of Orange County. Indeed, those very words are enough to produce in some of my fellow Democrats approximately the same reaction the sight of a cat produces in a dog. Show them someone from Orange County and they almost instinctively start to growl and bare their teeth.

And while I must regret the fact that Orange County does not normally produce landslide victories for Democrats, what you have accomplished here—not merely in terms of population growth and economic achievement, but also in the quality of the lifestyle enjoyed by your fellow citizens—is simply too important to be ignored or dismissed. For there can be no question but that the spectacular growth of this community from a pleasant, rural retreat to a prosperous new metropolis is one of the major achievements not only of modern America, but of the western world. I have traveled fairly extensively about the world, and frankly I know of nothing quite like this place to be found anywhere else—a community literally reborn only two decades ago which in that brief span of time has achieved a tremendous degree of stability.

FEDERAL-LOCAL COOPERATION

As a congressman, Orange County interests me for another reason: It is a relatively good example of how federal power and federal funds can be used in coordination with local initiative and private business to help build a community that works. One reason for the high degree of educational and technical proficiency displayed by your people is the fact that a large proportion of them are veterans who have taken advantage of federal programs to help veterans go to college. The astonishingly rapid building of new homes in this area has been made possible, at least in part, through the Federal Housing Administration and the G.I. Bill. Many of your largest industries are engaged in sophisticated research for the space and defense requirement of this nation—funded of course by the federal government.

Some of your most beautiful areas, particularly along the coast, have been developed in conjunction with various State and federal programs. Finally, the President of the United States makes one of his homes here.

Thus, Orange County is an example of the use of federal power and federal funds to achieve what I believe the founding fathers intended the government to do—promote the general welfare, which today translates into helping build stable, prosperous communities which offer opportunity to anyone willing to strive and to work for a better life.

But there is really no point in my dwelling upon this matter, for I am sure most of you know far better than I what has been accomplished here and as fair-minded men and women, I doubt that many of you would deny the critical role the government has played in making all this possible.

And while it is pleasant to dwell upon our successes as a society and as individuals, it is also necessary to examine our shortcomings as well. I'm sure most of you know that all of the billions of dollars that Washington spends annually have not produced uniformly positive results, either in economic or in human terms. Much of our money—that is, your money—has been wasted and many of our programs have utterly failed to produce the intended results—indeed, in many cases they have produced exactly the opposite of a desired goal. And while I am a liberal, particularly with respect to human needs and to our collective responsibility to one another, I believe I am somewhat a conservative in matters economic. For example, I have been a critic of, and have consistently voted against the increasing national debt.

I have opposed and voted against much of the foreign aid and foreign giveaway programs.

Having been a businessman and a taxpayer, I do not like waste, mismanagement and stupidity in government—or free-loading on the part of our fellow citizens. And I do not subscribe to the theory that politicians can best secure themselves in office by lavishing money on the voters.

Corruption is a subject much, perhaps too much, in the news today. There is the corruption of those who seek to buy favors from politicians—which we rightly condemn. And there is the corruption of politicians who try to buy the favor of their constituents—which too often we simply overlook.

WELFARE

Thus, I would like to speak with you today about welfare. But I have a broader definition for that term than that which is generally used. Let us face the fact that the term "welfare" has become almost a dirty word in America. Curiously, it is often used with contempt by those who receive it as well as those who pay for it.

Now I do not believe there is anything inherently wicked about welfare. "Faith, Hope and Charity" have long been the basis of Western Civilization, and the greatest of these, said Saint Paul, is charity. I agree with that. I think, in a deeper sense, we are our brother's keepers. I think that a civilized community has a responsibility to help the widow and the orphan, the aged and the infirm and the poor when the poor cannot help themselves. I see nothing novel or wicked or revolutionary in any of these. Civilized communities do not let people starve when there is abundant food available; they do not let children die in the streets because their parents cannot afford medical help. As long ago as 1597, England had its "poor laws"—in effect a minimal welfare program designed to prevent actual starvation.

But the concept of welfare [a noble and compassionate idea], can be abused like any other good idea. It has been said that whereas once society existed at the expense of the poor, now the poor exist at the expense of society. Both of these are wrong. I believe that those who are too old, too sick, too young to take care of themselves should be the responsibility of us all—and that they should be assured an income adequate to maintain a decent minimum standard of life—that is, an American standard, which admittedly is much higher than you will find in most countries on this earth.

On the other hand, I find it shocking that in a land with so much useful work to be done—consider our need for schools, transportation systems, parks, and cultural facilities—that literally millions of our able-bodied fellow citizens are permitted, sometimes even encouraged, to pass their time doing nothing of any value to themselves or anyone else. I believe in the work ethic. I believe work, hard, useful work, is essential to a happy life. I believe that depriving someone of the opportunity, indeed of the right to work, is robbing that person even more than it robs those who support him.

And I can think of few things more tragic than the spectacle of millions of young people hanging around street corners waiting for a connection, at a time in life when energy and idealism and ability to contribute should be at their very highest. Surely there is something tragically wrong with a society which permits as many as fifty percent of the young men in some communities to simply hang around, out of school, out of jobs, out of luck. And to the extent that our present welfare laws have permitted, even encouraged this, we have surely sown the whirlwind of crime and drug addiction which we now reap.

That is one kind of welfare evil, and it is not hard to be against it. Even the poor have precious little to say in its behalf.

WELFARE FOR THE RICH

But there is another kind, not so easily or comfortably attacked. I speak of welfare for the rich. In the words of a famous Orange County resident. "Let me make myself perfectly clear." There may well be some of you in this audience on the receiving end of governmental largess with little or no justification other than the fact that "It's legal"—"Others are doing it so I may as well get mine."

And that's exactly the reason I've chosen you as an audience to discuss this particular subject with.

You are—for the most part—highly successful in your businesses, professions—and in the community.

And you are the kind of public opinion moulders that could help us be successful. You're the kind of leaders that should be out in front.

Attacking welfare for the poor doesn't sound too good coming from you but—attacking welfare for the rich—you're the ones who could really stop it, and I ask your help.

For example, let's take the case of another famous neighbor of ours—one of my favorite actors.

In 1970, this gentleman and his partners—who hardly qualified as a "hardship case," received payments totaling $810,000 under various farm subsidy programs of the federal government. In 1971, his Arizona ranches, let's call them A, B and C, qualified for $218,000 in federal largese; last year Ranch "C" got a mere $54,995; but then it was a tough year for a lot of people.

Now I have always admired this man as a movie star, and he is regarded by millions as a great American. I'm usually happy to pay two bucks to watch him in the movies leading the Good Guys to a well-earned triumph over the forces of iniquity. And I always enjoy that triumphal moment at the end of the picture when our hero, having routed the villians, invites all the neighboring ranchers over for a barbecue. But somehow it doesn't seem fittin' for him to then call the local farm subsidy bureau and ask the federal government to supply the beef.

But then our friend is in some fairly distinguished company. Take Standard Oil of California, which in 1972 collected a neat $85,975 for not growing crops. Or the Tejon Ranch, (I believe a Los Angeles Times enterprise) which received $103,283. Or Tenneco, which got $231,225. Or Mr. Kenneth Frick, who is Director of the Farm Subsidy Program, received $36,863 . . . in addition to his ample government salary. His brother, Howard Frick, collected $55,000 in government farm subsidies. Or the Southern Pacific Railroad Company which annually collects tens of thousands of dollars in farm subsidies—I hope it's not for not growing cotton along its railroad tracks. The list goes on and on—and is virtually endless—but in California alone, last year (1972), some 1961 individuals and corporations received $80.2 million—roughly $43,000 each—for not growing crops. Secretary of Agriculture Butz himself describes this as "an income supplement payment because you get it without really doing anything to earn it . . ."

To the billions that are received for "not doing anything" must be coupled billions that go, in one form or another, to support prices—and this at a time when the President himself has described inflation as the nation's number one domestic problem. I needn't remind anyone here what has happened to the price of food in the past few months and years—but perhaps you don't realize that in many cases these high prices are being forced up by the government's left-handed subsidies while the same government's right hand struggles to combat inflation. This isn't necessarily corruption or avarice—in a way it's something worse—stupidity.

Actually, our price support program costs close to $4 billion a year.

An area almost the size of the State of Colorado (96,000 square miles or 61.5 million acres) was taken out of production—and in return the government pays them the subsidy to refrain from growing cotton, wheat, or feed grains on the land. About 20 percent of this land is in California.

Now—at this time I should correct the impression that this land necessarily lays fallow.

In order to pick up the government subsidy, the farmer must agree not to plant cotton, wheat or feed grains, but he can grow soybeans or seven other crops—or he can graze his cattle on this land without any penalty.

I remember in the 30's—the price support program was supposed to be for the small family farm.

Yet, the giant enterprises—representing less than seven percent of the nation's farms—collect 40% of the price support. While another 40 percent of the farmers (the small ones—those with sales less than $2500 annually) receive only 5 percent of the total subsidy.

So—it's the big ones—including the corporate farms—which are feeding at the public trough.

WHAT DO WE GET—IN RETURN?

Now for this $4 billion annual subsidy you might ask—well, what do the American people get in return?

The answer would probably be—higher prices.

The price of wheat has almost doubled from $1.60 a bushel a year ago to $3 today—corn has almost doubled from its selling price of $1.29 a year ago to $2.33 a bushel today. Soybeans—now selling at $11.00 a bushel—were priced at $3.44 a year ago.

WHAT HAVE WE DONE?

And, you might ask, "What are you guys in Congress doing about this?"

Good question.

And the answer—not much, but some of us have tried.

Due largely to reports in the press of the scandalously fantastic sums paid some individuals, and the pressure of many Members of Congress, we did act to limit farm subsidies somewhat. In 1970, the Congress placed a maximum of $55,000 that a "farmer" could receive in subsidies for each of three programs—cotton, wheat, and feed grains.

Many of us felt that this was too high and tried to lower the limit to $20,000 per farm, per crop—but we were unsuccessful. Actually, I introduced an amendment with a $10,000 limitation.

Thus, the law, theoretically, at least, states that the most one enterprise could collect in government payments was $165,000 annually.

But, in practice, many of the giant outfits simply split their farms between the wife, brothers and children—so that each could collect $55,000 per crop.

For example, J. G. Boswell, up in Kern County, received nation-wide notoriety in 1970 by leading the nation in government subsidies with $4.4 million.

But in 1972, as far as we can trace, his operation (J. G. Boswell Co.) collected a mere pittance—only $91,885—hardly enough to keep him in overalls.

The 1970 law—which established the $55,000 limit—expires this year. Hopefully, we can put an end to this giant welfare program by restricting the amount that any enterprise may receive in government payments—hopefully, my $10,000 limitation—or at least the $20,000 limitation per crop-per farm.

THE INTERNATIONAL COFFEE AGREEMENT

Coffee: Another interesting deal that costs the taxpayers—as well as the consumers—is the International Coffee Agreement which costs us $790,000 simply in dues to belong to this International Cartel.

And, on top of the dues, we pay artificially higher prices at the market—because they are guaranteed in conjunction with the foreign interests. Thus, we pay $790,000 of your tax money to belong to a foreign cartel which results in our paying higher prices for a product that for the most part is not even grown in the United States. Actually, the only coffee that's grown in this country—is a minute fraction—Kona Coffee from Hawaii.

THE INTERNATIONAL SUGAR AGREEMENT

Next, our government has us involved in a sugar program which costs each and every American—all 200 plus million of us—$3 a year more for our annual supply of sugar than it would if the government kept out of it. And where does this $600 million end up? Generally, it ends up in the pockets of the foreign sugar barons who fight to export sugar to the United States.

How does this work?

We are members of an International Sugar Agreement whereby the government establishes quotas. First, it determines the amount of sugar that can be grown domestically and by whom; and secondly, who can import sugar into this country and how much.

By restricting its cultivation and production domestically, foreign sugar interests are guaranteed a price above world market prices. As a result, like ants gathering at the sugar bowl, the foreign sugar barons go to great expense and enormous trouble to get a share of this lucrative market.

The taxpaying public gets hit two ways: First, we chip in $90 million each year to entice domestic sugar growers to restrict production. Secondly, due to inflated prices, the consumers pay an extra $600 million annually for the sugar we buy at the store.

And what do we receive for this $690 million?

While the English housewife pays 10 cents for a pound of sugar—

While the Norwegian housewife pays 12 cents a pound—

And while the Mexican housewife pays only 8 cents for a pound of sugar—

The American housewife pays 14 cents for the same pound of sugar.

And where does this new kind of foreign aid go?

Ecuador—a country which regularly takes pot-shots at our tuna fleet—received $11 million in sugar aid in 1969.

The Dominican Republic received $94 million worth in 1969.

Brazil—$89 million.

Peru—another nation with a history of hijacking our tuna fleet—collected $38 million.

OVERSEAS WELFARE

Turning from domestic welfare to our overseas welfare programs: Recently we all read and heard about our fabulous deal in selling all that unwanted wheat to the Russians. As everybody here knows, we are sharp capitalist traders while the Russians are a bunch of communist bureaucrats who don't understand business. Well, our little Russian transaction will set the U.S. taxpayer back a cool $412 million in export and shipping subsidies, plus, I'm told, an estimated two to 2.8 billion in price increases.

Now I do not oppose selling wheat to Russia, or rice to China. But I see no earthly reason why we should give it away. If the people of Russia or China were starving I would certainly be willing to consider feeding the hungry regardless of ideological considerations. But the governments of Russia and China, according to the reports we get from the press, indicate that the ordinary Russian or Chinese has an adequate diet by his own standards—so why are we repeating a practice which has failed us practically everywhere in the world where we have tried it—the attempt to buy friendship?

As many of you know the dollar is under severe pressure. We have already devalued our currency twice in recent years and most economists foresee continuing pressure for an indefinite period — pressure which may lead to a third devaluation. A few years ago one German mark was worth 25 cents. Recently the mark has hovered around 38 cents. An increase of about fifty percent in the value of the mark in relation to the dollar. Now, as everyone knows, the Germans are strong economically. Yet, today the United States is maintaining roughly 400,000 troops in West Germany. These troops, together with their dependents, are costing the American taxpayer billions—much of it fed directly into the German economy and thus strengthening the mark in relation to the dollar. On a somewhat smaller scale, precisely the same situation exists in Japan.

Now I am not an isolationist. I believe we must play our proper part in world affairs; including the maintenance of certain military alliances. But why should we have more troops defending Germany than the Germans do? And why can't they at least help pay some of the costs for their own defense? Every year the taxpayers of the United States are subsidizing Japanese and German businessmen by relieving them of much of the cost of defending their own territory. Why should we be more concerned with European security than the Europeans, more willing to pay and die for freedom in Asia than the Asians?

Frankly, I regard much of our foreign aid programs, and many of our military commitments, as a kind of overseas welfare.

At the end of World War II when we had a virtual monopoly on the western world's wealth and power, this may have been justifiable as a subtle way of helping our former enemies get back on their feet. But as any American businessman trying to compete with German and Japanese products will testify, they are surely on their feet now—so why do we go on and on?

Now lest someone misunderstand me, I believe in military strength. I believe we should be as strong as any likely enemy or combination of enemies. I support a strong defense industry here at home. But I believe many of our policies abroad have in fact made us weaker, not stronger, by undermining the economic base upon which our whole society rests. And I do not believe that we can forever carry the burden of defending Europe and Asia with precious little assistance, particularly in the area of economics, from Europeans or Asians. I believe that in the long haul, the European and Asian nations which wish to maintain free governments will do so through their own efforts; and those which are unwilling to sacrifice for their own protection will not and cannot be protected by Americans. Further, I believe that sooner or later the American government—Republican or Democrat—will be forced to the same conclusion. My hope is that this will come to pass before the dollar—and the American economy which stands behind it—have ceased to command the respect of the world.

Finally, I believe this government can meet its constitutional responsibility to promote the general welfare, to help build the schools we need, the transit systems, to clean the air, the rivers, to provide jobs for people, particularly young people in the ghettos, on the farms and in the suburbs, and to maintain a strong and adequate defense. I believe we could do all of these things within the present tax structure. Provided only that we have the courage to look hard at policies and programs which, however justified and reasonable they may have once been, have now become sheer waste. I believe that Washington by using its power and resources wisely, can duplicate in Watts and in a thousand other areas of America, what has been accomplished here in Orange County. If not on the same scale, at least with the same result: stable communities, pleasant homes, good schools, general prosperity. To accomplish this we need policies which are at once more modest and more effective. Perhaps it is time to stop trying to right all the world's ills, and to concentrate on building a country that works for what it gets—and gets what it works for.

RESOLUTIONS ADOPTED BY THE NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION

Mr. THURMOND. Mr. President, the 83d Congress of the National Society of the Sons of the American Revolution was held in June. There are many points contained in the resolutions adopted at the Congress which deserve careful consideration.

I ask unanimous consent that these 11 resolutions, adopted June 27, 1973, be printed in the RECORD.

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

RESOLUTIONS

RESOLUTION 1

Whereas, in seeming disregard of the provisions of the Tenth Amendment to the Constitution of the United States, there appears in recent years to have been an increasing tendency to centralize in the federal government certain powers over subjects and matters not properly within the scope of federal authority or jurisdiction, and

Whereas, one area of vital and significant importance to the continued progress and well being of our great nation upon which such encroachment of federal power has seriously intruded is in the field of education of our young people upon whom will devolve the responsibility for the conduct and preservation of our country, its institutions, and its form of government as we have known them.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress Assembled, that the design, structure, and administration of publicly supported educational systems is, and ought to be, the executive duty and responsibility of the individual and separate States of the Union in such manner and by such means as each of said States shall independently determine, and

Be it further resolved, that all federal agencies, including the Congress, the executive branch, and the courts should refrain from any interference, whether by coercion, force persuasion, or otherwise, with the orderly performance by the several States of their responsibilities in the field of education.

RESOLUTION 2

Whereas, on the ill-founded premise that access to biographical data as contained in federal census records constitutes an invasion of privacy, and

Whereas, there is presently pending in the House of Representatives a Bill (H.R. 7762), some of the provisions of which will permanently restrict accessibility to the 1900 and later census records, thereby detrimentally affecting historians, researchers, genealogists and applicants for admission to memberships in many worthy organizations wherein lineage is among the factors determining eligibility, of the valuable information and data available in such records, and by so doing, seriously endangering the future growth of such organizations, including our own.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it opposes any efforts to restrict accessibility to the 1900 and later census records, whether by legislation, executive or administrative fiat, or by any other means.

RESOLUTION NO. 3

Whereas, Pollution of the nation's air, water, and land and the misuse of our national resources are a threat to our health and to our very existence, and

Whereas, widespread public concern has expressed itself to establish curbs on litter and pollution, and to encourage conservation of natural resources through the development and utilization of our technology and scientific research, and

Whereas, in response to the critical need for environmental education and action to combat and overcome pollution, and to expedite acceptance of resource recovery to conserve our natural resources, the nationwide, action-oriented environmental awareness program—Johnny Horizon '76—"Let's Clean Up America For Our 200th Birthday"—was developed by the United States Department of the Interior, with the support and cooperation of the Department of Defense, General Services Administration, the U.S. Postal Service, the President's Council on Environmental Quality, the Civil Service Commission, the Federal Highway Administration and the Tennessee Valley Authority, among others, along with more than 1,500 business, industry and citizens' groups and organizations, and

Whereas, the Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Program has widely demonstrated its ability to translate citizen concern into positive action such as community and country-wide cleanups, inner city beautification and conservation programs; in consequence whereby the American Revolution Bicentennial Commission in Washington, D.C. has officially recognized the Johnny Horizon '76 Program as an activity in furtherance of, and as a part of, the National Bicentennial Program and that it has been awarded the use of the Official Symbol.

Now, therefore, be it resolved:

1. That the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, acknowledges the overwhelming importance of the emerging environmental ethic in America based on the public demand that our air, water and land be cleaned up, and that our natural resources be conserved through resource recovery, all to the end that the quality of life might be improved for all our citizens.

2. That the said National Society agrees that the objective of cleaning up America,

visually and ecologically, represents an important and highly desirable Bicentennial goal, as well as an ultimate objective for the well-being of all of us.

3. That the said National Society itself, and through its State Societies and local Chapter Program Committees—working in harmony with local civic and community organizations—do actively and consistently seek to help plan, develop and implement local Johnny Horizon '76 "Let's Clean Up America For Our 200th Birthday" Action Programs as a vital and significant part of our Nation's Bicentennial celebration effort.

RESOLUTION NO. 4

Whereas, the United Nations membership has grown in number to 132 nations and

Whereas, each of the Nations has a vote in the United Nations, equal to the vote of the United States, and

Whereas, a two-thirds voting majority in the general assembly can be formed by nations with less than ten percent (10%) of the world's population and which contribute approximately five percent (5%) of the United Nations' assessed budget.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, that, pending the withdrawal of the United States from the United Nations entirely, we recommend to the consideration of our representatives and senators in Congress that the United States' financial support of the United Nations be re-adjusted to a more reasonable proportion, based upon a consideration of equal responsibility of all members.

RESOLUTION NO. 5

Whereas, we deplore the abandonment of the actual dates of George Washington's Birthday and Veterans Day for random weekend dates, unassociated with the patriotic and reverent purpose of their inception, and

Whereas, our Society has as one of its purposes the preservation and reverence for such patriotic occasions,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution at its 83rd Annual Congress assembled, urges the observance of the actual dates of February 22nd and November 11th as the proper dates for honoring and commemorating George Washington's Birthday and Veterans Day respectively.

RESOLUTION NO. 6

Whereas, the South Carolina Society has developed a project for the purchase and restoration of the home of Edward Rutledge, one of the signers of the Declaration of Independence;

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that it endorses the action of the aforesaid South Carolina Society and urges the establishment and maintenance of the Edward Rutledge home as a permanent memorial to his memory.

RESOLUTION NO. 7

Whereas, reliable reports indicate that the United States is rapidly eroding its international position of strength in regard to its military, air and naval capabilities, and

Whereas, George Washington admonished us, in the time of peace, to prepare for war.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, that the preservation and security of American liberty and our Republican form of government make it imperative that the military capabilities of this country be continually maintained in such strength and posture as to enable the United States to successfully repulse all threats to its existence from within and without the territorial boundaries of this nation.

RESOLUTION NO. 8

Whereas, the American people have paid tender tributes to the sacrifices of their sons who gave their lives in battle in World War I, World War II and the Korean Conflict by selecting unknown soldiers for special honors and respect at the tombs of the unknown soldiers in Arlington National Cemetery,

Now, therefore, be it resolved that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the United States Congress to honor in like manner the unknown soldiers, unidentified in death, who were victims of the Vietnam War, for their supreme sacrifice in the service and uniform of the United States of America.

RESOLUTION NO. 9

Whereas, our armed services have traditionally constituted the shield and sword of the Republic against aggression by a foe, and

Whereas, such mission has been executed in the past in a brave and honorable manner by officers and men dedicated to the rigors and hazards of the armed forces, and

Whereas, during the past decade, there has developed a permissiveness, laxity in discipline, disrespect for authority, lowering of standards of personal appearance, and lowering of mental and physical standards, and

Whereas, such ideas have resulted in near-mutinies on fighting ships and at land bases, and have further resulted in a widespread decline in standards of morale and discipline as well as fighting capability.

Now, therefore, be it resolved, that the National Society, Sons of the American Revolution in its 83rd Annual Congress assembled, urges the President of the United States, as commander-in-chief of the armed services, to correct this troublesome situation by restoring a policy of traditional high military standards of conduct and discipline.

RESOLUTION NO. 10

Whereas, it is reiterated and re-affirmed that all previous resolutions submitted at prior Congresses be re-affirmed.

RESOLUTION NO. 11

Whereas, the 83rd Annual Congress of the National Society, Sons of the American Revolution, has been successful in every respect, and

Whereas, that success has been due to the efforts of those who planned and took part in the program.

Now, therefore, be it resolved by the National Society, Sons of the American Revolution, that it hereby expresses its gratitude and deep appreciation:

1. to the President General for his able leadership.
2. to the officers, chairmen, and members of their committees.
3. to the loyal headquarters staff for their constant effort in providing an efficient operation.
4. to the speakers for their inspiring addresses.
5. to the various Armed Forces for furnishing a color guard.
6. to those who furnished music and entertainment.
7. to the press, radio, and television for their coverage of this Congress.
8. to all individuals who contributed to the success of this Congress.

AMERICA'S PRODUCTIVITY

Mr. TAFT. Mr. President, much has been written in recent years about America's lagging productivity. The key to improvement in America's international competitive position, and to increasing the wages and salaries of our workers without causing inflation, is an increase in the efficiency of the American economy—that is, increasing productivity.

Between 1965 and 1970, the output per man-hour of Japanese workers increased by over 14 percent, while the comparable figure for American workers was about 2 percent. Although the percentage differential has been narrowed since that time, the problem is certainly still with us. I believe that an all-out effort should be made to increase the productivity of American industry.

In that respect, Senator JAVITS, Senator PERCY, and I wrote legislation to create a revamped Commission on Productivity and Work Quality, whose major function would be to serve as a catalyst in various ways for increasing American productivity and worker morale. Unfortunatley, even though this extremely important bill passed the Senate unanimously, it has now been stalled in the House of Representatives.

I hope that the House will begin to move upon this legislation again. An entity designed to bring ways to increase productivity to the attention of labor and management could only be beneficial.

The August 9 edition of the Wall Street Journal contained an article describing one such method. I ask unanimous consent that it be inserted in the RECORD so that both my colleagues and my friends in Government and private industry are made aware of it.

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

RAKING IT IN—STEELMAKER RAISES OUTPUT AND PRODUCTIVITY WITH INCENTIVES THAT MAKE EVERYBODY HUSTLE

(By Jim Montgomery)

DARLINGTON, S.C.—South Carolina's 300,000 hourly paid factory workers earned an average of $6,049 each last year. James Samuel Sr. is one of the 300,000, but he got a lot more than that—$12,110 plus $807 in profit sharing. And that isn't bad for a 47-year-old black ex-sharecropper who never reached high school and never made more than $4,000 a year before 1969.

It was in 1969 that Mr. Samuel and most of his 240 fellow hard-hats, a third of them black signed on as $1.00-an-hour trainees at Nucor Corp.'s new mini steel mill in this town of 6,990 people. "Fewer than 20 of them had ever been in a steel mill before," an executive recalls, and they were so startled by the fireworks of the first heat that "they all ran out of the mill."

Now they run up fat paychecks for producing some of the lowest cost steel in the world. Their secret in productivity; they turn out some 150,000 tons a year at a cost per ton of less than four man-hours—only 3.48 in one recent week—in contrast to a national average of more than eight man-hours and an average of six in Japan, one of the most efficient foreign producers.

THE $20,000 MILLHANDS

Nucor is as new to steelmaking as most of its employes are, though the company previously fabricated steel joists from steel made by others. But it has found a quick route to success in the form of its lavish incentive-pay plan. Officials say the plan has made real hustlers out of everybody in the place from the billet molds to the executive office. Weekly bonuses for exceeding production goals often run 30% to 40%, and sometimes more than 60%, of employes' base pay. Last year, bonuses averaged 29% in the mill

here and five joist plants elsewhere in the U.S., accounting for $2 million.

(It was just 10 years ago that Kaiser Steel Corp. and the United Steelworkers Union launched the industry's first big incentive-type pay plan. While it's "not exactly a pay incentive plan," a spokesman says, it has added $28.3 million since the start to the normal paychecks of hourly employes. It's paid monthly and represents a share in cost savings on labor, material and supplies. But it didn't keep employes from staging a 44-day strike at Kaiser's big Fontana mill during contract negotiations last year.)

On the average, hourly-paid workers at Nucor earned just over $10,000 last year, not counting profit sharing, about the same as the $10,771 that the Bureau of Labor Statistics figures was earned by hourly paid production workers in the industry as a whole. (But $10,000 goes further here in Darlington than it does in Pittsburgh.) But some of Nucor's hourly paid millhands cleared more than $20,000 and several melters topped $25,000. There were "a bunch of folks," according to the company, who made more than $12,000.

One of them was Mr. Samuel, who quit a $1.65-an-hour job in a local veneer plant to work at the mill at a base that has risen to $3.35 an hour. Mr. Samuel, a strand tender, controls the level of molten steel poured into a casting machine that spits out more than 20 tons of steel billets an hour.

It's a hot job, peering down from a grill-work platform at the white-hot metal filling the molds below, and Mr. Samuel and two other strand tenders must spell each other often to rest their eyes. But Mr. Samuel says he has no complaints. In four years he has been able to buy a sporty Plymouth Duster and a $15,500 home far more comfortable than his seven-member family ever could have dreamed of owning previously. He used to share his crops with his landlord to pay his rent. And he says it still seems unreal to get a bonus of more than $4,000 in cash a year for producing bumper crops of steel billets.

ENVY DOWN THE ROAD

The production quota in the melting and casting operation is 10 tons of billets an hour. Each ton over that brings a 4% bonus for crew members. So far this year, actual output has exceeded 20 tons an hour on every work turn, and so every worker in the operation has collected bonus pay of at least 40% every week. One crew recently turned out 31 tons an hour in a day. Had they kept up the pace for a week, it would have got them an 84% bonus.

Even 40% bonuses "used to scare" Nucor's 47-year-old president, F. Kenneth Iverson. Now, he says, he worries only when bonuses are small. "If a man produces a great deal," he says, "you'd be amazed at how much you can pay him."

The pay at Nucor amazes a lot of people. It's a big topic of conversation on paydays at nearby beer parlors. After one session of beer guzzling and check comparing, union employes (Nucor is nonunion) at a metal-working plant down the road, reportedly in sheer envy, staged a wildcat strike. There isn't much chance of their going to work for Nucor, however. The backlog of applicants numbers 100 or so, and only some eight jobs a year open up.

Everybody at Nucor has an extra incentive to produce. Bonuses for department heads, such as plant controllers and rolling-mill superintendents, depend on whether they meet their plant budgets. Their bonuses normally don't exceed 20%, although last year a superintendent and a controller got 42%.

NO CORPORATE FRILLS

One profit-sharing plan covers all employes, except eight top officials, with six months or more of service. The company contributes nearly 10% of its pretax earnings to the plan. The eight senior officials share in another incentive-compensation plan. Last year, they got 10% of pretax earnings above $2 million. Nucor actually earned $8.9 million before taxes. Mr. Iverson, the president, picked up $176,824 in incentive pay, half of it, deferred, on top of his $60,000 salary. To give the same incentive pay this year, however, the company's pre-tax earnings will have to rise by $3 million, because the incentive-pay base has been increased to $5 million from $2 million.

Nucor partly offsets this generosity by enforcing a bare-bones policy on corporate overhead. All executives—and there aren't many—fly economy class. The closest thing to an executive dining room is the cafeteria of a shopping center across the street from the company's modest, rented corporate headquarters in Charlotte, N.C. Only nine people work there, five of them secretarial and clerical employes. Mr. Iverson shares a secretary with Samuel Siegel, financial vice president, treasurer and corporate secretary. Marvin A. Pohlman, vice president and a director and general manager of the Darlington mill, has no secretary. "We run very lean," Mr. Iverson observes.

This philosophy has paid off for shareholders as well as for employes. The first cash dividend, a quarterly of five cents a share, is to be paid Aug. 15. Eight years ago, Nucor was running in the red. Sales had stagnated at $20 million a year. Since the present management took over in 1966, sales have risen by an average of 25% a year. Operating earnings have increased by an average of 35% a year. In 1972, net income hit a record $4.7 million, or $2.25 a share, on record sales of $83.6 million. For this year, Mr. Iverson expects per-share earnings in the neighborhood of $2.60 on sales of $95 million to $100 million. Next year, he expects profit to be enhanced by a second mill now nearing completion at Norfolk, Neb.

Still, it hasn't always been just one big happy family at Nucor. The Steelworkers Union attempted to organize the Darlington plant "a couple of years ago," says M. C. Weston Jr., director of the USW district based in Atlanta, and "got around 50% (of employes) signed up." Mr. Weston says, however, that "the drive just stalled there" because "the company and the area where it's located are extremely anti-union." During the organization drive, at least, Mr. Weston adds, Nucor workers were reporting to the union earnings "anywhere from 30% to 35% less" than industry levels.

THE SURFACE MINING RECLAMATION ACT OF 1973

Mr. JACKSON. Mr. President, yesterday the Committee on Interior and Insular Affairs by a unanimous vote reported favorably S. 425, the Surface Mining Reclamation Act of 1973, which I introduced in January. I believe that my bill as amended by the committee provides for strong environmental protection while permitting continuation of coal surface mining where the lands involved can be reclaimed.

I wish to commend the junior Senator from Montana (Mr. METCALF) for the outstanding job he did as chairman of the Subcommittee on Minerals, Materials and Fuels, in leading the committee's work on S. 425.

The Senator put in long hours chairing hearings and committee markup sessions. He offered and the committee adopted many amendments which greatly improved the bill. These include assurance of real opportunities for public participation in the administrative rule-making and decision processes; requirements for review of land areas which may be designated unsuitable for surface mining; and authorization of citizen suits to assure operator compliance with and regulatory authority enforcement of State and Federal reclamation programs.

The junior Senator from Montana's willingness to listen to all viewpoints and his legislative skill in working out reasonable compromises were in large measure responsible for the committee's unanimous support for the bill as reported. The committee, the Senate, and the country are in his debt. I congratulate him for his outstanding performance.

CLEAN UP AMERICA MONTH

Mr. THURMOND. Mr. President, the month of September 15 through October 15 has been declared "Clean Up America Month" by Secretary of the Interior Rogers C. B. Morton. It is part of Johnny Horizon '76, the nationwide campaign sponsored by the Interior Department to clean up America for the Bicentennial celebration in 1976.

During Clean Up America Month, participants will have an all-out drive to involve their communities in improving our environment.

Mr. President, this is indeed a worthwhile effort. Unlike so many Federal undertakings, it relies upon people at the grassroots level—people who are concerned about air, land, and water pollution and want to do their share in alleviating the filth.

Johnny Horizon '76 is a project in which both young and old alike can participate. For the young, brochures, posters, litter bags, and recorded instructions are available in a way which appeals to children. For adults, different types of antipollution campaign packets have been prepared with emphasis on how to conduct cleanup campaigns in every community.

I understand Secretary Morton is very pleased with the response this campaign has received so far. It is being supported by a growing list of Federal agencies and cosponsored by almost 2,000 other organizations.

I am pleased that many clubs and organizations in South Carolina responded to a newsletter I wrote on the subject May 28 of this year.

This response indicates that people do care about their country and are willing to give of their time and talents to improve it.

Mr. President, I would urge my colleagues to promote this campaign. If we work together, we can truly clean up America for 1976.

THE WORLD BANK

Mr. McGEE. Mr. President, the President of the World Bank, Mr. Robert McNamara, has started serving his second 5-year term. Earlier this summer, the Washington Post and the New York Times took note of this fact in lengthy articles on how far the World Bank has come under the McNamara tutelage and

the direction it will take in the next 5 years under his command.

Robert McNamara has been the driving force in the effort of the World Bank to aid in coming to grips with the fundamental problems of developing nations. As a consequence, the Bank has broadened its assault on these problems and it appears it will continue to do so.

As a vital international monetary institution in the relationship of the industrialized nations of the world to the developing nations, it is important that the United States continue to strengthen its participation in this organization. Our commitment to the institution is exemplified in Robert McNamara, and we wish him continued success in his next 5 years as the head of the World Bank.

I ask unanimous consent that the two articles be printed in the RECORD.

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

[From the Washington Post, July 8, 1973]

MCNAMARA'S BANK

(By Stephen Rosenfeld)

The straight-back hair is thinner, the half-rimmed glasses thicker than when he gained the reputation as an architect of the Vietnam war, which seems to burden and spur him still. Yet the figure is as lean, the manner as intense, the mind as quick, and beginning his second five-year term as leader of the most ambitious global development effort since Genesis World Bank president Robert S. McNamara is doing what he plainly regards as the culminating work of his life.

On the floor by his desk is a large globe, an easy reference to the 122 countries that belong to "the bank," as it is known in its sprawling headquarters three blocks west of the White House. Only the Communist countries—in the bank's careful, non-political prose, the "centrally planned economies"—do not belong, mavericks Yugoslavia and Romania excepted.

McNamara would welcome all of them. For it is the essence of his creed—*gospel* perhaps suggests the passion behind it—that the world's essential divisions are not between Communists and non-Communists, East and West, but between rich countries with the means to lend to the bank and poor countries with the need to borrow. The sooner the world can rise above its political quarrels, the better it can treat its economic ills. The bank cannot solve others' political disputes, but it can, McNamara hopes, provide a measure of the vision and the money and the pressure to help nations turn to their peoples' desperate economic and social needs.

Five years ago, when Lyndon Johnson arranged for the 20 "executive directors" of the bank to elect McNamara, the former Ford Motor Co. president and secretary of defense was widely regarded as a political basket case, his spirit seemingly broken by the travails of Vietnam. Friends from his Berkeley and Harvard days knew him as a man who minored, so to speak, in the human condition.

The public had been given only one glimpse of his concern. In a 1966 speech (at Montreal), so far from the Pentagon norm that it attracted much attention (and private grumps from L.B.J.), McNamara had drawn a close link between global violence and global poverty. Practically by itself, that speech made his bank appointment respectable. The prevailing sense still was that he was being put out to pasture.

At that point in the Vietnam war (1967–68), the bank was thought of in Washington as a proven and worthy institution but not as a central or vital one. Its companion institution created in 1944 at Bretton Woods, the International Monetary Fund, ranked notably higher in the capital's pecking order. The bank's two previous presidents, George Woods and, before him, Eugene Black, were more traditional bankers who had kept its profile low.

DOUBLE THE VOLUME

In retrospect one can see how these circumstances suited McNamara's style. He had inherited a tight ship. It had an expert international staff, since doubled to about 1,600 professionals from 100 countries (but no upper-rank women). Its blue-chip leadership and staff, and its record of making "sound" loans, had ensured it all the access it sought to world capital markets. Although it loans to some governments that on their own couldn't get in the front door of the central and private banks from which the bank borrows, it has never lost a penny.

In 1964–68, the bank committed $6 billion to help finance projects valued at upwards of $13 billion; the bank always draws in other public and private lenders with it. Some feared McNamara's reputation as a visionary resulting from the Montreal speech, might dry up the money

As though to quell the specter, he made his first major speech outside the bank at the Bond Club of New York. Ever concerned no to be pegged as a wild-eyed fanatic, he declared: "(The bank) is a development-investment institution, not a philanthropic organization and not a social-welfare institution."

In his first term, the bank borrowed sufficient money to more than double its loans, committing $12 billion to finance $30–$40 billion worth of projects, exactly as McNamara had planned. He has kept old sources and tracked new ones, for instance, the Mideast Oil states, to him "the largest single investment pool of medium- and long-term investable capital in the history of the world."

For his second term he expects to get the bank into an additional $50–$60 billion in projects. For a yardstick, note that American bilateral economic aid now hovers at around $1 billion a year.

McNamara took over a running operation. As one might expect of a manager of his bent, he has changed it. In 60 days he had set up a five-year planning framework; the bank is now in its "Second Five-Year Program." There soon appeared a "programming and budgeting department," a discreet shadow of the Office of Systems Analysis he had installed in the Pentagon.

Interestingly, he did not bring in a conspicuous group of new people, "whiz kids" or otherwise. His best known appointee is former AID official Hollis Chenery, a Harvard development economist who is the leading in-house policy adviser. His chief of staff is J. Burke Knapp, formerly of the Federal Reserve and State Department. Particular staff men whose ideas or programs grab him he sees for long and intensive meetings; others see him only on the elevator.

For all the warmth and wit he shows private friends, he runs the bank as an operation subordinate to his vision of its public duties. By a recent reorganization, sprung without notice, he deeply wounded scores of veteran professionals and, incidentally, thereby gave an important boost to the bank's "Staff Association," a fledgling union. McNamara professed to be astonished at the furor he had stirred.

"PRESIDENTS AND PEASANTS"

His work habits continue to be somewhat a Washington legend: the hours; the quick intake of masses of new material; the capacity for framing—some say overframing—issues. He can dole out appointments to internationally known figures in five-minute pieces; he frets at holes in his schedule; his calendar bears notations like "12:00 noon—Nicaragua." On the road (66 countries, 432,330 miles in his first term), he paces himself relentlessly, seeing only "presidents and peasants," as one aide put it, exhausting his escorts.

Perhaps because he learned at the Pentagon not to become captive of his own staff, he ranges widely for counsel outside the bank keeping open old lines to the foundations, the Urban Institute, Aspen, and like places in order to receive fresh ideas. He was pleased to deliver personally Bangladesh's World Bank application to its president within two weeks after the latter got out of jail. As a second-term gift, staff members gave him a briefcase.

More meaningfully, the bank gave him his second term. By tradition and voting weight, the U.S. President fills the top bank slot. From Mr. Nixon's own distracted record on development, if nothing else, one could guess that McNamara was not his first choice for the term beginning last April. The administration had, in fact, shown political displeasure by abstaining on bank loans to Latin countries where American private firms were under siege McNamara was known to be unhappy about this and had publicly scored the United States for its declining performance on aid.

The names of former Treasury Secretary David Kennedy and former Commerce Secretary Maurice Stans were floated. The "constituency"— principally of borrowers—built by McNamara loan policies and speeches effectively came to his aid. Sixteen months in advance, the bank's 20 executive directors, including the one Nixon choice, went through the formal motions of renominating him. Some Europeans hinted that, if it were not to be McNamara, they might prefer a European. McNamara had become the indispensable man.

THE MAN OF THE MOMENT

To understand why, look closely at the development scene in 1968. In the United States, the era of foreign aid was plainly closing. One political current held that aid was a form of interventionism that could produce another Vietnam. A second held that the United States had invested billions to help develop Third World countries but had reaped neither gratitude nor stability nor—unkindest cut of all—real development.

The reaction of traditional conservatives and dovish liberals alike, especially in Congress, was to urge that aid be diverted from direct, bilateral channels to multilateral channels, such as the World Bank, and further, that aid, especially on easy terms, be reduced. Thus would aid become less entangling and cheaper for the United States, if not more efficient and beneficial for the recipients.

The opportune moment for an ambitious man running an ambitious multilateral development bank, funded in the main from commercial, not congressional, sources, had come. McNamara leaped. Not only did he double bank lending—perhaps up to if not beyond some borrowers' absorptive capacity; he applied the bank's money and vigor to make it the center of virtually every important and innovative cooperative-development activity in the non-Communist world.

The bank now runs "clubs" of aid donors for 15 separate countries. It finances and coordinates the major international efforts in population and agricultural research; McNamara's quests for better birth-control methods and for technology that will do for "dry-lands" farming what the Green Revolution did for farming in irrigated areas are well launched. The bank has lines into the U.N. Development Program, the World Health Organization, and the Food and Agricultural Organization. Its individual regional departments are larger and generally more respected professionally than any of the regional development banks.

The careful bankers who led the bank until 1968 thought chiefly in terms of safe, conventional "infrastructure" projects, like dams and railroads, which borrowers could most easily be induced to support and which provided to borrowers and lenders visible, quantifiable evidence of "development" and "growth"—the concepts were then roughly equated.

Even by 1968, however, there was growing awareness that although a good number of the necessary infrastructure projects were already in existence, or in planning stages, no comparable increase was taking place in the general standard of living. Indeed, mass poverty was perhaps more widespread.

McNamara's predecessor had reacted by undertaking loans for so-called social projects in agriculture, health, education, and the like. McNamara quickened the pace in these fields. He also undertook to shift the thrust of bank loans from, in effect, engineering projects to more comprehensive programs in particular regions of a country or sectors of an economy. It means going beyond, say, building a dam and developing a river valley; the loans would also go toward setting up a population program in the valley, offering local farmers new credits, and so on.

A NEW DOCTRINE

To win support for the change from lenders, borrowers, and, perhaps not least, his own bureaucracy, McNamara began preaching what was for the bank a radically new doctrine of development. It held that economic growth must be harnessed to the abolition of poverty and misery by providing more jobs, a better diet, and a more equitable distribution of income. For ammunition, he went outside as well as in. For studies on unemployment, for example, he went to the private, Washington-based Overseas Development Council, impatiently reading some of its papers in draft.

In 1972, in a speech that still echoes on H Street, McNamara cited studies done by a California economist (studies disputed inside the bank) indicating that throughout the 1960s in rapidly growing Brazil, "the very rich did very well. But . . the benefit to the poorest 40 per cent of the population was only marginal." The bank had loaned Brazil no less than $1.5 billion to nourish the kind of uneven growth he deplored.

Early on, McNamara had brought in Hollis Chenery, who is sometimes known in the fraternity as the "high priest of growth." It seemed significant that he now promoted to a key policy-planning post an unconventional Pakistani economist named Mahbub ul Haq, a man so driven to translate development into social justice that he had sometimes on his own espoused the Chinese model of state-forced development.

McNamara himself has not commended the Chinese way. One can guess he realizes how alarming it would be, not only to lenders but to some borrowers, to whom talk of social justice sounds suspiciously like giving aid and comfort to their domestic political foes. Nor is there universal agreement among economists at the bank and elsewhere, or among government officials, on the extent to which growth and redistribution of income can in fact be combined.

More concerned to persuade the unconverted than to paint a subtle portrait, McNamara tends to put his case in black-and-white terms that draw frowns from many professionals. Said an Indonesian finance minister after one typical McNamara appeal, "One cannot more equitably redistribute nothing."

Nonetheless, McNamara has not shrunk from pursuing his cause. His speech chastising Brazil for headlong pursuit of growth was given in a Latin setting, in Santiago. He preached population control not only to the students of Notre Dame but to the president of Mexico, a country whose need for such a program was rivaled (at least in 1971) only by its reluctance to start officially down that path. More than once a government has denounced McNamara's approach to a ticklish social problem, then has quietly begun addressing it.

CARROTS AND STICKS

McNamara religiously eschews intervention in local affairs. Yet discretion blinds no one involved to the fact that a government or minister or planner whose country, sector or project gets a bank loan thereby acquires additional power.

The bank cannot easily use loans as sticks, withholding money until, say, the government mends its social ways. It can, however, withhold loans on grounds that a country's economy is so poorly run as to make it not "creditworthy." "You are bankrupt, sir," McNamara once told an African president, who subsequently shaped up. He told Chile's Marxist president, Salvador Allende, whose social policies are right down his alley, that the bank could offer no new loans because his economic practices were unsound. Chileans, among others, suspected that McNamara was allowing the bank to be misused as a collection agency for expropriated American firms.

The bank can also use loans as carrots, rewarding "good" social policy or effective economic performance. Especially in very poor countries that lack alternative sources of development capital, the bank can influence better financial and administrative practices and more rigorous planning. Staffers concede that at times the bank's leverage in these matters is weakened by their chief's determination to push out loans rapidly, and by local nationalistic pride. But, being prestigious, being multinational, being a development institution and not a sovereign state—and being rich—the bank can usually get away with wielding power.

Within the bank, income-redistribution reports are now routinely cranked into annual country surveys and loan applications. When the bank staff forgot, apparently inadvertently, to crank income into a proposal for a loan to prosperous cattle farmers in Brazil last year, some bank directors protested. Though reportedly not so instructed by his superiors in the U.S. Treasury, the American executive director, Robert Wieczorowski, went along with the protest, and partly for this reason lost his job. (The Treasury Department denies this tale.)

A SOCIAL GOSPEL

McNamara has become known for preaching an international social gospel, which holds that, between nations as well as within nations, the problems of the poor must become ever more central to the policies of the rich.

The special object of his fervor is the International Development Association, the bank's "soft-loan window" opened in 1960 to offer easy money (50-year loans, 10 years' grace, ¾ per cent interest) to countries that couldn't afford the usual bank loans put out at (currently) 7¼ per cent. Money for IDA is deeply "political": It comes not from central or commercial banks, source of bank funds but from subscriptions by the developed countries—in the United States, from appropriated funds.

IDA credits are indeed "aid," and the United States has become increasingly reluctant to furnish them. Right now, Western Europe and Japan seem ready to have the rich countries put in $1.6 billion a year for the next three years, but the United States speaks of $1.2 billion and of reducing its share of the total from two-fifths to one-third. Says Rep. Otto Passman (D-La.), key man in this matter on Capitol Hill, "IDA takes from the poor in rich countries and gives to the rich in poor countries. I hope Mr. McNamara's judgment on IDA is better than his judgment on Vietnam."

For every two dollars committed by the bank, IDA commits only one. But because IDA credits go to the poorest of the poor—countries that otherwise would be swamped by their old debts and would get only crumbs—McNamara has invested enormous energy in that branch.

To hear this former captain of industry and defense denouncing the world's profligate spending on consumer goods and arms is to be in the presence of an astonishingly complex and compelling man. It is a stunning thing McNamara has attempted: to turn a rich nations' bank into an instrument of massive and real deliverance for the world's poor.

[From the New York Times, July 8, 1973]

WORLD BANK'S PROFIT-TURNING DO-GOODER; MCNAMARA STARTING ON HIS SECOND 5 YEARS

(By Julius Duscha)

WASHINGTON.—Of all the men who came to Washington with John F. Kennedy in 1961, only Robert S. McNamara is still playing a major role in public life.

As Mr. McNamara begins his second five-year term as president of the World Bank, he is remarkably the same person he was 12 years ago when he became Secretary of Defense—precise yet personable; extremely shy personally but in his job bold and sometimes even daring; persuaded that man can best solve the world's problems by systematically quantifying and analyzing them; seeking to be both a social reformer and a hard-headed businessman turning a profit as he goes about doing good works.

During his first five years at the World Bank, or the International Bank for Reconstruction and Development, as it is formally known, Mr. McNamara doubled its annual loan volume, which now is more than $3-billion a year; quadrupled the amount of money the bank puts into agriculture; tripled loans for educational and training purposes, and made a significant beginning in changing the bank's historic emphasis on loans for steel plants, power facilities, highways and railroads to loans for rural development projects and the training of both rural and urban workers.

He is acutely aware that despite the $25-billion given to developing countries by the bank since it made its first loan in 1947, as well as the many billions in aid from the United States, the Soviet Union and other countries, life for most people in the developing countries is still miserable because not enough of the foreign-aid money has found its way to the rural areas, where the vast populations of Asia, Africa and Latin America live—no, not live, exist.

He is furthermore convinced that only by controlling their populations will the developing countries ever pull their people out of the morass of demeaning and debilitating poverty and in the last five years he has at times been a lonely voice calling for birth control.

Nevertheless, Mr. McNamara has kept talking about population control and today feels that it is now as much in the forefront of the thinking of the officials of the developing countries as is agricultural development, another of his favorite themes.

There are those who feel that Mr. McNamara's emergence from the money-mad corporate ethos of the Ford Motor Company and from the megaton and kill-ratio madness of the Pentagon and the war in Vietnam to the role of worldwide do-gooder is his deliberate, straight-forward way of expatiating the black deeds of Vietnam, and that working 12 hours a day at the World Bank to help make the world a better place to live is his personal atonement for Vietnam, about which he has never talked since walking out of the Pentagon in the bleak winter of 1968.

His friends, however, scoff at such reasoning and say that Mr. McNamara never was the kind of man to look back, in either self-justification or self-pity.

Whatever the reasons for the current emphasis of his Puritan work ethic, Mr. McNamara has been able to a surprising degree to combine the role of social reformer with that of tough banker.

He bristles at suggestions that he is more wild-eyed do-gooder than steely banker and points out proudly that in the last five years the World Bank's profits rose 30 per cent; that net borrowings increased three and a half times, and that liquid reserves almost doubled, from $1.4-billion to $3.7-billion.

"There is no conflict between sound banking and sound development," Mr. McNamara noted.

"The thing I'm proudest of," he said as he sat in his office one day recently, "is that the bank has been placing much greater emphasis on the fundamental contribution that a loan can make to the development of a country's economy, in addition to seeing to it that an investment carries a satisfactory rate of return.

"It is not sufficient that the loan leads to a high return; it must make a major contribution to the national economy of a country."

Critics of Mr. McNamara's stewardship at the bank reply that this is nice talk but there has not been enough follow-through.

Despite all of Mr. McNamara's preaching, they say, the bank has allocated precious little money to population-control programs, only $55-million in the last two years.

Industrial, electric power and transportation accounted for a third of the World Bank's loans in the fiscal year ended June 30, 1973, compared with a half or more in previous years. Critics, however, point out that these are considered "safe" loans and that the percentage of more risky loans for education and agriculture is hardly growing fast enough. In fiscal 1973 these also accounted for a third of the bank's loans, up from a fifth of the total in 1972.

Mr. McNamara's critics also assert the bank still favors borrowers like Brazil, Mexico, Iran and Turkey, which together received almost $1-billion in loans in fiscal 1972, despite their dismal records in helping their poor.

Other critics of Mr. McNamara feel that he is too little the banker and too much the social reformer—a criticism that reflects the built-in dichotomy the bank has faced since the plans for the bank were drawn up in 1944.

The visionaries who planned the World Bank in the midst of World War II thought that a solid 19th century institution like a bank could be put to use to make life better for the deserving poor of the 20th century. The idea, it turned out, has worked far better than its Marxist and Communist critics believed it could and even better than its capitalist supporters had dared hope.

Mr. McNamara looks younger than his 57 years and keeps fit with tennis and squash games in Washington and skiing in Aspen, Colo., where he and his wife have a home. (Their three children are grown.)

In Washington, the McNamaras live in the house in Georgetown that he bought when he became Secretary of Defense.

By eight o'clock in the morning Mr. McNamara is in his large, neat and comfortable office on the 12th floor of the World Bank's headquarters on Pennsylvania Avenue, just three blocks west of the White House. He seldom leaves for home or a party much before eight in the evening.

Once and sometimes twice a week he meets with the bank's 20 executive directors to approve or reject loan applications, which are always large and complicated. The bank is presently making about 140 loans a year.

Mr. McNamara's salary at the World Bank is $50,000 a year tax-free, more than the $35,000 a year he received at the Pentagon but a far cry from the approximately $500,000 a year in salary and bonuses he received as president of Ford.

As Mr. McNamara sits in his shirt sleeves in an easy chair in his office and talks about his work at the World Bank, one is reminded of Lyndon B. Johnson's remark about him after the first meeting of President Kennedy's Cabinet: "The only one who's worth a damn is that fellow with Sta-Comb in his hair."

The black hair is still straight back and there is little gray in it. The sideburns are maybe a half inch longer than they used to be, but the rimless glasses are still there and the shirt is a white button-down of oxford cloth.

The talk begins at precisely the appointed hour and ends when Mr. McNamara means it to conclude. There is no small talk; he knows exactly the points he wants to make and he makes them clearly and succinctly.

This man is no automaton, but statistics are still his guidepost and if he does not have them on the tip of his tongue they are at his fingertips in neatly arranged papers and indexed looseleaf notebooks.

"In placing more emphasis on loans that make a major contribution to the economy of a country," Mr. McNamara said, speaking in the flat but sharp tones of his native California, "we have made three major shifts: to agriculture, to education and to helping the poorest and least developed countries.

"We believe," he went on, "that education and agriculture are two of the worst bottlenecks to development. In many of the countries development of agriculture didn't have any sex appeal. To be modern, they believed they had to place major emphasis on industrialization.

"Yet, at least 60 per cent of the 2 billion people in the 100 countries we are dealing with live in the rural areas. Aid to agriculture, training programs for farmers and the providing of public utilities for them are fundamental contributions to development.

"As for the poorest and least developed countries, we have put more money into them in the last five years than in the previous 23 years of the bank's history—countries like Upper Volta, Niger, Sudan, Ethiopia.

"As we were trying to find effective ways to deal with the problems of the poorest countries," Mr. McNamara continued, "we examined the effect of high rates of population growth and found it to be a major barrier to development.

"I was initially criticized for discussing population growth and for proposing bank programs for dealing with it, but the recognition of the need of reducing the rates of population growth is now as widespread as the need for expanding food production.

"But," Mr. McNamara noted, "we know a lot less about what to do to reduce population than we do about how to increase food production. It's a two-, three-, or four-decade job.

"In India, for example, they have begun controlled experiments to try to find how to motivate Indian families to have fewer children. These experiments are tied to education, of course, and the expanding education of girls will lead almost automatically to a reduction of the birth rate.

"With the Indians we're also looking at the effect of changes in nutrition. Indian families want to have one son to survive to care for the parents. It is probable that malnutrition is a major cause of high infant mortality. Would improved nutrition lower the rate of infant mortality and would this in turn reduce the birth rate?"

There are many examples of the kind of programs Mr. McNamara is pushing. The World Bank, for example, contributed $26-million in loan funds to a $147-million drainage program in Egypt. The project will take water off 980,000 acres of marshy land in the Nile Valley and turn the area into good farm land that will be capable of providing a better life for the one million people living there.

For Zambia, the World Bank has approved a $5.3-million loan for education so that the country can train its own administrators, scientists and engineers. When Zambia became independent in 1964, only 150 of its major governmental posts were held by Zambians because the country had just 100 college graduates and only 1,000 persons with a high school education.

In Ethiopia, $3.5-million in World Bank funds are being used to increase the output of 6,000 subsistence farmers and to move 1,000 other farmers from the densely settled highlands to areas where they can make a better living.

The World Bank is made up of three institutions: the original International Bank for Reconstruction and Development, which was drawn up in 1944 to make loans to aid both postwar reconstruction and developing countries; the International Development Association (I.D.A.), which was set up in 1960 to make interest-free loans to the poorest countries, and the International Finance Corporation (I.F.C.), which was started in 1956 to help promote the flow of private capital to developing countries and the financing of private enterprise in these countries.

Also operating under the World Bank's auspices is the International Center for the Settlement of Investment Disputes.

The same staff serves the World Bank itself, the I.D.A. and the I.F.C. Mr. McNamara is president of all three organizations.

The World Bank also works closely with the International Monetary Fund, which was set up at the same time at the Bretton Woods Conference in 1944. The I.M.F. has just completed a new building across the street from the World Bank's headquarters in Washington.

The bank raises money by selling bonds in the capital markets of the world at interest rates of from 6 to 8 per cent. Central banks, pension funds and trusts are among the principal purchasers of its bonds.

Since Mr. McNamara became the bank's president on April 1, 1968, it has sold only one-fourth of its bonds in the United States, compared with two-thirds in previous years. Japan, West Germany and the Arab countries with extensive oil revenues have been among the large purchasers of the bank's bonds in recent years.

The World Bank itself has been lending money to the developing countries at 7¼ per cent interest, generally for periods of from 15 to 25 years with grace periods of five years.

I.D.A. loans are for 50 years with a 10-year grace period. They have no interest charge but carry a service charge of three-fourths of 1 per cent. I.D.A. funds come from contributions from the United States and other developed countries.

The capital stock of the World Bank is owned by its member governments. The bank's authorized capital is now the equivalent of $27-billion, of which $25-billion is subscribed. Only one-tenth of this is paid in, however. The other nine-tenths may be called upon by the bank, if it is needed to meet obligations arising from borrowing or loan guarantees.

A total of 122 countries belong to the World Bank, 112 to the I.D.A. and 98 to the I.F.C. Neither the Soviet Union nor China is a member of any of the institutions, but Mr. McNamara has said that he would welcome their membership. Of the Eastern European countries only Rumania and Yugoslavia are members.

Voting within the World Bank is weighted according to the wealth of the member countries. The United States has 23 per cent of the votes in the bank and 26 per cent in the I.D.A. Critics point out that just six rich countries—the United States, Britain, West

Germany, France, Japan and Canada—have about half the votes in the Bank and the I.D.A., while the six most populated poor countries—India, Indonesia, Brazil, Bangladesh, Pakistan and Nigeria—have only one-thirteenth of the votes.

But most of the bank's money comes from the rich countries and they are not likely to give up control of the institution.

It is not, however, necessarily true that you have to be from a poor country to appreciate the problems of developing countries. Mr. McNamara's first brush with Asian poverty was in 1943, when he was sent by the Air Force to Calcutta in the midst of a famine. The scene is still graphic in his mind.

"There were literally 10,000 dead bodies in the streets, and 10,000 living in the streets," Mr. McNamara said. "As you picked your way down a street you didn't know whether you were walking among the living or the dead. The conditions were unbelievable. I've never forgotten them."

A TRIBUTE TO THE LATE WESLEY A. D'EWART

Mr. CURTIS. Mr. President, information has come to me concerning the death on September 2, 1973, of the Honorable Wesley A. D'Ewart, a former Congressman from the State of Montana. This is indeed sad news. Congressman D'Ewart was a dedicated public servant, an honest and honorable man, and a faithful friend to many of us.

It was my privilege to become acquainted with him when he came to Congress at the beginning of the 79th Congress in January 1945. He was reelected to the Congress for four additional terms.

All the Western States owe a special gratitude to Congressman D'Ewart for his interest and fine work in the development of the West, particularly in irrigation matters. After leaving Congress he served with distinction in the executive branch of the Government where he continued to make these contributions.

Mr. President, it is with a sad heart that I comment upon the death of our friend and former colleague, Wesley A. D'Ewart. I wish to extend my sympathy to all of his loved ones and to commend them to Him who has taught us that death does not end all.

MILIUS OF POST CLARIFIES ROLE OF INTEREST RATES IN INFLATION FIGHT

Mr. PROXMIRE. Mr. President, one of the most puzzling and contradictory elements in the inflation fight to most Americans is monetary policy and interest rates.

Economists tell us that one way to fight inflation and indeed about the only way the Government seems to be fighting inflation now is by tightening credit, thus forcing up interest rates and making it harder for people to borrow money. The theory of course is that borrowers will borrow less, spend less and as they spend less, demand falls and prices come down.

As almost any borrower will tell you, however, millions of us have no alternative except to borrow money. Furthermore, regardless of rising interest rates business does borrow money and as happens with all costs the higher interest rates are reflected in higher prices for everything business sells us.

So tightening credit is supposed to reduce price increases by first raising the price of money and in turn other prices. In other words more inflation to get less inflation.

On Monday of this week the Washington Post carried an extraordinarily helpful explanation of this phenomenon by Peter Milius. Frankly I thought it was one of the best economic interpretive articles I have read in a long time. For anyone in or out of Congress who will take the time to read it, a great deal of the mystery clouding this crucial weapon in the inflation fight will dissolve.

If the Congress were a class in economics, the Milius article should be required reading.

For this reason, Mr. President, and with congratulations to Mr. Milius for a first class job, I ask unanimous consent that the article be printed in the RECORD.

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

PRICE OF MONEY IS UP, TOO—62 PERCENT SINCE FIRST OF THE YEAR

(By Peter Milius)

U.S. Steel and the Chase Manhattan Bank are both huge corporations, and both exist for the same purpose: To make money.

The only difference between them is how they do it: The one company manufactures and sells steel, the other accumulates and rents out dollars.

When U.S. Steel announces a price increase, it is big news—it generally means the whole steel industry is going to raise its prices—and the same two things are always said about it.

First, the price increase is always expressed in percentage terms—the increase itself as a percentage of the old price—as a 4 per cent price increase, for example, or 5 per cent or 6 or whatever.

Second, the point is always made that this price increase is important because steel pervades the entire economy, and that its price is reflected in other prices, the price of cars, for example, or washing machines.

The same things could be said when Chase Manhattan raises its price—the interest rates it charges on loans. Almost always, when one big bank raises its rate, the rest of the lending industry follows suit—and nothing, not even steel, pervades the economy as much as credit.

In the lending industry, though, price increases are not expressed in the same way. All you are told is the old price and the new—that the prime lending rate went up yesterday from 6.5 per cent to 6.75, or 9.5 to 9.7. But you are not told the percentage increase.

It doesn't sound as much that way; it is, though.

In the last eight punishing months of inflation in this country, the price of money—some kinds of it, at any rate—has gone up even more than the price of food.

The prime lending rate charged by Chase and the rest of the nation's big banks has gone up from 6 to 9.75 per cent.

What that means is that the price of short-term loans to big corporations—the money that companies always are borrowing to modernize or expand or otherwise do business—has gone up 62 per cent since the first of the year. From the companies' standpoint, that is a cost increase like any other. Some of it is going to be passed along to the public in the form of higher prices.

The cost of most of the money the U.S. government borrows has also gone up more than 60 per cent since January, and that cost, too, is going to be passed along—if not in higher taxes, then in a bigger deficit, which is also inflationary, or in cutbacks in other government spending and government services.

In addition to these effects, the cost of loans the average citizen takes out himself—a mortgage loan to buy a house, a loan to send children to college—has always gone up, though not as much.

The cost of these loans—the price or interest rate—has gone up for the same reason any other price does, because the demand has been outstripping the supply.

In the case of money, however, there are some important differences.

The first is that the supply of money, unlike the supply of most other commodities, is controlled by the government, or at any rate by the Federal Reserve Board. (Some people think the Reserve Board, whose members are appointed by the President to 14-year terms somewhat in the manner of judges, is too independent of the government, by which they mean the White House and Congress.) The Reserve Board has the power, in various complicated ways, to expand or contract the supply of money and credit in the economy at any given time, and thereby, indirectly, to raise or lower the prevailing interest rates.

The second important difference is that, even though rising interest rates, like any other rising prices, are inflationary, the Federal Reserve Board has been driving them up all year long on purpose—and its purpose has been, in the long run, to reduce the rate of inflation.

The theory is that the harder it is to borrow, the less everyone will buy. If a loan is easy to get and cheap, you will buy that new car you've been wanting; if it isn't you won't. A big corporation is likely to behave in the same way. The less everyone is buying, the less general demand there will be in the economy, and the less upward pressure there will be on prices.

The delicate part of all that is how not to overdo it. A lot of the buying in the United States every year, by corporations as well as consumers, is done on credit. Too great a crackdown on credit, and thus on demand, can create a recession. That is one of the things that caused the recession in 1970. The Reserve Board cracked down so hard as to cause what you now hear referred to as a "crunch," meaning basically that there was no credit to be had anywhere. This time around, the Board has tried to deal with the problem in a gentler way. Loan demand has been going up sharply, as it always does in boomtime. The Reserve Board has let the money supply go up, too, but not as much; it has tried to drive up interest rates without drying up credit, and discourage borrowing without quite cutting it off. The idea is to cool the economy off, but not chill it.

The big question, though, about even this more limited use of the Board's great power is whether it is worth it—whether tight money, with all the pain it causes, is really a good way, or the best way, to cool off an economy.

In part, that becomes a political question. High interest rates are unpopular, but they are something that politicians can blame bankers for. The other way of slowing down demand, which is to raise taxes or cut government spending, is also unpopular, and it is something the politicians have to do themselves.

Arthur F. Burns, the Federal Reserve Board's chairman, has been saying for months now that too much of the burden of fighting inflation has been shoved off on the Board and its powers. He has urged the President and Congress to take more of the burden on themselves, most notably by raising taxes. They haven't.

In his press conference last week, while

listing the steps being taken to combat inflation, the President started to take credit for having tightened up on the money supply, then thought better of it. "We are tightening up on the Federal Reserve," he said, "we are—Arthur Burns, in his independent capacity with the Board members are, I should say."

Politics aside, however, tight money is a quirky thing. Like a powerful drug that doctors prescribe, it has the effect it is supposed to, but it has some strange side effects as well.

Businesses do most of the borrowing in this country. (At the end of last year businesses owed a little more than half of the debt outstanding; governments—federal, state and local—owed about a quarter, and consumers a little less than a quarter. About two-thirds of the debt owed by consumers was in mortgages on homes.)

Business borrowing, moreover, is the area where the demand for loans has gone up the most this year. It is this demand the Reserve Board would most like to dampen, and that is why the prime lending rate has been driven up to 9.75 per cent, an all-time record.

The trouble is that, no matter what it says on those pieces of paper they sign at the bank, in real terms most businesses are not paying anything like 9.75 per cent.

One reason is the very thing the Reserve Board is trying to get at, the rate of inflation. The only reason is the way the tax laws are written.

It works like this. Suppose a corporation borrows $100 for a year at 10 per cent interest. That means that at the end of the year it will have to pay back $110. Suppose also, however, that the rate of inflation is 6 per cent. That means that, in terms of its purchasing power, each dollar will be worth only 94 cents in a year, and the $110, only $103.40. In these real terms, therefore, the corporation is paying only $3.40 in interest on its $100, or 3.4 per cent.

Add to that the fact that, while the tax rate on corporations is close to 50 per cent, a corporation, like an individual, can deduct interest payments in computing its taxable income. That means that the corporation saves in taxes close to half of whatever it pays out in interest. And that cuts the real interest rate on the loan once again, this time to something close to 1.7 per cent. At real rates like that, few corporations are going to be deterred from borrowing. The Federal Reserve can diminish demand, but not always the demand it wants to. It is armed with a club when what it sometimes needs is a knife.

Another and simpler example of the same fact has to do with food. Food prices are the main source of the present inflation. The government, meaning the White House this time, wants to drive them down, and the method it has chosen is to increase food production and thus food supplies. To do that, it has released millions of acres it previously had held out of production. It wants farmers to farm them.

To cultivate extra acres, a lot of farmers will have to borrow money; a farmer may need another tractor, for example. The Federal Reserve Board, which is also trying to fight inflation, has made that money more costly. The farmer is thus less likely to borrow it.

If the farmer does borrow the money, however, he is going to want to recover its higher cost in the form of higher prices, and that is the thing that is most perverse about tight money: It causes inflation in order to cure it.

How much it causes exactly—how much, for example, this year's rise in interest rates has caused the over all cost of living, the government's consumer price index, to rise—none of the experts seems to know.

The price index will tell you what has happened to the prices consumers pay directly; it doesn't tell you the hidden prices they are paying. It will tell you, for example, how much the price of clothing has increased. What it doesn't tell you is how much of that increase stems from higher interest rates being paid and passed along by the companies that produced the clothing.

As to the interest rates consumers pay directly, one kind has risen and one hasn't.

The loans on which rates have not gone up, or at least have not gone up that much, are the smaller ones. Auto loans are the leading example. Loans like these rarely change much in price. They stay high all the time. The Federal Reserve Board says the rates charged by banks on auto loans have not gone up all year—but they started the year at about 10 per cent. The same is true of bank rates on loans for other consumer goods. They haven't changed, but they were about 12.5 per cent when the year began.

The loans on which the rates have gone up are the big ones, mortgages. Mortgage interest rates were averaging about 7.5 per cent at the start of the year. They are averaging more than 8 per cent now, and where state laws permit, they have gone past 9.

The hard thing to explain about mortgage rates is not so much why they have gone up—they have gone up for the same reason as other interest rates, because supply is short of demand—but why they are still lower than the prime rate. The prime, after all, is the rate that banks give the big corporations that are their best customers. How can a homeowner get by for less?

The answer is that mortgage loans are long-term loans, and loans at the prime rate, generally are short-term. Long-term rates, by their nature, don't fluctuate as much as short-term do. If you're lending long-term, you're not as excitable. You're looking ahead 20 years instead of 90 days, you figure the short-term ups and downs will even out, and you're more philosophical.

That only holds true up to a point, however, which is why mortgage rates, while they haven't gone up as much or as far as the prime rate, have still gone up a lot.

There are different types of loans and lenders—long-term and short, for example—but they are all dealing in the same big money market. The borrowers are all bidding for the same dollars. If money gets tight, all rates go up some. If short-term rates get high, and stay high, they lure money out of the long-term market; a man can be only so philosophical. And the less money left in the long-term market, the higher the long-term rates become.

That is what has happened this year to mortgage rates. Most mortgage loans are made by savings and loan associations. The savings and loans attract money by offering to pay interest on it; then they lend it out at a little more interest, and live off the difference. For various reasons, most of them legal, there are limits on how much interest they can pay.

When other interest rates get a lot higher, and stay that way, as they have this year, money seeps out of the savings and loans. That means there is less money for mortgages, and sometimes no mortgage money at all.

That in turn has two further effects. One is to drive up mortgage interest rates. The other is to choke off residential construction. The housing industry, a big one, is generally the first to feel the effects of tight money; where tight money breeds recessions, housing is one of the places where they start.

The question left is who is getting rich in all this. If we're all paying higher interest, who is getting it? The quick answer is that the banks are, but that is only partly true. The banks and other big lenders are hardly hurting—they are prospering nicely—but they are having to pay higher interest rates themselves, to attract the funds they need to keep on lending. In the long run most of the interest comes back to the public—those members of it, at least, with lendable money saved up. Those that have the most are making the most.

There is one other thing to be said about this year's high interest rates, one other difference between the prices charged by the Chase Manhattan Bank and U.S. Steel. When steel prices go up, they generally stay up. Interest rates don't. No one is sure how long it will take, but one day—someday—they will come down again.

INTERNATIONAL TRANSFER OF CONVENTIONAL ARMS

Mr. ROTH. Mr. President, I would like to call the attention of my colleagues to the report on the international transfer of conventional arms which has been delivered today by the Arms Control and Disarmament Agency pursuant to section 302 of the Foreign Relations Authorization Act of 1972. As the sponsor of the legislative provision requiring this report, I have had a special and continuing interest in the character and quality of the report. I appreciate the effort that the Arms Control and Disarmament Agency has made in grappling with what I believe all experts find to be a most complex and elusive subject. It is, of course, a good deal easier to ask the questions than to provide the answers, to ask for policy recommendations than to provide those recommendations. I look forward to reading the result and hope that it will meet the requirements of Congress.

Let me add a few words on what I consider to be the significance of this report, and what I hope it can help accomplish. During the past decade, the world has made progress in controlling certain aspects of the nuclear arms race, but little attention has been paid to conventional weapons of all kinds to the developing countries.

The human and material costs of these arms have been very expensive—both to supplying countries and to the recipients. Our Government in the past has occasionally asked for discussion in this area, but to my knowledge, we have never developed a coherent U.S. conventional arms transfer policy nor presented any specific proposals for international restraints.

When Congress asked for this report, it asked for more than a statistical compilation; it asked for policy guidance. This report is really a call for a policy for the identification of control possibilities, and for a U.S. initiative to focus attention on this forgotten aspect of the arms race.

I believe that this report is the only post-World War public report any government has made on conventional arms supplying policies and conventional arms control possibilities. We cannot act unilaterally to control this trade—the only

kind of effective action must be international. As in the case of other forms of control, there must be mutual restraints by all the major arms suppliers.

If we are fortunate, this report will stimulate other countries—and particularly the Soviet Union—to reexamine their arms supplying policies and join in an international effort to develop control mechanisms. I hope this report will receive the widest possible dissemination among foreign governments, arms control specialists, and interested citizens. I also hope it will be useful as a basis for further endeavors in this area and that there is a continuing relationship between the Executive branch agencies and the Congress in development of our arms control policies. I certainly will be interested. I consider this report as not an end to our efforts to achieve some form of conventional arms control, but merely a beginning.

RETIREMENT OF HERBERT S. ATKINSON

Mr. CANNON. Mr. President, I want to call attention to the fact that Mr. Herbert S. Atkinson, a longtime valued staff member of the Armed Services Committee, retired this last August after having served more than 31 years. Unfortunately, the Senate was in recess during this period and consequently little notice was taken of his departure. I therefore think it appropriate to mention that he served since 1942 at the inception of the Armed Services Committee when it was known as the Senate Naval Affairs Committee. He saw service under five chairmen, Senators GURNEY, TYDINGS, SALTONSTALL, RUSSELL, and STENNIS. I accordingly wish to extend my appreciation for past services and wish him well in whatever avocation he decides to follow.

THE VICE PRESIDENT

Mr. TOWER. Mr. President, during the recent recess several articles of syndicated columnist Bill Rusher appeared in some 30 newspapers which I feel address themselves to some pertinent points regarding our esteemed Vice Preident. I certainly commend Mr. Rusher's articles to my colleagues.

At this point I ask unanimous consent that these two articles be printed in the RECORD.

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

[From the Conservative Advocate]

AGNEW AGONISTES

(By William A. Rusher)

And so, as apparently they must to all high officials of the Nixon administration, the tar-brush and the paint-pot come to Spiro Agnew.

Note, first, the sheer felicity of the timing. It was on the very day that the Ervin committee turned off the kliegs and adjourned the first phase of its sensational Watergate hearings that the "Wall Street Journal" broke the story that Vice President Agnew had been formally notified that he was the subject of an investigation by the office of the U.S. Attorney in Baltimore, having to do with allegations of "bribery, extortion and tax fraud."

Note, next, the familiar pattern of the so-called "allegations". The normal secrecy that cloaks a U.S. Attorney's inquiries, precisely in order to protect the innocent, has been stripped away so we can all relish the raw unevaluated charges. The "Journal's" informant is (of course) anonymous; such types always are. Moreover, it appears that no evidence of any kind whatever, concerning Mr. Agnew, has so much as been presented, yet, to a grand jury. Reading between the lines, however, one gathers that two Marylanders named Lester Matz and Jerome Wolff are in fairly deep trouble over kickbacks and related matters, and that it has occurred to them, or been suggested to them, that immunity from prosecution for their alleged misdeeds might be forthcoming if only they would implicate some notable higher-up in their activities. Sound familiar?

Note, third, the tight spot in which U.S. Attorney George Beall of Baltimore consequently finds himself. Regardless of how little confidence he may have in the assertions of Messrs. Matz and Wolff, he dares not disregard anything they may say, lest he be accused of engineering a "cover-up", a "whitewash", and so on.

So we're off to the races again. But already some interesting differences are noticeable between this latest sensation and the Watergate affair.

In the first place, the second day of the new cause celebre brought forth a highly specific charge against Mr. Agnew, which it should be possible to investigate promptly and thoroughly. According to the "Detroit Free Press", Federal investigators are checking allegations that Mr. Agnew got weekly $1000 kickbacks from contractors while he was still in Maryland, and a $50,000 payment after he moved to Washington. Now, that is not a matter of interpreting a conversation on a tape, or something like that. Either it's true or it isn't, and it shouldn't at this point be terribly hard to find out which.

Moreover, the Vice President turns out to have some definite ideas of his own about the proper way to meet such charges. He called a press conference within 24 hours of the "Free Press" story, denounced its allegations (and the others too) as "damned lies", and answered for half an hour the meanest questions about them that could be devised by a Washington press corps (shall I tell you a secret?) that detests him.

Whatever else one may think of Mr. Agnew, it is impossible not to admire the swift, blunt way in which he has confronted and denied these charges. Thanks to him, the issue is squarely framed, and should be susceptible—at least in the matter of the cash payments—of swift resolution.

I have no knowledge of the truth or falsity of that charge, but I must say I rather like its simplicity. If it is true, a felony has been comimtted. But if it turns out to be false, I think it may at last be time for those who still honor public virtue in this country to launch a counterattack against the mudgunners of the media who have been shooting, lately, at anything that moves.

If Spiro Agnew is proved innocent, what recompense would be appropriate? A simple apology certainly wouldn't be enough. A libel suit, even if one were possible under current Supreme Court rulings, seems too bloodless a remedy to be wholly satisfying. No; it would take some national gesture of apology and renewed confidence in this man to make the necessary point: that justice for the innocent is at least as important as justice for the guilty, and that we as a nation have had, at last, enough of the smear that kills.

[From the Baltimore Sun, Aug. 25, 1973]

LET'S FIND OUT IF AGNEW IS INNOCENT

(By William Rusher)

As the Watergate controversy boils on, leaving in its wake a battered but still incumbent Richard M. Nixon, our liberal friends have begun turning their attention (and ours) to an adjacent ring of their little circus. The sport here is bear-baiting, and the bear is Spiro T. Agnew.

The trouble, from the liberals' standpoint, is that Mr. Agnew simply will not cooperate. Instead of declining to make a public response when the usual anonymous informer leaked the first rumor that the Vice President was under investigation for possible "bribery, extortion and tax fraud," Mr. Agnew promptly called a press conference, denounced the charges of misconduct as "damned lies," and answered all the questions of hostile reporters.

Worse yet, instead of refusing to turn over the voluminous personal records requested by the United States attorney in Baltimore (whose first anxiety, these days, is obviously to avoid any charge of participating in a "whitewash"), Mr. Agnew turned them over—and added that he personally would be available for a talk, which the U.S. attorney had not even thought to request.

The awful suspicion begins to dawn that the Vice President may—just possibly may—be innocent of the charges.

In this precarious situation, the liberal manipulators of public opinion can be expected to fall back on a device tested and found serviceable during the Watergate hearings. Their central objective must be to avoid, at all costs, a firm conclusion that Mr. Agnew is in fact innocent.

Fortunately for them, in an investigation as sweeping as the one being conducted into the Vice President's affairs that somewhere, somehow, a question can be raised which he will find it impossible to answer with mathematical certainty, no matter how innocent he may be. ("Is it plausible that Mr. Agnew, while Governor of Maryland, did not know thus and so?" "Where is the missing document?" That sort of thing.)

With a little luck a series of such questions might finish the Vice President politically, whether he is guilty of anything or not.

Meanwhile, it is, of course, as much in Mr. Agnew's interest to have the charges against him convincingly disproved as it is in the liberals' interest to have them (failing proof) float around, unresolved and unresolvable, forever.

That is why friends of the Vice President are beginning to think that the particular form the allegations against him are taking may turn out to be a blessing in disguise.

According to press reports, about 20 Maryland residents are under investigation in connection with bribes to politicians. It further appears that two of those under investigation have requested, and one or more already may have received, a promise of immunity from proseccution in return for testimony that they passed cash along to Mr. Agnew.

Now surely, after the recent example of the delights of immunity afforded by the former White House counsel, John D. Dean 3d, most Americans are sophisticated enough to be a little cautious about believing uncritically whatever may be sworn to by a confessed wrongdoer who has been spared prosecution in return for his testimony against somebody else.

These men may not be lying, but—as it is

put in detective novels—they had both motive and opportunity.

Thus it becomes important to inspect their charges very closely. They boil down to just one basic transaction: the alleged transmission of large amounts of cash ($1,000, $2,500 and in one case $50,000) to Mr. Agnew over a period of months or years.

Now, cash is not as easy to trace as a check, but it is hard to make such large quantities of it disappear without a trace.

As any Internal Revenue Service agent can tell you, a close study of a man's spending habits may reveal a great deal more than a look at his checkbook.

Let us hope that the grand jury in Baltimore is zeroing in on this charge—so clear, so specific, so comparatively easy to evaluate.

Then we can either impeach Mr. Agnew and convict him, or exonerate him and hold a series of nationwide apology rallies in his honor.

THE CAPITAL NEEDS OF AGRICULTURE

Mr. McGOVERN. Mr. President, my colleague from Georgia (Mr. TALMADGE) has recently outlined a most sensible approach to alleviating the inflation that is eating away at the pocketbook of every consumer and every farmer.

It is my pleasure to serve on the Committee on Agriculture and Forestry which Senator TALMADGE leads with ability and distinction. As chairman of its Subcommittee on Agricultural Credit and Rural Electrification, I have become alarmed at the effect of a prime lending rate of 9.75 per cent on the availability of capital to finance the all-out expansion of food production which the Congress and the administration have called for.

Accordingly, I have asked the committee staff to begin assembling information about the capital needs of agriculture, the amount of available capital, and the cost of capital to the farmer.

I am pleased also to hear the chairman call for stricter regulation of the commodity markets.

The commodity markets of this Nation handle many billions of dollars more in annual trading than do the securities markets, yet the agency charged with regulating the commodities markets—the Commodity Exchange Authority in the Department of Agriculture—has only one-tenth the number of employees as the Securities and Exchange Commission, which regulates the securities markets.

It is my intention to introduce, shortly, legislation which would permit strict, independent regulation of commodity markets, where prices are set which have enormous impact both on the prices consumers pay for food and fiber, and the prices received by farmers for these goods.

I would also like to compliment Senator TALMADGE for his reasonable suggestion to find a way out of the controversy surrounding agricultural exports. The present intolerable situation has been allowed to happen because we have no cohesive, forward-looking policy which can deal with the present scarcity as well as the surplus which previously burdened American farmers.

The senior Republican member of our committee, Mr. AIKEN, and I have introduced Senate Resolution 157, relating to the establishment of domestic and world reserves of food. Our resolution attempts to define some policy parameters, to begin looking for a way in which we can deal with critical food shortages and rising prices, but at the same time be able to cope with surpluses in the event that they might reappear.

Chairman TALMADGE has outlined with powerful logic some of the steps we must take. I commend his speech to all Members, to the proper officials of the executive branch, and to all thinking Americans.

EMPHASIS ON ENERGY

Mr. GRIFFIN. Mr. President, an editorial in today's Chicago Tribune discusses the country's fuel needs in relation to necessary concern for the environment.

Commending President Nixon's leadership on this front, the editorial argues "for a sensible balance between the conflicting demands of the economy and the ecology." I ask unanimous concent that the editorial be printed in the RECORD.

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

[From the Chicago Tribune, Sept. 11, 1973]

THE EMPHASIS ON ENERGY

It would be a tragic mistake to interpret President Nixon's new emphasis on meeting the country's fuel needs as an abandonment of environmental goals. On the contrary, the recommendations made by Mr. Nixon on Saturday and repeated in yesterday's auxiliary "State of the Union" message reflect a realistic awareness of how much worse it will be for the environment—and everything else—if we allow the fuel shortage to develop into a crisis.

It is all very well for some environmentalists to talk about overemphasis on production and materialism, our housewives spoiled by automatic appliances, and our wasteful motoring habits. Maybe in 10 or 20 years we can teach ourselves to walk to work and to be content scrubbing our underwear in a cold room. But rightly or wrongly, the American people will not be ready this winter or even next winter to tolerate a fuel crisis with cold houses, factory lay-offs, and rationing. An inflamed public opinion would force hasty actions which might well undo much of what has already been done in the battle for clean air and water.

The President would prefer to shift the emphasis deliberately than in panic.

A second thing to remember is that until recent weeks, the environmentalists have had clear sailing. Federal and state laws and regulations have been enacted in breathtaking proliferation and in single-minded dedication to purfying our air and water—with almost no consideration to their effects on our fuel supply.

As a result, Illinois utilities have had to give up using convenient [but smoky] Illinois coal, and have had to scrounge for new and more costly supplies from as far away as Montana. Businesses have been forced to convert to natural gas to meet pollution standards even tho, as things are going, natural gas will be the first fuel to be exhausted. Laws on automobile pollution have increased the consumption of gasoline even as we faced a gasoline shortage.

We have been awakened to the perils of pollution, and rightly so—but with such a jolt that we have overacted, disrupting the fuel market. We have forgotten that a certain amount of pollution is part of nature, and that up to a point nature is equipped to cleanse itself. A mountain stream purifies itself. Carbon gases are produced not only by automobile exhausts, but also by rotting vegetation, and within reasonable limits they are recycled by nature. Organic matter and even metal cans will decay and rust until they become part of the soil, enriching it. A bottle tossed into the ocean will be pulverized on the rocks, along with seashells and stones, and return to land in the form of sand.

Our goal therefore need not be to attain perfection, but only to reduce pollution to an amount that nature can handle and to concentrate on things that nature can't handle, such as plastics. We still have a considerable way to go, even to do this. We badly needed to be awakened to the threat to our environment, and to be reminded that all of the energy and income and fancy appliances in the world will be of little use if we stifle ourselves out of existence by polluting our air and water.

But the need now is to restore a sensible balance between the conflicting demands of the economy and the ecology. That is Mr. Nixon's purpose. In weighing his recommendations for legislative action, Congress must ask not what will happen to the environment if it supports him, but rather what will happen if it does not.

Though we'd prefer a trans-Canada pipeline, we are confident that the Alaska line can be built without causing the disasters so freeely predicted. People on the east coast may not relish the thought of deep water oil tanker ports off shore; but isn't one giant tanker better than four or five conventional ones? Mr. Nixon asks Congress to remove price controls on natural gas. We'd have avoided much of our present trouble if this had been done years ago. Mr. Nixon wants the laws against strip-mining of coal relaxed, especially in the west. Coal is our most plentiful source of energy and one which can—as Mr. Nixon urged—be converted into oil or gas. It is much easier to rehabilitate land made barren by strip-mining than to replace coal as a fuel. The construction of nuclear power plants has already been delayed much too long.

In the long run, a deliberate plan such as Mr. Nixon's will do far more to protect the environment than waiting for the crisis to blow up in our face and being hurled helter-skelter into hasty actions vastly more damaging.

THE GENOCIDE CONVENTION AS IT APPLIES TO THE NUREMBERG TRIALS

Mr. PROXMIRE. Mr. President, in the closing months of World War II, as the Allies raced through Germany, the doors of one concentration camp after another were opened to the world only to reveal the horrors and atrocities of German genocide. Civilized persons everywhere were shocked and outraged. As a result, when the war was finally over, the victorious nations proceeded to investigate these crimes and to prosecute those responsible. From this emerged the Nuremberg trials, designed to seek justice for the men, women, and children so horribly slain.

These events took place nearly 30 years ago, and since then the sense of outrage has died down. With the passing of time, people are now asking the question, "What right did we have to conduct these trials?" While there is not much doubt that we had the moral right to seek punishment, it is argued, what legal right existed?

In fact, there was no precedent for trying the Nazi war criminals. The fact that their actions were more than reprehensible was not sufficient cause for us to morally judge every major and minor official. Rather, there should have been a standing international agreement which outlawed inhumane methods of persecution and wholesale slaughter. Such a treaty did not exist.

But it can exist. The International Convention on the Prevention and Punishment of the Crime of Genocide provides the necessary legal framework for future trials should they occur. Of course, no one desires a repetition of the events that necessitated Nuremberg; however, if another trial should take place, it will be essential that the prosecutors have something more substantial to stand on than moral indignation.

Mr. President, we have the opportunity to remedy this problem. I urge the Senate to take advantage of it and ratify the Genocide Convention now.

ILLINOIS PORK PRODUCERS ASSOCIATION COMMENTS ON THE MANDATORY ALLOCATION PROGRAM FOR PROPANE

Mr. PERCY. Mr. President, I am pleased to make available to my colleagues the comments of the Illinois Pork Producers Association on the mandatory allocation program for LP gas. The association supports the adoption of a mandatory program and fully supports the concept that agricultural needs be considered a priority need for LP gas. The association points out the real need to insure that LP gas is available for heating farrowing and nursery facilities for swine and for crop drying as well.

Mr. President, I certainly concur with these comments and feel that agriculture must be of the highest priority in any allocation of fuel supplies. We must insure that food production needs in this country are met.

Mr. President, I ask unanimous consent that a statement by the Illinois Pork Producers Association be printed in the RECORD on the mandatory allocation program for LP gas as well as three additional statements by officers of the association on why such a program is needed.

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

COMMENTS ON THE ESTABLISHMENT OF A MANDATORY ALLOCATION PROGRAM FOR PROPANE

As representatives of the 7,000 members of the Illinois Pork Producers Association, we submit the following comments on the proposed mandatory allocation program for LP gas during the 1973–74 winter season:

1. We fully support the adoption of a mandatory allocation program for LP gas during this period.

2. We fully support the concept that agricultural needs be considered a priority use for LP gas.

In addition, we request that:

1. Special consideration to be given to insuring adequate supplies of LP gas for heating farrowing and nursery facilities for swine.

2. A special mechanism be set up to deal quickly with severe problems, such as the lack of LP gas for a farrowing or nursery swine facility in cold weather. Baby pigs can stand cold weather no better than human babies, and there is a need for a system of reporting and prompt action to prevent losses to animals under this stress condition. One possibility would be to set up a "hot line" for use by state departments of agriculture to report such acute problems to the appropriate federal agency that would result in decisive action to find supplies within 24 hours.

3. Since corn is used as a principal ingredient in hog rations, we strongly urge that steps be taken to insure that LP gas be available for crop drying as needed this winter.

Attached please find additional comments relative to the LP gas needs of the pork industry in Illinois during the 1973–74 winter season prepared before issuance of the proposed mandatory allocation program.

COMMENT BY PHILIP BRADSHAW

I am Philip Bradshaw, President of the Illinois Pork Producers Association. I farm 550 acres between the Illinois and Mississippi rivers, specializing in a pasture hog operation. My farm is a typical western Illinois livestock farm, farrowing around 400 litters of pigs annually.

The fuel shortage is causing great concern in our area. The small streams have been used for a natural water supply for many years. Now, with EPA regulations the producers are raising their livestock in buildings and lots with no natural water supply. This has caused an increase in the use of fuel, especially LP gas. The use of LP gas water tank heaters has become an essential part of pasture operation. One producer in our community has over 20 LP gas tank heaters. Even though these heaters use very small amounts of gas, it is essential that water for livestock not freeze in the winter. The use of LP gas for heat in hog houses has become a common practice. The loss of heat in a farrowing house could cause a producer to lose one whole farrowing. The loss of heat for even a short time in a normally heated building is sure to cause severe loss of gain. Feed conversion and rate of gain is vitally essential. Feed conversion could conceivably go from a ratio of 3# of feed to 1# of gain up to 5# of feed to 1# of gain and possibly even higher. This heat loss would possibly cause illness or death loss even in mature hogs.

I, as most pork producers, dry large amount of grain to insure a good supply of feed. Many acres of crops were planted late in May and early July this year and if we are going to preserve our grain crop we must have LP gas to dry the grain.

Agriculture, especially pork producers, must be assured of a supply of fuel—LP gas. We appreciate consideration given agriculture on the fuel crisis and the opportunity to appear before you and discuss the problem.

COMMENT BY QUINTEN APPELL

I am Quinten Appell, Vice President of the Illinois Pork Producers Association, and a livestock-grain farmer from Knox County, Galva, Ill. I farrow to finish 6000 hogs per year and have 1100 acres of corn. My hogs are raised in confinement and we are using LP (liquified petroleum) gas to heat our farrowing houses, nurseries and finishing houses. I am vitally concerned because my supplier of LP gas will not guarantee the necessary amount of LP gas to heat the hog houses in my operation.

During the winter of 1972–73 we experienced above normal warm temperatures, especially in the months of January and February. I will need a minimum guarantee of 110% of the gas usage of last year. If we have a below normal temperature experience any month of the 1973–74 winter I will need 120% of the amount used last year. My supplier is Knox-Warren Skelgas Service, Galesburg, Illinois. He will not give me any more gas than I used last year on a month to month basis.

All the corn from the 1100 acres that I farm must be dried to 15½% moisture count before milling into different rations for the hog operation. We cannot use any higher moisture content in the corn in our confinement houses because the grain will heat and spoil.

We use LP gas to dry our corn crop, all of which is used in our hog rations. We have one (1) 5,000,000 Btu. American Batch Dryer in operation. Last spring we decided to purchase a larger American Dryer with two (2) 5,000,000 Btu. burners supplementing our original equipment. In 1972 when cold weather developed we were cut off of any LP gas supply for drying corn—this was about December 1. The investment in a $24,000 dryer and $1100 vaporizer was intended to accomplish all corn drying before peak requirement of LP gas for heating—our target completion date was November 1. Now my supplier will not set any new tank to operate this new dryer and will not provide any LP gas per month to operate it.

My finishing hog houses have four (4) 250,000 Btu. heaters fired with LP gas supplied by Standard Oil Company, Galva, Illinois. They have reduced my allotment to 80% of prior year's use. For a normal winter we need 110% of last year's use. We need an assured supply of LP gas to provide meat for the consumer. I can not afford to go into the winter without the protection of heat for these hog houses.

Slatted floors in confinement houses makes it impossible to substitute or put bedding in these buildings. We stand to lose up to $200,000 per house if we run out of LP gas for these houses at any one time during the winter. With a risk of this magnitude and if we are to continue producing pork for the consumer of these United States, we need to be assured of a supply of LP gas.

At present we have nine (9) 500 gal. LP gas tanks and five (5) 1000 gal. LP gas tanks at our different operations. We need two (2) 1000 gal. tanks for our new corn dryer. Last year (a warmer than normal winter) we used 50,000 gal. of LP gas. Assuming this is a normal temperature winter we will need 55,600 gal. I have contacted different suppliers of LP gas and they inform me they will not take on any new accounts. At present we do not have our tanks on the farm filled. My supplier says I will get LP gas in September. Knox-Warren Skelgas of Galesburg, Illinois is a direct outlet of Skelgas Company. Their supply on hand September 1 was 53,000 gal. In July they received 85% of their July 1972 supply. August and September they are to receive 100% of the 1972 supply. The outlook for January, February, and March 1974 is a cut back to 75% of the 1973 amount for those respective months. They have turned down 150 customers and will not take any new customers. They will not set any new tanks to new or old custom-

ers. Price on LP gas from my supplier increased from 13¢ to 21.4¢ per gal overnight. This is a 65% jump.

My particular experience I give you as a realistic example of the plight of a typical Illinois Hog Confinement farmer producing pork for this nation's consumer. We have the same situation—shortage of LP gas—throughout the State of Illinois.

COMMENT BY LARRY GRAHAM

Due to the ability of the American farmers, the productivity of our land and the technological advances made during the past several decades, we in the United States have enjoyed the luxury of having the best diet in the world, at the best prices in the world. However, during the past year, much of the surplus disappeared and food, so long taken for granted, has captured our national attention. One economic lesson of meat production has been learned by many the hard way—when not enough is produced to meet the demand the price goes up.

In the past pork producers have worked hard to produce better quality meat and have offered it to consumers in plentiful supplies, often at bargain prices. Now, the producers who have weathered the storms of low prices, high costs, disease losses, boycotts, price controls and government regulations, are still trying to produce this needed commodity that has suddenly become so important to the average housewife. However, due to the aforementioned problems, plus a few others, the supply of pork going to market is still not sufficient to meet demand and insure stable prices for either producer or consumer. It stands to reason, therefore, that it is in our national best interest to clear barriers to the production of meat and do everything possible to encourage more supply going to market.

One of the potential barriers to short term production (1973–74) could be a lack of propane gas to heat swine buildings this winter. Many of our members are reporting difficulties in obtaining guaranteed supplies.

There are annually over 11,000,000 hogs produced in Illinois. Of this amount approximately 65% or 7,150,000 are born in a central farrowing facility heated by propane gas during the winter months. Also, nearly 2,000,000 hogs are produced in confinement systems each year, and propane is used as heat for the animals after weaning and until they are ready to go into a finishing building to be fed to market weight. Baby pigs, like our own children, cannot survive in cold weather without heat. The buildings cannot be heated without propane gas. Switching to electrical heating would be so costly and so time consuming as to be out of the question at this time for the 1973–74 season. The loss of heat for even one day would seriously jeopardize the lives of all baby pigs in the building.

Therefore, in view of short supply situation and in view of the sure increase in prices that would follow a cut-back in production, we urge that you take the action that is in the best interest of producer and consumer alike and use the authority available to you to insure adequate supplies of propane gas for pork production this winter.

GOVERNMENT SPYING

Mr. MONDALE. Mr. President, it is common knowledge that all levels of government spy on citizens. In some cases, of course, these actions are executed within established legal standards and in pursuit of legitimate governmental purposes. But recent events have made clear that all too often these spying activities are performed without legitimate justification and with little concern for an individual's constitutional rights.

None of us can afford to be insensitive to the grave implications of unjustified and unlawful spying by the Government. It poses a very real danger to the personal freedoms which are the cornerstone of our democratic system.

One man who very much appreciates the dangers of government spying is the junior Senator from Wisconsin (Mr. NELSON). He has introduced a joint resolution, Senate Joint Resolution 124, which would establish a Joint Committee of Congress to study government spying and to recommend whatever legislation may be necessary to safeguard an individual's privacy and other constitutional rights. The resolution is now awaiting action by the Judiciary Committee.

The August 1973 issue of the Progressive magazine includes an article by the Senator from Wisconsin, "How To Stop the Snooping," which details the extent of Government spying and the need for action by Congress. The need for congressional action to control government spying is echoed by James Reston in an article, "Government by Outrage," which appeared in the New York Times of Sunday, September 2, 1973. In his article, Mr. Reston also pays tribute to the Senator from Wisconsin and his efforts to have Congress enact appropriate legislation to remedy the problems of government spying.

Both the Reston article and the article by the Senator from Wisconsin deserve close reading by the Members of the Senate and the other readers of the RECORD.

Mr. President, I ask unanimous consent that both items be printed in the RECORD.

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

HOW TO STOP THE SNOOPING

(By Senator GAYLORD A. NELSON)

Government snooping poses a threat to freedom, and Congress must move to protect the individual and the nation.

Justice Felix Frankfurter observed some thirty years ago that "the history of liberty has largely been the history of observance of procedural safeguards." As we look beyond the Watergate scandal and view the events of the past few years of American history, it is apparent that procedural safeguards for personal rights of privacy have not been observed. It is equally obvious that the procedural safeguards themselves have been insufficient to resist the increased capability and compulsion of government officials to invade privacy and trample on individual liberty.

The ease with which investigative functions of the agencies of government can rapidly grow into massive, uncontrolled intrusions into the personal and political lives of individuals and organizations certainly predates the Watergate affair and the 1972 Presidential election.

Over the past years the record shows that the U.S. Army went on a binge of unlimited snooping of ordinary citizens within this country. Although these practices of the Army apparently have ceased, dossiers on more than 100,000 law-abiding citizens were collected and stored in more than 350 record centers throughout the country.

Also on the recent public record, we now know that the FBI engaged in general surveillance of thousands of people who participated in the first Earth Day rally in Washington, D.C., on April 22, 1970.

Statistics published by the Administrative Office of the United States Courts on the extent of government eavesdropping authorized under Title III of the 1968 Omnibus Crime Control and Safe Streets Act also reveal the increasing reliance in the past few years on government snooping. Under this authority, court-authorized wiretaps and bugs are on a rapid increase since this procedure was first formalized in 1968. In the five years for which statistics are available, more than 1,623,000 conversations involving 120,000 or so persons have been overheard.

What the Administrative Office figures on Title III taps do not reveal is the number of wiretaps and bugs which are installed without court orders under self-determined and much abused claims of national security. In 1969–1970 at least, the Government has indicated that there were as many unreported warrantless taps as there were taps under court orders. However, these self-justified taps lasted for an average of from almost three to nine times as long as the court-ordered taps and are believed to have monitored tens of thousands of individuals.

Today, with our knowledge of the proliferation of governmental snooping and surveillance, and with our knowledge of uncontrolled, self-initiated government forays into political espionage, several specific issues are paramount:

Who is collecting, storing, and using personal information about individual citizens and organizations in the United States?

How many citizens or organizations, and what kind of information, do these surveillance nets capture?

Under what authority or legitimate need to know is this surveillance conducted and the information collected, stored, and used?

What controls are exerted to assure that constitutional principles of due process and the protection of individual privacy are balanced with society's concerns for its general welfare and security?

Unfortunately, the Congress of the United States, like the general public, cannot answer these questions with any accurate, current, and comprehensive knowledge. Neither is the Congress in a position to obtain the facts of the matter in a complete and effective legislative manner because such comprehensive oversight capability has not been established to review government surveillance and information-gathering activities on a continual and regular basis.

The Constitution and the Bill of Rights established an important and delicate balance between the Government's interests and the interests of the governed. This balance dictates the need for the explicit civil liberty and political freedom of each citizen, as well as the security and welfare of the entire society. While neither the private nor the public interest is exclusive, both are necessary. It is incumbent upon Congress continually to oversee and balance both the citizen's private interest and the nation's interest.

Two centuries ago, the sanctity of the individual's right of privacy in his home and the importance of protection against unlawful invasion of privacy by the Government was argued with magnificent eloquence. The British were having difficulty collecting an excise tax that the Parliament had imposed upon cider. To solve their problem, it was proposed that the tax collectors be given the authority to enforce the cider tax by

entering a man's house without knocking. When this proposal was debated in the House of Lords, William Pitt closed his argument in opposition to this government invasion of privacy by stating:

"The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement."

Two hundred and seven years after Pitt's stirring affirmation of individual privacy and resistance to the invasion of the home by forces of the Crown, it is necessary to argue the case against the Government's trampling of personal rights with equal fervor. In 1766, the British tax collector sought authority to break into a private home to collect a cider tax; in 1973, agents of Federal, state, and local government act on uncorroborated tips and without warrants, and proceed to batter down the doors of two Collinsville, Illinois, homes and terrorize two law-abiding families in their mistaken frenzy.

Now, in addition to the continuing reality of smashed doors and actual physical invasion of a private home, government forces have a more insidious tool: electronic eyes and ears that need break no doors to steal privileged thoughts and record private deeds.

The surest way to destroy the concept of democratic self-government is to stand idly by while the Government itself abuses the law. The security of the Government is based upon the trust of its people. This trust cannot be compelled; it can only be given freely if our form of government is to survive. If, in a government of laws, it is the government which disregards constitutional principles and legal process, an example is set for every man to flout the law, or withdraw his expression of trust. In both cases, the result is disrespect for a system of law and it points the way to anarchy.

We must move to bring the Government's surveillance and snooping powers under effective Congressional control and review immediately. Therefore, I have introduced legislation creating a Joint Committee of the United States Congress on Individual Rights.

One—This Joint Committee on Individual Rights will be strictly bipartisan. Of its twenty members, the ten Senate members that will be named by the president of the Senate, and the ten House Members that will be named by the speaker of the House of Reprsentatives, will be equally divided between the majority and minority parties.

Two—This Joint Committee on Individual Rights will conduct regular hearings on each and every agency and department of the Government that conducts surveillance or collects, processes, stores, and uses personal information about specific individuals.

Three—At least once each year, officials of the CIA, the FBI, all military surveillance units, and every agency of the Government that conducts personal information operations will appear before the Joint Committee on Individual Rights to testify under oath and provide all relevant books, papers, records, or other documentary evidence so that the Joint Committee on Individual Rights can ascertain the scope of Government surveillance and personal information activities, and determine whether these activities are conducted strictly according to recognized guidelines and with legal and constitutional safeguards.

Four—The Joint Committee on Individual Rights will provide a regular report to both the Senate and the House on at least an annual basis. This report to Congress and the public will contain the findings of the Joint Committee on Individual Rights on the exact scope and nature of the Federal Government's surveillance and personal information operations. The report will contain the Joint Committee on Individual Rights' recommendations for actions and legislation that will maintain the integrity and confidentiality of personal information on specific individuals, guarantee that surveillance and personal data operations are conducted under strict, identifiable legal and constitutional guidelines, and guarantee that the constitutionally guaranteed rights of our citizens and their privacy are vigorously protected.

This is the moment for bringing the Government's surveillance powers under scrupulous, responsible Congressional control. In addition to maintaining vigilant oversight of the Government's surveillance activities by Congress, it is critically important that the Joint Committee on Individual Rights evaluate the expanding scope of the Government's authority and powers in this area, and make recommendations for tightening the law to prevent abuse.

No one can view the vast dimensions of government snooping at the Federal, state, and local level without being alarmed by the threat this snooping poses to freedom in our society. In my judgment the corrosive and corrupting effect on the delicate fabric of our system is far greater than any possible benefits to society as a whole.

GOVERNMENT BY OUTRAGE

(By James Reston)

WASHINGTON.—Personalities keep dominating the news here in the blazing heat of Washington. What's going on between President Nixon and Vice President Agnew? How are they going to deal with one another and with these independent characters like Judge Sirica, Attorney General Elliot Richardson, and Senator Sam Ervin, who keep asking awkward questions?

Washington loves things like this: Is Mr. Nixon mad at Mr. Agnew or is Mr. Agnew sore at Mr. Nixon? And if the President wasn't worried about what the Vice President was about to say or do, why would he hurry back from San Clemente at Mr. Agnew's request?

Well, it is all very intriguing and it takes your mind off the heat momentarily, but it also takes Washington's mind off the things that have to be done about correcting the corruption that is at the base of all these troubles.

Two specific problems, among many others, are ready for action around here, and they may be more important in the long run than what happens to the personalities and the popularity polls.

These are the problems of controlling the practice of spying on personal privacy, which got the President into so much trouble, and the practice of misusing vast government contracts for political or private gain, which is the basis of the criminal investigation of Vice President Agnew.

Aside from the present controversies over bugging and burglarizing the Democrats and using government contracts for political kickbacks, the fact is that, since the last World War, there has developed a very serious national problem in these fields that requires corrective legislation.

The Watergate scandals tell us almost more about the improper invasion of personal privacy in America than most people seem to want to know, but they don't tell us about the things we don't know about this growing system of surreptitious surveillance.

Senator Gaylord Nelson of Wisconsin has been howling in protest about this ever since 1967. He has been pointing out that at least 50 different Federal agencies, with more than 20,000 investigators, have been operating in the United States, often on legitimate missions, but often not, and always without effective Congressional supervision or control.

These include agents not only from the F.B.I. or the C.I.A. or the military intelligence services but also from the Post Office, the narcotics bureau of the Treasury, the Securities and Exchange Commission, the Internal Revenue Service, the Food and Drug Administration, the State Department and the Civil Service Commission, among many others.

Also, this is occurring at a time when new inventions in the field of electronic surveillance make it much easier to monitor telephones or even to overhear private conversations in private dwellings. In fact, the art of snooping has become so sophisticated that it almost makes you grateful for the clumsiness of the Watergate burglars and of the "so-called" intelligence operators of the Army, who kept dossiers on more than 100,000 American citizens and got caught storing all this information in more than 350 record centers throughout the country.

What has happened here over the last postwar generation is that the scientific capacity to use the arts of wartime espionage on private citizens has greatly expanded while the political capacity to control all this has actually declined.

In much the same way, the Federal Government's power to grant lucrative contracts for highways, government buildings and services, to pick builders, choose consultants, rent office space, finance public housing, university housing, etc., has greatly expanded—precisely at a time when the cost of political campaigning has gone through the roof. The temptations of all this are obvious.

Thus, every watchful mind in this city knows that the problems of illegal political spying and illegal political kickbacks are not limited to Watergate and the current Baltimore investigation. No doubt there was a lot of political fiddling, in the past but the explosion of electronic invention and of government building since World War II has greatly increased the temptations and the consequent need for remedial legislation.

Fortunately, sometimes our main hope in Washington is that these outrages will enable the Government to do sensible things. There is a danger, however, that the personal problems of the President and the Vice President may divert the Congress from acting on the legislation, which is already in committee and as a result of recent scandals could now be passed.

"The natural progress of things," Thomas Jefferson wrote 185 years ago, "is for liberty to yield and government to gain ground." And Mr. Justice Felix Frankfurter observed 30 years ago that "the history of liberty has largely been the history of procedural safeguards."

Well, liberty has been yielding, government has been gaining and the "procedural standards" have been breaking down, but with a little more public outrage on these fundamental issues, it is just possible now that something could be done.

SALUTE TO THE NEW ATTORNEY GENERAL

Mr. GRIFFIN. Mr. President, recently the Flint Journal published two thoughtful editorials concerning challenges confronting Attorney General Elliot L. Richardson and some of the steps he has taken since assuming that office. I ask unanimous consent that the two editorials be printed in the RECORD.

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

SALUTE TO RICHARDSON—ON THE ROAD BACK

All of the Nixon administration leaders should take heed of a statement made by Atty. Gen. Elliot L. Richardson if they are sincere in attempts to make the rest of the presidential term as profitable as possible after Watergate.

Richardson spelled out in specific and convincing terms what his Department of Justice faces and what he intends to do about it:

"Having taken office . . . in the midst of the darkening cloud of suspicion and distrust engendered by Watergate, I recognize it as my first duty to do what I can to eliminate the causes of distrust."

Richardson recognized three areas "contributing to diminished confidence" in the Department of Justice:

First, the suspicion that political considerations or political influence can color the administration of justice.

Second, the suspicion that who you are or what you stand for is reflected in the inconsistent or unfair application of legal standards.

Third, the suspicion that the department is not sufficiently honest in its communication with press and public.

Although all these are of great importance and he proposes to take steps in all three areas, it is the third one upon which we would like to comment.

It is highly encouraging that the forum in which he discussed this matter was the influential American Bar Association where his attitudes are certain to be given the utmost consideration.

Richardson starts from the proper beginning, a statement that the department is accountable to the people of the United States and "has no interests and no objectives separable from theirs." He takes the next logical step, that it is the department's task to see these people are "as fully informed as possible about what we are doing and why," and that, therefore, it is incumbent upon the department that "the burden of proof" for withholding any information "should always be on establishing the need for withholding information."

He points out that the Department of Justice has a special responsibility for the administration of the Freedom of Information Act by the government as a whole and that it is "vital that the justified expectations of our citizens for access to executive information not be thwarted by administrative delays or inconsistent responses from the various agencies."

Richardson then told the lawyers that he has advised all executive agencies that the Justice litigating divisions will not defend freedom of information lawsuits unless the special committee he has set up has been consulted prior to a denial of request for information. It is important to note that he places the responsibility not on the agencies, but squarely in his department, and he insists that permission to deny information be granted before the decision is made by the agency.

In addition, he said he is promoting a governmentwide study of the Freedom of Information Act to guide both the executive branch and Congress in clarifying its provisions and in administering it.

Finally, Richardson takes the last and necessary step of recognizing that the news media is the one practical way to achieve this ideal of informing the public and that to do this it must be able to act freely and with as little restraint as is compatible with the individual's other rights.

"The way in which the Department of Justice carries out its functions in any situation where reporters or news media are involved is also important," Richardson told the lawyers. "Reporters have a primary responsibility to the public, just as we do. This responsibility can lead them into controversial situations. But the prosecutorial power of the department should never be used—not even by indirection or innuendo—in a way that could weaken the exercise of First Amendment rights."

He does not stop with rhetoric, but has taken such precautions as exempting news media personnel from being included in a program in which he is requiring a memorandum of "outside contacts" made by Justice personnel dealing with matters before the department.

Richardson stressed the enforcement of the 1970 guidelines which restricted issuance of subpoenas to the news media and said the department is considering a directive which would require his personal, specific approval before a newsman can be questioned, served with a subpoena or made a defendant in any federal court proceeding.

All of this is a far cry, indeed, from the attitudes, tactics and actions of Richardson's predecessors under President Nixon, and comes like bright rays of sunshine breaking through a leadened sky.

ATTORNEYS GENERAL NEED BUT ONE HAT

Opening up of the activities of the Justice Department through frankness and cooperation with the news media is only one of several steps Atty. Gen. Elliot L. Richardson has taken to restore confidence in that department.

In his recent talk before the American Bar Association, he told of plans and actions to strengthen management of the department. "My predecessors, by and large, have had little interest in this area," he said, "perhaps because they have thought of the department as first and foremost a law office and only incidentally as a government department like other government departments. Having come to Justice from four and a half years in other bureaucratic institutions, I tend to emphasize its latter aspect."

Richardson said he intends to build at the federal level "the kind of comprehensive planning capacity we have been urging on the states." One step will be to create a division with an assistant attorney general for management and budget.

He emphasized that a factor in restoring confidence was to convince the general public that the law is being applied equally to all. He revealed plans to set up an "Inspector General's office" to assure that "those who are charged with executive responsibility for a precious public trust are consistently worthy of that trust." In addition, he has established an Advisory Committee of U.S. Attorneys and a procedure for closer contact with the National Association of Attorneys General. These steps are to "develop and implement coherent and consistent approaches to matters of widespread public concern—in such areas as consumer protection, drug abuse prevention and protection of the environment."

If words were all, it would be advisable to withhold comment to see how well Richardson follows through. However, as Joseph C. Harsch, Christian Science Monitor columnist recently pointed out, in only 10 short weeks Richardson has done three things that have transformed the Department of Justice, revived confidence in its integrity, and "made himself a newly interesting political figure."

His first deed, Harsch says, was to appoint an independent investigator of Watergate and kindred political activities and then give him full support of the machinery of his department.

His second act was to reopen the Kent State shooting case in which four students lost their lives in a volley fired by National Guardsmen. "It was a dreadful business which should never have happened," Harsch wrote. "It has never been investigated satisfactorily. There has been the lingering suspicion of an attempt to cover up. It needed a thorough airing. It is getting one."

A third important step to restore confidence, Harsch believes, was allowing the investigation of the Baltimore bribery and payoff cases even though these have involved the name of the vice president.

Behind all these actions is the most important factor in Richardson's short tenure as attorney general—his decision to eschew political considerations as attorney general.

"In recent history, under both parties, the attorney general has been more than a political appointee, he has frequently been—both before and after he came to the Justice Department—a political operative as well," Richardson noted.

"Now, I have nothing against political operatives. I have been one myself. And there is still a place for politics as usual—but not in the Department of Justice . . . Past attorneys general have, I know, been able to draw a line between their political and professional responsibilities. But a citizen of the Watergate era who perceives an attorney general wearing his political hat is scarcly to be blamed for doubting whether he ever really takes it off.

"I have decided, therefore, that one direct contribution I can make to countering the suspicion of political influence in the Department of Justice is not only to foreswear politics for myself, but to ask my principal colleagues to do the same."

Richardson has made a tremendously significant point. Presidents must have political spokesmen within their official families. If, as in the past, they are a Postmaster General or a Secretary of the Interior or hold a similar post, no great harm has been done to the governmental processes. The office of Attorney General is a far different matter.

The Nixon administration under Atty. Gen. John N. Mitchell is only one of numerous proofs of that. President John F. Kennedy is open to criticism here since his appointment of his brother Robert to that position and use of him in political matters weakened the effectiveness of the office and created distrust among many citizens, even though no scandals were involved.

The classic example is Harry M. Daugherty, the political mainspring behind President Warren G. Harding. Although he was never convicted, he was tried for conspiracy to defraud, and he was the key figure in the failure of his department to uncover or properly prosecute the entire Teapot Dome scandal.

The nation will be a much better place in the future if Richardson's policies should become a permanent part of our unwritten governmental principle.

GEN. SAMUEL B. PHILLIPS

Mr. McGEE. Mr. President, because I was out of the city at the time, I did not have the opportunity to pay tribute to a friend and fellow Wyomingite who has distinguished himself in his country's service. Gen. Samuel B. Phillips of Cheyenne, Wyo., was on August 1, 1973, promoted to the rank of four-star general and assumed command of Andrews Air Force base.

Mr. President, we in Wyoming have

watched very closely General Phillips' accomplishments. We are proud of what he has achieved and believe his recent promotion is well deserved and a tribute to his exceptional talent and ability.

Sam Phillips' achievements are numerous. Although I will not elaborate on all his honors, I would like to briefly note some of them.

During World War II, he served with the 364th Fighter Group, 8th Air Force, in England and completed two combat tours of duty in the European theater of operations. He was awarded the Distinguished Flying Cross with one oak leaf cluster, Air Medal with seven oak leaf clusters, and the French Croix de Guerre.

General Phillips returned to England in 1956 as chief of logistics for the 7th Air Division of Strategic Air Command. His participation in writing the international agreement with Great Britain for the deployment and use of the Thor Intermediate Range Ballistic Missile earned him the Legion of Merit.

In September 1969 he was awarded the Air Force Distinguished Service Medal for his service with NASA from December 1964 to August 1969. He also was awarded two NASA Distinguished Service Medals by that agency in 1968 and 1969 for distinguished achievements and contributions to the Apollo program which put America's first men on the moon.

While this is just a brief summary of his many achievements and honors, it does provide an insight into General Phillips' abilities and talent. We in Wyoming wish him the best in his new assignment and offer him our sincerest congratulations.

NEW CROP PREDICTIONS

Mr. DOLE. Mr. President, the Department of Agriculture has announced it will make public its internal working projections of next year's harvests.

The first issue of the new series of brief, periodic reports will be released on Friday, September 14, after the close of the commodity markets. The first report will focus on corn, feed grains in total, wheat, soybeans and products, upland cotton, and rice. It will consist of tables and accompanying text that analyzes and explains the data.

This report will make available to farmers, small commodity traders, and the general public the kind of expert forecasts which, until now, have been available only to some of the large traders, or Capitol Hill experts, or firms with the staff and sophisticated know-how to untangle the various threads of agricultural intelligence and weave them into a logical production pattern.

The public will now be informed as quickly as possible whenever new market-sensitive estimates are developed. This forthright action should abate some of the unfair criticism that has been hurled at the Department in recent months charging "secret knowledge."

Mr. President, I find it of interest that the first word of this new report came from a good friend, a fellow Kansan, and former wheat grower himself, Glenn Weir, who left the wheat fields of Kansas to come to the Department of Agriculture. He is currently working on behalf of the farmers of America as Associate Administrator of the Agricultural Stabilization and Conservation Service and announced the USDA decision at the U.S. Feed Grain Council's national meeting at Lake Geneva, Wis., last week. It is significant that a long-time farmer announce this decision which will give farmers such a vital tool in planning and managing their farming operations.

Mr. President, I ask unanimous consent that the news release announcing this new reporting service be printed in the RECORD.

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

NEW USDA RELEASE TO GIVE LATEST SUPPLY-DEMAND DATA ON COMMODITIES

WASHINGTON, September 7.—The first issue of "Agricultural Supply and Demand Estimates," a brief periodic report carrying the latest estimates of acreage, supply, use, and carryover of major commodities, will be released on Sept. 14, the U.S. Department of Agriculture (USDA) announced today.

The report is the result of a joint decision by Carroll Brunthaver, USDA's assistant secretary of international affairs and commodity programs, and Don Paarlberg, the Department's director of agricultural economics, that the public be informed as quickly as possible whenever new market-sensitive estimates are developed.

Coordination, approval, and release of the report will be handled by the Department's Outlook and Situation Board. The report will augment and update the Board's economic analyses and forecasts, as regularly published in its Outlook and Situation reports.

The first issue of the new report will focus on corn, feed grains in total, wheat, soybeans and products, upland cotton, and rice and will consist of tables and accompanying text to briefly analyze and explain the data. The report, to be released the afternoon of Sept. 14 after the markets close, will mainly reflect any significant changes in supply and demand for these commodities due to crop production estimates the Department will have made Sept. 11 in its release of the monthly report, "Crop Production." Data in the report may also reflect changes in other factors affecting supply and demand prospects.

Subsequent issues of the report will be keyed to crop reports, to quarterly grain stocks reports, and to other releases which would significantly alter supply and demand prospects. Subsequent issues will also cover additional commodities as necessary.

A copy of "Agricultural Supply and Demand Estimates" will be available free on postcard (please include zipcode) or telephone (447-4026) request from the Office of Communication, U.S. Department of Agriculture, Washington, D.C. 20250.

SOUTH DAKOTA'S WALL DRUG

Mr. McGOVERN. Mr. President, if you leave this Chamber, head west down Constitution Avenue, cross Roosevelt Bridge, take the George Washington Parkway to the beltway and then go on Interstate 70, you will have only 1,591 miles to go to Wall Drug.

It will be well worth the trip. Wall Drug is an institution, an unofficial national monument and a must stop for anyone who wants a truly complete visit to South Dakota.

To explain how and why this all came about, I ask unanimous consent to have printed a recent Wall Street Journal article about Wall Drug, my friends, Ted and Dorothy Hustead, and Wall, S. Dak., in the RECORD.

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

WALL, S. DAK., HAS POPULATION OF ONLY 800, BUT ITS DRUGSTORE DRAWS 10,000 A DAY

(By Richard D. James)

WALL, S. DAK.—This is a one-industry town. Nearly a third of the families here work for it. It occupies about a quarter of the business district. The Chamber of Commerce president says flatly that without it, the town would dry up and blow away.

The industry is the town's drugstore—Wall Drug. You may have heard of it, especially if you have ridden the Paris or London subways or the canal boats in Amsterdam, or if you have been to Vietnam, the South Pole or Shanghai. There have been signs advertising the store in all those places. You have almost certainly heard of it if you have ever driven across South Dakota. Wall Drug signs grow thicker on the rolling prairie out here than almost anything else. Along one 45-mile stretch of interstate highway, there are 53 of them.

Signs have been a way of life for Wall Drug ever since 1936, when pharmacist and owner Ted Hustead put up the first one on the highway two blocks from the store. It promised free ice water to hot, dusty motorists if they would stop. They did, and Wall Drug prospered beyond his wildest dreams, growing into a store that now attracts some 10,000 customers a day during the tourist season and does more than $1 million of business a year.

During the summer it employs 150 people working seven days a week in two shifts from 5 a.m. to 10 p.m. It outgrew its original 24-by-40-foot building long ago and now occupies more than an acre of space, taking up the better part of one side of Wall's block-long business district.

The town prospered, too. In 1954 it and a neighboring community, Quinn, were the same size—600. Quinn has since shrunk to 150 people, but Wall has grown to 800.

THE ATTRACTION OF WATER

Free ice water is still one of Wall Drug's biggest attractions. Mr. Hustead, who now is 70 years old and is on the job every day, figures that the store gives away more than 5,000 glasses of it a day, not to mention innumerable water jugs that are filled and iced free. The store has $30,000 of equipment capable of turning out 1½ tons of ice daily, a far cry from the days when Mr. Hustead cut winter ice from nearby farm ponds and stored it for the summer.

Mr. Hustead bought the store in 1931 for $2,500. Business wasn't good. The first month's gross was $350. Fearing he couldn't maintain a home and make the grade in those Depression days, he curtained off the back 20 feet of the store and moved in with his wife, Dorothy, and their four-year-old son, Bill. This was home for more than six years.

The free ice water was Dorothy's idea. One blazing-hot Sunday afternoon in 1936, listening to the cars swishing by on their way from the Badlands to the Black Hills, she thought that the motorists must be terribly hot and dry. She suggested that Ted put up

a sign: "Get a soda/Get a beer/Turn next corner/Just as Near/to Highway 16 and 14/Free ice water/Wall Drug." It was corny but effective. West of town he put up other signs: Slow down the old hack/Wall Drug Corner/Just across the railroad track."

Today there are some 200 signs in South Dakota, Wyoming and Minnesota. There are countless others—one estimate is 3,000—that friends have put up in other states. Two men and a truck work nine months a year servicing those in South Dakota and adjoining states. In addition, making new signs keeps two professional sign painters busy. This year Wall Drug will spend $100,000 on its signs, says Bill Hustead, now the store's general manager.

SIGNS OF THE TIMES

Putting up signs overseas was started after World War II by a friend traveling across Europe for the Red Cross. The idea caught on among U.S. servicemen overseas, who began writing the store for more signs. They still do. The Husteads have sent more than 200 signs to servicemen in Vietnam.

The store has received snapshots of its signs taken by travelers all over the world. One from Shanghai shows a sign in English and Chinese that says: "Shanghai to Wall Drug Store, 9,066 miles."

The Husteads haven't any idea who put it up.

The advertising pays off. One survey shows that 45% of all westbound autos on Interstate 90 near Wall, and a slightly lower proportion of those eastbound, turn off to visit the store. A recent visitor walking along Main Street counted cars from 20 states, including Florida, California and New York.

Besides free ice water, one of the store's traditions has been a nickel cup of coffee and a breakfast of two eggs and two slices of toast for 25 cents. Rising costs have forced a change. The breakfast now is 49 cents, but coffee still is five cents. The original soda fountain has been expanded into a 475-seat cafe built around a huge cottonwood tree that grows up through the roof. On a busy day patrons consume 250 dozen eggs and 6,000 homemade donuts.

Of the 150 summer employes, about 70 are college students from around the country. Over the years the Husteads have bought 10 old houses in Wall to use as dormitories for the students. The students pay $8 a week rent, but if they stay through Labor Day, they get a $5-a-week refund as an incentive to stay the full summer.

The Husteads set curfews of 11:30 p.m. on weekdays and 1:30 on weekends. "It's hard work, and we feel they need a full night's sleep to do a good job," Bill says. "Besides, auto accidents can happen late at night, and we want to send our kids back home in one piece." The students don't seem to mind: about half of them return each year.

A CRAM COURSE FOR EMPLOYEES

When they arrive, they are given a cram course in the history of the Badlands and the Black Hills and are told to memorize the mileage from Wall Drug to such tourist attractions as Mount Rushmore. Then, to make sure they have learned it, they are given a quiz. "If tourists remember Wall Drug, it won't be because we have such a great store but because of the people who waited on them," Ted Hustead says. "We want them to be cheerful and helpful."

Merchandise ranges from the usual drugstore items to steer skulls, cowboy boots, Sioux-made moccasins, snakebite serum, lariats, Levis and leather caps. And, yes, you can still get a prescription filled. Ted and Bill are both registered pharmacists, and they fill at least 20 a day.

There are also plenty of tourist souvenirs. Snake ashtrays made from plaster of Paris and painted to resemble rattlesnakes are a best seller. They are made by a Black Hills resident who uses live rattlers to make the molds for casting the ashtrays. Another popular item: Jack-a-Lopes. Made by a local taxidermist, they are stuffed jackrabbits sporting antelope horns.

The store has other atractions, such as the Cowboy Quarter—a mechanically animated display, including a hound dog that scratches its ear with a hind foot. Twenty-five years ago it was part of a window display at the May Co. department store in Denver. It pumps out Western music every 10 minutes and draws a crowd. Or there is a bucking horse (stuffed) that gets so much use by the kids it has to be replaced every two years.

Over the years Wall Drug has had its share of famous visitors including Jack Dempsey, Clark Gable and Ernest Hemingway. A few years ago the store began receiving mail for actor Frederick March. It accumulated for several weeks, and then one day, without warning, Mr. March walked in and asked if his mail had arrived. He explained he was heading East and had needed a place to forward his mail so he could pick it up along the way. It was handed over, and he thanked the Husteads and left.

RAILROAD RELOCATION STUDY IN OMAHA, NEBR.

Mr. HRUSKA. Mr. President, like many of my colleagues in this body, I used the opportunity of the recent congressional recess to spend time traveling in my home State. One of the most pleasant occasions during my stay was a meeting in Omaha on August 10. It was at that time that Mr. John Ingram, the Administrator of the Federal Railroad Administration, visited the city to announce a $70,000 grant for a railroad relocation study in Omaha.

Mr. President, this was a happy occasion for the citizens of Omaha and Council Bluffs, as well as our many friends in the six-county region which will be directly affected by the relocation study. It was not the dollar amount of the grant which was significant. Rather, the grant was another example of the joint effort being launched between the public and private sectors in Nebraska and Iowa—a partnership begun over a year ago that sees as its final goal the redevelopment of a 54-mile stretch along the Missouri River known to us as the riverfront development program.

The grant from the Federal Railroad Administration will enable Omaha and Council Bluffs to conduct a study to consolidate railroad trackage in the downtown Omaha area while releasing valuable riverfront land for higher priority use.

Mr. President, Omaha and Council Bluffs are the fourth and fifth largest railroad centers in the United States. Our communities have grown up with the railroads. Now we see the eight railroads serving the region, the cities of Omaha and Council Bluffs, and the riverfront program working together to combine talent and free resources for what we hope will be an era of real progress in developing the vital riverfront area.

Mr. President, the Federal Railroad Administration made a very special effort under their limited grantmaking authority to participate in this venture. The citizens of Omaha and Council Bluffs are indeed fortunate to serve as a model for other cities having similar transportation problems.

The role that the Federal Railroad Administration played in this grant and will continue to play as the study continues is no better stated than in the words of its Administrator. For these reasons, I wish to have printed in the RECORD the remarks of Mr. John Ingram.

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

DEPARTMENT OF TRANSPORTATION,
FEDERAL RAILROAD ADMINISTRATION,
Washington, D.C.

REMARKS PREPARED FOR DELIVERY BY JOHN W. INGRAM, ADMINISTRATOR, FEDERAL RAILROAD ADMINISTRATION, AT RAIL RELOCATION LUNCHEON, OMAHA, NEBR., AUGUST 10, 1973

Good afternoon, ladies and gentlemen.

I am delighted to be here in Omaha with you, and indeed honored by the presence of so many distinguished citizens, led by members of Nebraska's and Iowa's Congressional delegations.

The very fact that this room is filled with thoughtful and knowledgeable fellow Americans attests to their pride in the cities of Omaha and Council Bluffs. Their concern for improving their communities' way of life is exemplified by the importance they attach to advantageously relocating or consolidating metro center rail facilities for the betterment of these cities.

I think the most significant aspect of our meeting today is the cooperative discussion between community leaders, senior representatives of Omaha's business sector, top management executives of the eight railroads serving this area, and Federal, State and local Government officials. All of us are here to assist each other in achieving common goals.

This gathering symbolizes a community spirit that usually is apparent only during natural disasters or other sudden crises. But this same spirit can provide the energy for practical planning. Here in Omaha and the surrounding area, all of you who are directly or indirectly concerned with your cities and communities are jointly addressing a mutual problem. The fine lines drawn between public and private sector vanish in the recognition that it takes the efforts of many to create a better place for all of us to live. This assembly is proof that the cherished American motto—"E Pluribus Unum" (One From Many) is as valid today as when Benjamin Franklin, John Adams and Thomas Jefferson first proposed it for inclusion in the Presidential seal exactly 197 years ago today—on August 10, 1776.

As you all are aware, we in the Department of Transportation are participating in a number of studies intended to develop the feasibility and cost effectiveness of railroad relocation projects in the context of transportation improvements.

Efforts to advance urban railroad relocation projects frequently are deterred by administrative, financial or technical difficulties, or all three. Administrative difficulties are created by the multiplicity of parties involved, both public and private, and by the lack of *one* organization with sufficient overall responsibility and authority to advance the work.

Happily, this is *not* the case here in Omaha.

On the contrary, you astutely anticipated possible administrative difficulties, and vested in a single agency responsibility for

your comprehensive program for integrated development of the riverfront Omaha shares with Council Bluffs.

Three years ago, you laid the foundation for the present Metropolitan Area Planning Agency (MAPA) by forming a transportation task force comprised of people representing local government; business; air, rail, highway and navigation interests; environmentalists; and others with a deep and abiding interest in the community's continued progress and growth.

I have watched your grass roots efforts with both interest and admiration, and I am well aware that two years of hard work and careful planning, as well as many compromises, made for the common good, have gone into your recommendations for the downtown Omaha Riverfront Redevelopment. The time you have invested in this effort will, I am sure, have a major payoff.

In early February of this year, members of my staff met with the Riverfront Development Committee, with MAPA and many other state and local officials. Their report said that the result of your combined efforts was the best organized, best planned, and most ready-to-go relocation study plan they had investigated.

Their findings weighed heavily in favor of the contract FRA has recently signed with MAPA, and there is no doubt in my mind that the Department of Transportation's infusion of study funds would have been made earlier except for the problem that FRA is not designated as a grant agency.

I am, indeed, happy that FRA is able to contribute to this study.

One of the first tasks ahead of you and the consultants hired for the project is a rail system inventory and analysis, upon which meaningful and valid decisions will have to be founded.

As of now, I doubt that there is anyone who really knows *all* the relevant facts—facts which are essential for rational and orderly planning and development.

We do know that the functional and physical obsolescence of the manufacturing plants and warehouses in the riverfront area has resulted in a major exodus of business and industry to the southwestern industrial parks.

We also know that the older residential areas closest to this economic and aesthetic blight have suffered.

But the renaissance of the riverfront has already started, thanks to your dedicated efforts. Changes have occurred already.

The Burlington Northern has relinquished its riverfront freight yard and consolidated it with the Gibson Yard in South Omaha. The land it formerly occupied is now cleared and available for redevelopment. So is the land formerly occupied by the Union Pacific passenger yards.

However, to permit redevelopment of the entire area, it may be necessary to consolidate approximately eight widely separated sets of tracks belonging to the Union Pacific, the Burlington Northern, and the Chicago and Northwestern into two or three sets of parallel tracks.

This much we know—or *think* we know.

The list of what we *don't* know is considerably longer, and it starts with such basics as—how many miles of track are we talking about? How much land is involved in the areas in which the tracks are still in place? What will the major changes contemplated require in the altering of rail operations?

Such questions pertain not only to the Omaha side of the river, but to the Council Bluffs side as well.

Now, it must be evident to everyone that the location of the rail plant in this area is not necessarily required for today's traffic pattern. Rail system needs today in the era of superhighways and canalized rivers obviously have greatly changed since the mid-1800's. When the Union Pacific chose the sites they use today, Omaha became a key point in the first transcontinental railroad line and the area grew and prospered. Today railroad facilities may be superfluous to the industry and create an impediment to urban progress.

For the railroads, poorly located plant and trackage poses severe problems of a different kind. It sometimes means needless maintenance costs, low speeds through areas with grade crossings, and other operational restrictions. These result in inefficient rail service—an important factor in railroad costs. Of course, some rail plant is located right where it should be—and in any case, there are costs associated with facility movement.

So, while we all can agree, I think, that the rail plant can be streamlined—even though the community and the railroads may reach these conclusions for entirely different reasons—divergent opinions may emerge on whether to relocate any given line or yard. Modern, streamlined railroad operations must be just as important an objective in this study as are the other laudable objectives.

Thus six countries—Nebraska's Sarpy, Douglas and Washington Counties, and Iowa's Mills, Pottawattamie and Harris Counties—may well be affected, directly or indirectly. The relocation study will investigate and probably develop several alternatives which should be considered on the basis of economic, physical, aesthetic and environmental merits.

Another factor which undoubtedly will influence the ultimate decision and adoption of a specific plan will be the cost of relocation—and who will pay for it. It will be important to perform exhaustive, in-depth cost/benefit analyses, so that all parties involved in a possible relocation move—the community, the railroads, industrial and other interests—will know the economic consequences of the implementation of any specific plan. It would be a serious mistake to develop a major relocation plan and not be concerned with the means to finance its implementation.

The eight railroads serving this area certainly are in sympathy and basic agreement with the community, and they are proving their good faith and goodwill by contributing to the dollar cost of the present study. The Union Pacific has agreed to render in-kind services. So has the Burlington Northern, the Chicago and Northwestern, the Illinois Central, the Missouri Pacific, the Milwaukee Road, the Norfolk & Western, and the Rock Island. Each will be cooperating.

The urban railroad problem is a large issue and getting larger. There are a host of plans on the shelf to deal with the problem, and, in most cases, quite frankly that is where they belong. Few have been coordinated with or into the master transportation plan for the community.

Planning as it may affect the railroads is a new process evolving within the Government, and, therefore, will move slowly. Where some of the transportation planning processes start with grant legislation as a base, the rail planning process often begins with the public debate over issues or problems. The absence of a grant program obligates the Federal Railroad Administration to problem definition and priority determination which it must do unilaterally. Grant programs differ in that they delegate a share of the planning process to the states or institutions involved.

Planning what will happen to privately owned railroads and then financing the needed work is something that is usually left to other than Government agencies. And this is right and proper. But as a result, most of the improvements in transportation have taken place in highways and waterways where Government grants support the needed planning and implementation. We would like to work toward including railroads in this planning process. Frequently public money would be better spent on rail than on other modes of transport but at present this option is usually not even considered.

In recent years we have seen that there is a real need for a planning program for the railroads. State and local governments have extremely limited resources for planning improvements in rail facilities. This is especially critical in urban areas where major rail facilities are being abandoned, relocated or improved. The immediate involvement of the railroads and their influence on social and environmental goals is clear. The identification of the railroads as a means of providing economic solutions to social and environmental problems has been made by the Federal Railroad Administration, and research programs to provide data to plan intelligently for a rail system which will enhance social betterment have been undertaken. But, because the industry is, after all, private enterprise and despite widespread economic regulatory authority, only a very small amount of rail alternative planning dealing with social and environmental problems is done.

It is our feeling that transportation at the metropolitan and state levels can no longer be planned and developed in modal isolation and without regard to general land use planning.

In Omaha, the Federal Railroad Administration is participating within the unified planning process. This will enable us to gain additional experience concerning rail transportation planning and funding policies, programs and procedures, including a common planning framework and guidelines for institutional arrangements. It should result in a single integrated product combining transportation improvements with associated nontransportation improvements. Together these improvements should serve to economically satisfy travel demand, reduce adverse impacts of transportation, and generally promote the quality of life by helping to solve other urban problems.

In conclusion, we believe that our participation and involvement in the Riverfront Development Study will ultimately enhance our ability to include rail transportation programs in the States and metropolitan areas' planning and implementation package. We believe that our efforts are consistent with a broad spectrum of potential legislative actions and would, in fact, facilitate recommendation of new legislation, should it prove to be necessary.

Here in Omaha, we are seeing again how business and Government are working together to create beauty where there was blight, to improve commerce where there was stagnation. All your efforts will be rewarded by the consummation of the program mapped by MAPA. The 21st Century will find Omaha and Council Bluffs ready for the great developments of the future in which the American railroads will continue to play an important part as they have in the past.

Thank you.

NORMALIZING RELATIONS WITH CUBA

Mr. McGEE. Mr. President, now that the summer recess is behind us I am planning to resume hearings in my Western Hemisphere Affairs Subcom-

mittee on the question of normalizing relations with Cuba.

In this connection, I am prepared to explore the possibility of introducing legislation repealing the Cuban Resolution of 1962. As many of my colleagues may recall, Senate Joint Resolution 230 became Public Law 87–833. The Cuban resolution authorized the President to take whatever action might be necessary to prevent the export of revolution by force from Cuba to the Western Hemisphere and to prevent a Soviet buildup of offensive weapons.

As I noted on February 26 of this year, it is imperative that this Nation continue down the road of rapprochement. This effort should not be limited only to our relations with Soviet Russia or with the People's Republic of China. It must be applied to all nations in the world, whether they be large or small, whether they are at the center stage of international attention or not.

I believe it is time for the United States to begin looking to our neighbor in the South and initiate serious efforts toward normalizing relations with Cuba. I do not harbor any illusions that any initiatives on our part would elicit an automatic response from Fidel Castro. However, I do believe that the initiative belongs with the United States and we should explore every means, and exploit every opportunity, to foster an atmosphere which would be more conducive to negotiating a normalization of relations.

The present rigidity of U.S. policy towards Cuba can only lead to an isolation of this Nation from our friends in Latin America, as well as those who are not our friends. The evidence continues to build regarding this serious possibility. At present eight Latin American nations have broken with the United States, ignoring the sanctions voted by the Organization of American States in 1962 against Castro. Ecuador, Venezuela and Costa Rica are expected also to reestablish relations soon. Thus, one by one, other nations break with our position while we remain rigidly locked into an increasingly untenable policy.

The two preconditions set by the administration for any improvement in relations with Cuba—severing military ties to the Soviet Union and discontinuance of the policy of exporting revolution—have had the effect of freezing both nations into their respective uncompromising positions. We have given Castro no alternatives. We are telling him that he should act first, but at the same time we are resurrecting conditions that make it impossible for Cuba to take that first step.

Thus, I believe it is imperative that we begin pushing on the question of Cuba. For that reason, when my hearings resume in September, I will be calling upon expert witnesses to discuss legislative activity on the part of the Congress, such as repeal of the 1962 Cuban Resolution, which would be constructive initiatives on our part.

THE 28TH ANNUAL CONFERENCE OF NATIONAL CONFERENCE ON CITIZENSHIP SEPTEMBER 16 AND 17

Mr. STEVENSON. Mr. President, the National Conference on Citizenship, a congressionally chartered nonpartisan organization, is this year celebrating the 20th anniversary of its unique mandate and will be holding its 28th annual conference on September 16 and 17 at the Statler Hilton Hotel here in Washington, D.C.

Good citizenship is essential to a sound democracy. What citizenship means however, is something open to discussion. Under its mandate to "contribute concretely to the education of a more alert, conscientious and progressive citizenry," the National Conference has this year taken up its charge with new vigor and is holding an especially useful series of workshops, panels and addresses for the general public. I would urge my colleagues and members of their staffs to take as active a part as they can in these proceedings. They promise to be an important contribution to the development of a more mature and responsive political life for our country.

THE SITUATION IN CHILE

Mr. KENNEDY. Mr. President, we all watch the unfolding violence in Chile with sadness and regret, to see the tradition of political freedom and democracy and civilian rule that is so much a part of Chile's history come to an end.

Regardless whether or not one approved of the policies undertaken by President Allende, he was elected by the people of Chile and one views the action taken today and the violence now underway with great concern. I would far more wish to have this or any other government changed by an election rather than by force.

DR. G. D. "DUKE" HUMPHREY

Mr. McGEE. Mr. President, Wyoming lost one of its great educators, last night, with the passing of Dr. G. D. "Duke" Humphrey at the age of 76. I had the privilege of working under Dr. Humphrey for 12 years when I was a professor of history at the University of Wyoming while he served as its president, and thus, I have a particular appreciation and respect for his contributions to the only 4-year institution of higher education in our State.

Dr. Humphrey guided the University of Wyoming through nearly 2 years of postwar growth and achievement. He served 19 years as President of the institution, from 1945 until 1964. It was during this period that the reputation of the university spread nationwide as an institution of excellence. Dr. Humphrey was the prime mover in the rebuilding of the University of Wyoming, both academically and athletically.

Dr. Humphrey was born in Tipph County, Miss., on August 39, 1897. He attended Mississippi State Teachers College and received his Bachelor of Arts Degree from Blue Mountain College, Miss., in 1929. In 1931, he was awarded an M.A. degree from the Chicago University, and in 1939, he earned his Ph. D. degree from Ohio State University.

Dr. Humphrey was an active teacher, principal, school assistant superintendent, and coach in a number of Mississippi educational institutions during the 1930's. In 1932, he was on the faculty of Furman University before serving as the Mississippi State High School Supervisor for 2 years. From that position he moved to the presidency of Mississippi State College—now Mississippi State University—where he served in that position from 1934 until 1945. In 1945, he assumed the presidency of the University of Wyoming.

Dr. Humphrey held long and active membership in many education organizations and was one of the founders and president of the Western Interstate Commission for Higher Education. He served as a member of the National Science Foundation Board from 1950 to 1962, in addition to serving as a consultant for the U.S. Department of Agriculture and an adviser to the U.S. Department of Interior for Saline Water.

In 1951, Dr. Humphrey was named Wyoming's "Man of the Year," and he was the recipient of the national 4–H alumni award in 1958. He held honorary degrees from Ohio Wesleyan University, the University of Arizona, and the University of Wyoming. He was active in numerous nonprofessional organizations, which was indicative of his sensitivities to community needs.

Widely published and respected in educational circles throughout the United States, Dr. Humphrey served as president emeritus of the University of Wyoming from 1964 until his death.

Wyoming has indeed lost a great educator. Yet, those of us who were fortunate to be associated with Dr. Humphrey, and those in our State who were the beneficiaries of his progressive policies at the university, will always turn to his memory as the individual who brought academic excellence to our only university. Few men have, and I doubt few men ever will, contribute as much as Dr. Humphrey did to the educational achievements of the University of Wyoming.

PUBLIC FINANCING OF POLITICAL CAMPAIGNS

Mr. CLARK. Mr. President, just a few weeks ago the Senate took an important step forward in the battle to rehabilitate the American political process by passing the Federal Election Campaign Act. The strict limits imposed on campaign expenditures and political contributions, the establishment of an independent Federal Elections Commission—these and other features of the bill are all of significant value.

But, as many of us pointed out during the debate on S. 372, unless we begin to consider an alternative to the present

system, all of this "election reform" will come to very little. It can never be a substitute for public financing of political campaigns.

Senator PELL's Subcommittee on Privileges and Elections will begin hearings next week on the various public financing plans now before the Congress. Hopefully, these hearings will provide the impetus for the passage of a comprehensive public campaign financing bill in this session of Congress.

One of the first to recognize the critical need for such legislation was my distinguished colleague from California, Senator ALAN CRANSTON.

He has contributed an article to the most recent issue of The Nation, which is an excellent statement of the urgent need for some kind of public financing. It also provides a preview of legislation which he will be introducing shortly. If there is no objection, I would ask that the article be printed in the RECORD.

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

[From the Nation, September 17, 1973]

HOW TO CURE THE CORRUPTION

(By Senator Alan Cranston)

Our society has a recurring need to scrap and replace institutions and practices that have become outmoded. An egregious example of an American way whose time has passed is our method of paying for political campaigns.

It may have been all right in the free-swinging, underpopulated, largely agrarian democracy of the 19th century to have political candidates raise campaign money as they saw fit. At worst, rich people got richer and poor people got poorer, but the consequences of political corruption seldom shook the underpinnings of the American people's faith in the democratic system.

When Abraham Lincoln ran for Congress in 1846, his supporters raised $200 for his campaign. He won—and gave back $199.25, saying:

"I did not need the money. I made the canvass on my own horse; my entertainment being at the houses of friends, cost me nothing; and my only outlay was 75 cents for a barrel of cider, which some farm hands insisted I should treat to."

Today's candidate would envy Lincoln's concern with that barrel of cider. He did not have to worry about TV spots, computerized mass mailings, whistle-stopping by jet, $1,000 a-plate dinners, or the other superchrome paraphernalia of today's campaigns.

In the final third of the 20th century, social and economic power has grown prodigiously. The media possess a potential for influencing (if not controlling) the minds of millions of Americans. Corporate conglomerates have appeared, whose assets dwarf the wealth of nations. Our very government has grown into an unwieldy behemoth. An incipient American dictator would find in our government—right now—the tools for surveillance, for manipulation, for control and for retribution, beyond even George Orwell's predictions.

Our institutions of self-government and our elected officials are prime targets of those who seek to dominate these vast power resources. Gaining control of power is what political corruption in the 1970s is all about. And money, in the form of campaign contributions, is the means.

Watergate was a gross perversion of our democracy, but it was not an improbable consequence of the way campaign contributions, in huge sums, corrupt the political environment.

Political big money imperceptibly but inevitably erodes the imparitality of our best men and our best institutions. If the role of the big contribution continues to escalate in politics, Watergate will be only the first chapter in the deterioration of democratic government in the United States.

As Tom Wicker has written in The New York Times:

"All too plainly, and whatever laws may or may not have been broken, the sense of ethics of too many highly placed men in the Nixon Administration was sadly lacking. That fact, combined with too much money too eagerly given by too many compliant people, made Watergate and the cover-up possible, and the need for drastic change in election financing evident."

I believe that elected officials are clearly in the best position to know the effects of big money in politics. We have a moral responsibility to tell the American people how big money affects politics and we should have the courage to do so. I think the American people are in the mood for honesty. I know they will accept change in our method of financing elections if we talk to them honestly about the problem.

The costs of today's political campaigning force a candidate to seek hundreds of thousands, even millions, of dollars from private interests. The candidate and his campaign fund raisers must seek these people out.

Running for statewide office in California is an extreme illustration of the magnitude of such a fund-raising effort. A Senator from California serves the largest constituency ever to be represented by a legislator in the history of the world. Its 21 million people constitute a legislative district where political campaigning is big business requiring millions of dollars.

A Senatorial candidate might prefer to keep contributions small and broadly based, yet some reliance on big donors is politically inescapable because of the huge amount of money needed for a successful campaign in California. Senate races in California have cost up to $2 million.

A candidate knows that he will have to spend his time seeking out large contributors that would be better spent meeting as many constituents as possible—regardless of financial status. Sen. Walter Mondale has said, "the system . . . tells those who run for public office, 'you must first make your peace with those who have enough money to permit you to become elected.'"

The effect of large contributions on the victorious candidate is sometimes blatant, but usually subtle. He knows his victory was won in part by the generosity of those individuals who made large donations. He knows who they are; he remembers their names and the names of their companies.

If he is an honest man, he will not let big contributors determine how he is going to vote. But even the honest public official finds that he must give to the big donor's concerns his time and attention, his sympathetic ear, his willingness to intervene when he can do so legitimately.

The officeholder recognizes that while some big givers contribute solely for the sake of good government and a belief in the candidate and his principles, they are a minority. He knows that the majority expect their contributions will at least give them access to him. And access, at the least, means the ability to drop in anytime for an informal visit or to present their views before the officeholder acts on an issue.

A busy public official can see only a limited number of people in any one day. But he must always do his best to fit a major contributor into his schedule. That may squeeze out someone else who has as much—perhaps more—to say; it is utterly unfair, but inescapable under present conditions.

To eliminate the insidious influence of big money contributions we must, at the very least, impose absolute limits both on the amount of money an individual may contribute to a campaign and on the amount a candidate may spend. There's the rub. A meaningfully low limit on individual contributions would, under present methods of fund raising, create monumental problems for a candidate—especially for one who is challenging an incumbent in office.

Only public financing of federal campaigns can effectively resolve this problem. As Sen. Russell Long, chairman of the Senate Finance Committee has noted, public financing of campaigns would free candidates:

"from the need of going hat in hand to seek contributions, and in doing that it tends to protect the confidence of the public in the victor, and it tends to reduce the pressure to respond to the entreaties that are made to elected officials by those who contribute to the campaigns."

I believe we should limit the amount a person can contribute to a candidate for federal office to only $250—not $6,000 ($3,000 each in the primary and the general) as proposed in the Senate-passed reform bill. Not many people can afford to contribute $6,000 to campaigns—and those who do will continue to have preference over those who don't.

But to elicit the hundreds of thousands, perhaps millions of dollars of small contributions needed to amass the huge amounts required to run for the Senate or the Presidency would necessitate a massive and successful fund-raising campaign. This may not prove practicable for every candidate, especially for a challenger. To make things worse, such a fund-raising campaign itself would call for heavy outlays of money. Where is this "seed money" to come from?

The only workable answer, I believe, is a broad system of public financing to complement—and stimulate—small contributions by large numbers of people. I am introducing a comprehensive bill that will bring that about. Hearings on the measure will be held by the Senate Committee on Rules and Administration, chaired by Sen. Howard W. Cannon.

In brief, my bill would match with federal funds small individual private contributions in both primary and general federal elections. To qualify for federal funds a candidate for the House of Representatives would first have to raise at least $2,500 privately. A Senatorial candidate would have to raise $10,000; a Presidential candidate, $100,000. These are not formidable amounts, but they are high enough to keep out nonserious candidates who have no real base of popular support.

Candidates who raise this "qualifying" money from private sources would then become eligible for federal matching funds: 2 to 1 in the primary and 4 to 1 in the general election. However: (*a*) only private contributions of $50 or less would be eligible for federal matching, and (*b*) under no condition could any single person's private contribution exceed $250.

Moreover, there would be rigid limits on how much money—public and private—could be spent in a campaign: 10¢ per person of voting age in a Presidential primary and 15¢ per person in the general election, for example. All private and public contributions would be deposited in a single trust account to be expended under the supervision of a court-appointed bank officer.

The public financing formula I proposed has the advantage of covering primary as well as general elections. It would bring more people into the electoral process and decrease the influence of the so-called "fat cats."

Tight limits on nonmatching private contributions, added to the incentives of matching funds, will motivate a candidate to seek out the small contributor. Political influence

no longer will require the kind of contributions made by Ashland Oil or American Airlines. It no longer will require the $2 million contribution of a Clement Stone. The American working man and woman will be on a par with the executives of the largest corporations. And what is equally significant, my proposal will enable the "outs" to raise sufficient funds to challenge the "ins."

The artificial limits imposed by other proposals severely hamper minor-party candidates. They fail to recognize that in some states or districts a third party may be, in fact, the major party, or that some candidates can run successfully as independents with widespread support. Handicapped by artificial limits, such candidates would find it impossible to run a winning campaign. My proposal places no restrictions on the minor-party or independent candidate. He can participate in the matching program as fully as his base of support justifies.

Incumbents in office have an understandable urge toward self-protection. We would be less than human if we did not. But we also know that equal opportunity is the very essence of democracy—and that the protection of equal opportunity for all Americans supersedes in importance the protection of incumbents in office.

Incumbents have overwhelming advantages quite apart from the matter of money. Some of these advantages—such as the recognition that comes from public service—cannot be affected by any form of legislation. But if we insist upon maintaining—or expanding—the money-raising advantages we already possess, we will betray our trust.

We should not try to postpone the inevitable. I believe reform must come, and I predict that more than one of those incumbents who stand in its path will be swept aside—and out. And rightfully so. After all, what have our careers in public life meant if we permit self-interest to dominate our actions on this most crucial of issues?

I estimate my proposal would cost the individual taxpayer $1 or $2 a year—a bargain price to pay to take the curse of big money out of the political system and get it back into the hands of the people, where it belongs. As Clayton Fritchey has pointed out, public financing of an election year's campaigns "at the maximum . . . would be less than one-tenth of one per cent of what Vietnam cost."

The fact is that big campaign contributions buy economic privileges of various kinds, like tax breaks, exceptions to the law, special subsidies or careless law enforcement. Every one of these economic privileges takes money out of the pockets of the average American taxpayer. By spending $1 to $2 a year the average citizen could get back literally hundreds of dollars in the form of fairer taxes, more competitive prices and better quality consumer products.

Events of the past year have caused some of those who have fought public financing in the past to rethink their positions. For example, Sen. Howard Baker, the vice chairman of the Senate Select Committee on Presidential Campaign Activities, said in late July: "I was one of the sturdiest opponents of public financing in the past. . . . In light of the hearings which have been held, I owe it to myself and the public to reconsider that possibility."

If enough members of Congress are willing to "reconsider that possibility," then we may finally be able to "shut off the underground rivers of private money that pollute politics at every level of the federal government," as Sen. Edward Kennedy put it. Ending our electoral system's dependence on large private donations may be the most crucial issue of our time. It goes to the very heart of our democratic process. How we resolve it will in turn determine how we resolve every other problem our nation faces.

EDUCATIONAL PROBLEMS IN HIGH SCHOOL BOOKKEEPING

Mr. PELL. Mr. President, as I am sure my fellow Senators know, one of the side benefits of being a subcommittee chairman is that many new ideas in connection with the subcommittee are brought to the attention of the chairman. As chairman of the Education Subcommittee, I am in a position to hear about a broad range of ideas and proposals to improve education. Many times these ideas do not lend themselves to legislation but do have merit.

Recently, Nicholas Picchione from Rhode Island brought to the attention of the subcommittee an idea for the solution of educational problems in high school bookkeeping. He has suggested that the complexities of double-entry bookkeeping are too difficult for beginning high school bookkeeping classes and that the simpler approach of single-entry bookkeeping could well be used to introduce students to that course.

Mr. Picchione has developed a curriculum manual and a teaching guide to assist with the single-entry teaching method, which demonstrate an efficient and adequate yet simple method of teaching bookkeeping. It is for this reason that I would bring Mr. Picchione's comments on this subject to the attention of the Senate.

I ask unanimous consent that a letter from Mr. Picchione, together with his exhibits, be printed in the RECORD.

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

NICHOLAS PICCHIONE & CO.,
Providence, R.I., June 5, 1973.

SUBCOMMITTEE ON EDUCATION, HEALTH, EDUCATION, AND WELFARE,
New Senate Office Building,
Washington, D.C.:

I feel very strongly that something must be done to stop the tremendous number of dropouts in high schools and colleges in the introductory courses in the subject of Bookkeeping.

As a Certified Public Accountant and former member of the faculty of Northeastern University, I speak with broad knowledge and years of experience when I say that Bookkeeping is not being properly taught in high schools and colleges throughout the country.

The subject of Bookkeeping by its very nature is one of the most difficult and complex subjects for the teacher and for the student. To make matters worse, the presentation at the inception of the course is so cold, technical and dehumanizing that it is a small wonder that the dropouts are not larger. This is a great tribute to the student's inherent desire and determination to seek knowledge.

My chief concern and desire is that some way must be found to stop these severe dropouts. I think that I have found the answer to this vexing problem.

It is rather simple but effective, namely, a brand new approach in the initial presentation of the subject of Bookkeeping.

Under present-day standards it is extremely difficult for the teacher to hold the interest of the students for the simple reason that double-entry bookkeeping is as enticing as digging a hole, refilling it and digging a hole again. It is utterly impossible for the teacher to excite the students because the subject is so dull, dreary and demoralizing.

What can we do to make the subject more interesting thus preventing drop-outs?

The first step is to try a new approach which would create a new found interest on the part of the students. How is this accomplished?

This is accomplished by teaching the simple basic concepts of single-entry bookkeeping applicable to millions of small businesses, instead of teaching the complicated principles of double-entry bookkeeping which is applicable to only a small number of businesses. In this manner the students will learn to record a series of transactions in a way they can easily follow and understand.

It should be explained to the student that America is made up of millions of small businesses. The very foundation of our economy is small business. Therefore, from the very outset the student must understand, and the teacher must make clear, that their first priority in studying Bookkeeping is to know the needs and problems of small business and how to cope with them.

It's both shocking and amazing that with over 10 million (See Exhibit D) small business firms in America having sales of less than $100,000 per year that the only Bookkeeping the students are taught is double-entry bookkeeping. To make this situation even more unbelievable is the fact that over 7 million small businesses in America have sales of only $1,000 to $25,000 annually (See Exhibit D).

What good is it to the students to master the complexities of double-entry bookkeeping only to find out when they enter the business world that what they learned in high school and college does not apply to the great majority of situations they will encounter?

The goal of your Committee, educators, superintendents, principals and teachers is to try to put a stop to drop-outs in Bookkeeping classes. My plan, or idea, or suggestion may not stop drop-outs completely but will certainly sharply curtail them. If high school students can't generate enough interest in their course on Bookkeeping because teachers are shoving double-entry bookkeeping down their throats instead of winning the students over with Single-Entry Bookkeeping, then I say your Committee should do something about it. If what I say or recommend accomplishes this objective, then your Committee should take a firm hold on this unhappy situation and do something about it.

There are 10 million small business firms using single-entry systems out there in the business world, yet in their class rooms, the students never learn a thing about single-entry bookkeeping. Your Committee should do something about it.

As a Certified Public Accountant and former teacher, I am trying to do something about it. I cannot do it alone. Your Committee is the only one that can do it.

I have successfully designed a simple practice set in Single-Entry Bookkeeping and have been spending my time and money to reach the high schools and colleges in the country. I spoke to a group of bookkeeping teachers in California, Chicago, and Miami which has resulted in some success. Everywhere I go I am met with enthusiastic responses because there is a dire need for our young generation to learn Single-Entry Bookkeeping.

Here are excerpts from six school officials on their favorable reaction to the use of Single-Entry Practice Sets in their courses.

Dr. Keith N. Bennett, Principal of the Miami Senior High Adult Education Center, in his letter to me dated January 22, 1973 (See Exhibit G) was generous in his applause for the discovery of a new method of teaching Bookkeeping. Here are his words of praise, "Your single-entry bookkeeping system seems so logical and so necessary that I am amazed that no one advanced a theory and practice long before you did. I think

your method and your materials are the answer to every small businessman's prayer. They want a bookkeeping system they can understand and manage by themselves".

Please note that in Dr. Bennett's letter he mentions my talk before Dr. Waggoner (who is the head of the Miami High School Department) and all of her department heads and how I made a "very positive impression".

From the Department of Education, State of California's letter to me dated July 19, 1972 (See Exhibit H) acknowledgement is made of the fact "that much of the teaching in our high schools in bookkeeping and accounting should be geared to job entry level employment". In this letter the significance of single-entry bookkeeping is recognized as having its place in high schools teaching the subject of Bookkeeping.

From the San Diego City Schools, you will find a letter dated February 29, 1972 (See Exhibit I) commenting on the samples of the Single-Entry Practice Sets sent for examination and review. In this letter Mrs. Rilla C. Lovell, Business Education Curriculum Consultant wrote as follows, "Teachers have reviewed the material and have recommended that it be added to our approved supplementary list of instructional materials".

As further evidence that the Single-Entry Practice Set is just what teachers are looking for here is a quote from the January 16, 1973 letter from the Jones County Junior College, Ellisville, Mississippi (See Exhibit J). "We certainly enjoyed using the Practice Sets. It is exactly what we want in our Distributive Education Course at Jones Junior College".

From Miss Georgianna C. Dedrick, a teacher in the Santa Fe High School, Santa Fe Springs, California, I received a letter dated November 13, 1972 (See Exhibit K) in which she acknowledges receipt of a supply of the Single-Entry Practice Sets and says, "My present plans are to use it either the second or third quarters—which class, I haven't decided".

From the Department of Education, State of Rhode Island, I received a letter dated March 15, 1972 which states, "After examining your material, I believe that it could be helpful to some bookkeeping teachers." (See Exhibit L)

In conclusion, what I am saying is that to teach double-entry bookkeeping exclusively, as is now being done, is an injustice to the students. The proper and correct method is to start every bookkeeping course with a Single-Entry Practice Set, which will give the student the proper foundation and make him mentally receptive to comprehend the complexities of double-entry bookkeeping.

I sincerely urge that your Sub-Committee on Education look into the present deplorable situation and immediately take steps to correct same. I shall be only too glad to appear before your Committee at any time.

Respectfully yours,

NICHOLAS PICCHIONE.

INDEX OF EXHIBITS

Exhibit A—Letter to The Journal of Accountacy by Richard J. Vargo, D.B.A.

Exhibit B—Article entitled "An Experiment with One-Semester Introductory Accounting Course" which appeared in the January 1972 issue of The Accounting Review.

Exhibit C—American Business is made up of Small People.

Exhibit D—Is There A Need For A Single-Entry System? The Answer is Yes!

Exhibit E.—Why Keep Records?

Exhibit F—Single-Entry Bookkeeping in High School Classes Totally Ignored. Why?

Exhibit G—Letter from Dr. Keith N. Bennett.

Exhibit H—Letter from Department of Education—State of California.

Exhibit I—Letter from San Diego City Schools.

Exhibit J—Letter from Jones County Junior College.

Exhibit K—Letter from Miss Georgianna C. Dedrick.

Exhibit L—Letter from Department of Education—State of Rhode Island.

Exhibit M—Program—Rio Hondo College, Los Angeles, California.

Exhibit N—Program—Chicago Business Teachers Association.

EXHIBIT A

[From the Journal of Accounting, January, 1972]

LETTERS TO THE JOURNAL

(From Richard J. Vargo, D.B.A., College of William and Mary, Williamsburg, Va.)

While Professor John C. Burton (JofA, Sept.71, p47) painted a gloomier picture of the future of accounting on campus than I foresee, he neglected to mention any of the reasons for its less-than-favorable current position. In my opinion, there are three major contributors to our inability to attract a larger number of bright students to the field of accounting. All three affect the introductory course(s) in the accounting curriculum.

The first contributor is the archaic, procedural type of textbook that abounds in accounting. The influence of the "traditional" textbooks on accounting education is immense and stifling (see John W. Buckley JofA, Aug. 70, p. 41). Debits and credits at the introductory level not only "turn-off" many nonbusiness and business majors but also may seriously reduce accounting majors' creativity and professional development at more advanced levels. The writer is hopeful that a broader approach, such as contained in the Report of the Study Group on Introductory Accounting sponsored by The Price Waterhouse Foundation, will eventually be widely practiced.

The second contributor to our present dilemma is the advancement of some of the better teachers and young researchers to teaching graduate courses exclusively. While much can be said about the need for improved graduate instruction and research opportunities, such a movement leaves a tremendous void at the undergraduate level. More consideration should be given to using the best and most enthusiastic teachers, regardless of their graduate capabilities, at the introductory accounting level.

The third contributor to lower accounting enrollments is the use of graduate assistants and other part-time instructors for many introductory classes. Most graduate students have not had any teaching experience and are poorly supervised by staff members, and all have as their prime responsibility their own degrees. Part-time instructors generally suffer from having extensive outside commitments—which tend to curtail their class preparation and advising of students on campus—lack of supervision and, in many cases, a very procedural viewpoint of accounting. While both groups are fulfilling a social need, and possibly a budgetary requirement, many potential students are lost because of ineffective teaching.

EXHIBIT B

(Quarterly Publication of the American Accounting Association)

THE ACCOUNTING REVIEW

Enforcement of the Code Ethics—Stephen E. Loeb.

Efficient Markets and External Accounting—Nicholas J. Gonedes.

Market Reaction to Depreciation Switch-Back—T. Ross Archibald.

Environmental Complexity and Financial Reports Henry Miller.

Effectiveness of Consistency Exceptions Elba F. Baskin.

Technical Change and Reported Performance William L. Felix, Jr.

On Taxonomy and Accounting Research Orace Johnson.

Interim Reporting for a Seasonal Business William J. Bollom and Jerry J. Weygandt.

Economic Social and Enterprise Accounting A. Charnes, C. Colantoni, W. W. Cooper and K. O. Kortanek.

Nonsampling Errors in Confirmations Eugene Sauls.

Models for Debt Processes Over Time William F. Melberg, Jr.

Ranking Techniques and Capital Budgeting H. Russell Fogler.

[From the Accounting Review, January, 1972]

AN EXPERIMENT WITH A ONE-SEMESTER INTRODUCTORY ACCOUNTING COURSE

(By H. M. Anderson, B. A. Coda and J. W. Giese of North Texas State University)

For the past several years, we have experimented with the curriculum for the introductory accounting course. Our primary objective was the development of new material which would increase the beginning student's knowledge of periodic income and how it is measured for a business enterprise. A necessary complementary objective was an increase in the students' understanding of balance sheet and the relationships between income measure, the balance sheet, and the funds statement. A corollary objective was a decrease in the reliance on double-entry bookkeeping as the basic method of teaching accounting concepts. Some secondary but important goals were: relate accounting measurements to the actual business activity; explain the historical development of basic concepts in terms of a changing economic environment; and increase the emphasis on the uses and limitations of accounting information.

USE OF A COMPLETED VENTURE

A completed venture model was used first to present the basic concept of income determination. In a completed venture, income and cash flow are easily related. Cash receipts and cash disbursements are familiar ideas to most students. Conventional pedagogy begins by explaining income as a change in wealth, or net worth, an explanation which presumes a rather sophisticated definition for assets and liabilities.

Income for a completed venture is measured by the application of three equations:

1. Revenue equals total cash received less the sum of receipts from debt investments and receipts from equity investments.
2. Expense equals total cash disbursed less the sum of disbursements to debt investors and disbursements to equity investors.
3. Income equals revenue less expense.

PERIODIC INCOME DETERMINATION

The course introduces periodic income determination for an on-going entity by using the ideas introduced in the discussion of a completed venture. Cash flows related to operating transactions serve as the foundation for periodic measurement of income. Income is still defined as revenue minus expense but the definitions of revenue and expense are modified.

The calculation of revenue in the matching framework is nothing more than a smoothing of cash receipts based on traditional rules for realization. To accommodate these rules accountants modify cash receipts from operations with additions or subtractions for changes in accruals and for changes in deferrals. The definition of revenue and expenses for a completed venture are expanded to include these modifications. Symbolic to show the relationships of revenues, expenses, accruals, and deferrals. Algebraic manipulations of the revenue and expense formulas permits derivation of the balance sheet and its articulation with the income statement.

Thus a financial accounting framework for profit seeking business entities that is compact, complete, and reasonably easy to understand is developed using inflows and outflows of cash as a foundation. No use of, or reference to, double-entry bookkeeping is required. Procedural contents is thereby substantially reduced leaving students more time and energy for comprehension of important concepts.

INTRODUCTION OF DOUBLE-ENTRY

In our opinion knowledge of double-entry bookkeeping, which for centuries has been an important and integral part of accounting is necessary to fully appreciate and understand the discipline of accounting. For this reason double-entry was included as an integral part of the experimental course; however, *the introduction of double-entry was delayed until after the student had learned the basic concepts.* Topics covered prior to the introduction of double-entry are:

1. The nature and purpose of Accounting,
2. Concepts of Income Measurements—Stock and Flow Approaches,
3. Measurement of Revenues and Expenses,
4. Measurement of Financial Position,
5. Classified Financial Statements—The Income Statement,
6. Classified Financial Statements—the Balance Sheet,
7. Cash Flow and Funds Statements.

Given the background developed in the first seven topics, the coverage of double-entry is surprisingly easy and efficient. The delay in presenting double-entry also assists students with the difficult problem of distinguishing accounting recognition in the sense of financial statement effect from recognition in the sense of making a record of a transaction.

After presenting double-entry bookkeeping, the following topics are covered in the remainder of the course:

1. Disposition of Services and Collection of Cash,
2. Acquisition and Use of Services—General Consideration
3. Acquisition and Use of Short-Lived Assets,
4. Acquisition and Use of Long-Lived Assets,
5. Investment Transactions,
6. Consolidation Financial Statements and Analysis of Financial Statements.

As shown by the list of topics, organization of the latter part of the course was based on business activities, as compared with a traditional organization based on balance sheet categories.

ADVANTAGES OF THE EXPERIMENTAL APPROACH

The impact of environmental forces on accounting is shown by relating the evolution of accounting concepts to historical events. For example, a student's comprehension of our preference for a flow approach to income determination is enhanced when the preference is explained in terms of industrialization, the large corporate business, and the separation of ownership from management. Other important concepts are similarly placed in historical perspective throughout the course.

The emphasis on income improves the student's comprehension of the modern balance sheet. Definitions of balance sheet categories are delayed until after students gain some insight into their nature through the process of computing income as defined in terms of modified cash flows.

Other benefits of the approach are (1) students learn relationships they need to know in order to work incomplete data problems; and (2) preparation of cash flow analyses from income statements and balance sheets are easily understood because students simply reverse the process they used to compute income.

Under "Acquisition and Use of Services—General Considerations" a number of issues sometimes omitted in a traditional approach were discussed. One example was a description and comparison of service, trading and manufacturing concerns, which permitted a useful overview of product costs and period expenses.

As compared with traditional courses, the experimental course permitted a higher degree of generalization in the treatment of several subjects. Acquisition, use and disposition transactions for tangibles and intangibles were handled at the same time. The similarities as well as the differences between services immediately recorded as expenses as compared to those recorded as assets were easier for the student to learn. The recurrence of recognition, classification and valuation problems in handling business transactions was continually emphasized.

Finally, the stronger conceptual background permitted fairly sophisticated treatment of some transactions that customarily get only surface treatment. Examples include leasing transactions, pension contracts and executive compensation.

DISADVANTAGES OF THE EXPERIMENTAL APPROACH

The advantages of the approach used in the experimental course are not cost free. The conceptual emphasis is more abstract and thus more difficult to master. Rote learning will not suffice for most students. A student must understand the concepts thoroughly in order to survive.

The instructors suffered a number of inconveniences. Problems suited to the unorthodox content of the course were in short supply. Many long-standing teaching habits were useless in the early part of the course.

Material ordinarily considered standard content in a first course in accounting was omitted or introduced as extraneous material. Bank reconciliations, internal control, cash management, the voucher system, and the details of payroll accounting were materials that fall into this category.

AN ALTERNATIVE

We believe that students in the experimental groups learned more of the things they need to know than they would have if we had used a "traditional" approach to the first course. This belief is far from a proven conclusion. Throughout this paper the word "experiment" has been used in the sense of trying something new, not in the scientific sense of identifying all the important variables and then controlling some of them to determine the effect on others. We altered organization and the points of emphasis substantially and content to some extent. These changes forced some changes in pedagogy. Our impression that students in the experimental groups came out better equipped for further study of business or accounting may be unwarranted optimism on our part.

There is one thing certain. We tried something different and now have a good feeling about it—another dab of yeast which might add to the fermentation of the accouating curriculum.

EXHIBIT C—AMERICAN BUSINESS IS MADE UP OF SMALL PEOPLE

The great bulk of businesses in America is represented by small business men and women. In fact, out of 9.1 million business tax returns filed more than 7 million or 76% of the returns had business receipts of less than $25,000.

Take a look at the following revealing figures:

Size of receipts	Number of returns (millions)	Percent
Under $1,000	1.4	15
$1,000 to $2,500	1.4	15
$2,500 to $5,000	1.2	13
$5,000 to $10,000	1.3	14
$10,000 to $25,000	1.7	19
Total	7.0	76

Now let's take a look at how profitable (?) small business is:

Adjusted gross income	Number of returns (millions)	Percent
With losses	2.3	25
Under $2,000	.2	2
$2,000 to $5,000	1.4	15
$5,000 to $10,000	2.7	30
$10,000 to $20,000	1.8	20
Total	8.4	92

It is quite clear from the above figures that American business is made up of millions of small people and judging from the size of business receipts and profit they are in dire need of financial and management assistance. As we all know the Small Business Administration was created precisely for the express purpose of aiding and assisting these people.

What are the high schools doing to cope with this situation? Teaching double-entry bookkeeping is of no help to these millions of small businesses because double-entry bookkeeping is for big business and not small business.

What is the alternative? The solution to this massive problem is to teach high school students the simple concepts of single-entry bookkeeping.

Let's take the cases of the 7 million small businesses who take in less than $25,000 a year Is it fair to burden these people with the expense of a costly double-entry system?

What these 7 million people really need and should have is a single-entry bookkeeping system so simple to keep and understand that they could actually keep the system themselves.

What the high schools should teach is single-entry bookkeeping. This is what the outside business world demands and this is what the students need to know.

Single-entry bookkeeping is widely used by the masses today yet is not even taught in our high schools. The teaching of single-entry bookkeeping is so important that it should be made a mandatory pre-requisite to every course in bookkeeping or accounting at every high school in the country.

CONCLUSION

Outside in the business world there are an estimated 10 million Single-Entry Bookkeeping Systems in use compared to only about 1 million Double-Entry Bookkeeping Systems. Isn't this sufficient evidence that there is a dire need for high school students to know about Single-Entry? The answer is obvious.

EXHIBIT D—IS THERE A NEED FOR A SINGLE-ENTRY SYSTEM? THE ANSWER IS YES!

As everybody knows most of the business firms in America are small. As a matter of record 9 out of 10 business firms have receipts of *less than* $100,000 a year. What this means is that 9 out of 10 business firms are too small to employ a double-entry system but are perfect for a single-entry system. Another way of putting it is—that a small business

firm doing $1,000 to $100,000 a year volume should definitely use a single-entry system of bookkeeping.

The beauty of a single-entry system is that it saves you money because you can do it yourself.

There are over ten million business firms in America with receipts under $100,000 a year. Take a look at the official figures below as copied from the Internal Revenue Service:

	Number of returns	Receipts under $100,000.00	Receipts over $100,000.00
Sole proprietors	9,126,082	8,721,086	404,996
Partnerships	906,182	734,023	172,159
Corporations	1,735,144	921,404	813,740
Total	11,767,408	10,376,513	1,390,895
Percent	100	88	12

Receipts	Number of returns (millions)	Percent
Under $1,000	1.4	15
$1,000 to $2,500	1.4	15
$2,500 to 5,000	1.2	13
$5,000 to $10,000	1.3	14
$10,000 to $25,000	1.7	19
Total	7.0	76

Of the 9.1 million sole proprietorships 7 million returns or 76% showed business receipts of less than $25,000.

The above statistics were prepared from Statistics of Income 1967, Business Income Tax Returns, Internal Revenue Service, Pub. 438 (8-70).

These figures show that approximately 9 out of 10 business firms in the U.S. have business receipts of less than $100,000 per year. It is quite obvious that these 10 million plus small business enterprises are too small in size to warrant the installation of a double-entry system, the engagement of a Certified Public Accountant and the hiring of a bookkeeper.

The only alternative for these 10 million people is to use a simple, ready-made bookkeeping record that the proprietor can actually keep himself and without the services of a Certified Public Accountant or a bookkeeper.

EXHIBIT E—WHY KEEP RECORDS?

There are many reasons for keeping records. The most compelling reasons are, 1) to know how well you are progressing and 2) because record keeping is required by law. As a bookkeeper you should be acquainted with the legal consequences of failing to keep records. Three things can happen if you fail to keep records, they are:

1. Disallowance of an expense—Any deduction that is questioned could be disallowed. If you cannot prove a deduction it cannot be allowed.

2. Reconstruction of income—In any case where a taxpayer keeps no records or his records are not adequate, the Internal Revenue Service has the authority to compute his income in accordance with whatever method will clearly reflect income. Most common methods employed by the IRS are the following:

Net Worth Method
Non-Deductible Expenditures Method
Bank Deposits Method
Percentage or Unit Mark-Up Method

In fact the IRS can use any method that will clearly reflect income and courts have been rather liberal in supporting a particular method used by IRS.

3. Criminal or civil penalty—Where willfulness in failing to keep records can be proved it is possible for a criminal penalty to be imposed. The fact is that the failure to keep records can be a misdemeanor. Where any part of a tax deficiency is due to negligence or intentional disregard of the rules—without intent to defraud—a civil negligence penalty may be imposed.

EXHIBIT F—SINGLE-ENTRY BOOKKEEPING IN HIGH SCHOOL CLASSES TOTALLY IGNORED. WHY?

A single-entry system is a simple record of cash received and cash paid out. It is accurate, complete and accepted.

There are over 10 million single-entry bookkeeping systems in use today compared to 1 million double-entry systems. Yet only double-entry bookkeeping is taught in high schools and colleges. Why?

Single-entry bookkeeping is actually unknown to high school students studying bookkeeping. Why?

The Internal Revenue Service accepts tax returns prepared from a single-entry system. But little is known of this fact. Why?

EXHIBIT G

MIAMI SENIOR HIGH ADULT EDUCATION CENTER,
Miami, Fla., January 22, 1973.

NICHOLAS PICCHIONE,
Chairman of the Board,
Dome Educational Aids, Inc.,
Providence, R.I.

DEAR MR. PICCHIONE: Yesterday, I received your letter and the materials. I am sure that you made a very positive impression upon Dr. Carrol E. Waggoner and her department heads. Your single entry bookkeeping system seems so logical and so necessary that I am amazed that no one advanced a theory and practice long before you did. I think your method and your materials are the answer to every small businessman's prayer. They want a bookkeeping system they can understand and manage by themselves.

When we start our new trimester on April 23, we are going to start the beginning students in the single entry system which you have suggested. I am quite sure that Mr. Joseph Zaher, our County Coordinator of Adult Business Education, will suggest that all adult schools experiment with your system. I have not talked to Dr. Waggoner, but she may delay using the materials until the new school year starts in September.

Again, thank you for being so generous with your materials. I am also very glad to have had the opportunity to meet and talk with you. I hope our paths will again cross soon.

Sincerely,

KEITH N. BENNETT,
Principal.

EXHIBIT H

STATE OF CALIFORNIA DEPARTMENT OF EDUCATION,
Sacramento, Calif., July 19, 1972.

MR. NICHOLAS PICCHIONE,
Chairman of the Board,
Dome Educational Aides, Inc.,
Providence, R.I.

DEAR MR. PICCHIONE: Your remarks concerning single entry bookkeeping systems are quite appropriate. They point out a significant fact that much of the teaching in our high schools in bookkeeping and accounting should be geared to job entry level employment.

The significance of single entry versus double entry bookkeeping is over-shadowed by the need for examining office occupations training in the high school to compare with that portion of the bookkeeping/recordkeeping or accounting principles that are needed by an entry level student.

It is not the practice of the Bureau of Business Education, California State Department of Education, to recommend specific texts or practice sets. We do believe your remarks about single entry bookkeeping are germane and appreciate your sending us your letter and your comments.

Sincerely yours,

BRINTON R. AIKEN,
Chief, Bureau of Business Education.

EXHIBIT I

SAN DIEGO CITY SCHOOLS,
San Diego, Calif., February 29, 1972.

MR. NICHOLAS PICCHIONE,
Chairman of the Board,
Dome Educational Aids, Inc.,
Providence, R.I.

Thanks for sending the examination copies of "Simplified Weekly Bookkeeping Record."

Teachers have reviewed the material and have recommended that it be added to our approved supplementary list of instructional materials. I am sure there will be some teachers who will purchase the set for further evaluation.

Your offer to come to San Diego to meet with teachers is very generous; however, as a general procedure we do not plan such meetings because of the number of similar requests we receive. Teachers prefer to review materials and, if interested, purchase some copies for further evaluation.

Thanks again for the complimentary copies.

MRS. RILLA C. LOVELL,
Business Education, Curriculum Consultant.

EXHIBIT J

JONES COUNTY JUNIOR COLLEGE,
Ellisville, Miss., January 16, 1973.

MR. N. EVERETT PICCHIONE,
President, Dome Publishing Company, The Dome Building, Providence, R.I.

DEAR MR. PICCHIONE: We certainly enjoyed using the Practice sets. It is exactly what we want in our Distributive Education Course at Jones Junior College.

My schedule was such last year that all students who will graduate this May took the course then, so it will not be offered this school year, and then next year I will offer it again and every year thereafter.

Sincerely yours,

WILSON PARTLOW.

EXHIBIT K

SANTA FE HIGH SCHOOL,
Santa Fe Springs, Calif., Nov. 13, 1972.

MR. NICHOLAS PICCHIONE,
Chairman of the Board,
Dome Educational Aids, Inc.,
480 Benefit Street, Providence, R.I.

DEAR MR. PICCHIONE: I do have your supply of Dome practice sets to be used in one of my classes, originally in my Shorthand II–secretarial practice clas.

However, in September I found I was assigned to teach a simulated office class so have not as yet determined for which class I shall use the set.

My present plans are to use it either the second or third quarters—which class, I have not decided.

As soon as I have completed the set in either class, I shall be glad to let you know the outcome of its use.

Sincerely,

GEORGIANNA C. DEDRICK.

EXHIBIT L

DEPARTMENT OF EDUCATION,
Providence, R.I., March 15, 1972.

MR. NICHOLAS PICCHIONE,
Dome Educational Aids, Inc.,
Providence, R.I.

DEAR MR. PICCHIONE: After examining your material, I believe that it could be helpful to some bookkeeping teachers.

As previously stated, my suggestion is that you forward samples to department heads of business in the secondary schools of Rhode Island. Should any of them feel that they can use your aids, I am sure you will be contacted.

Very truly yours,

FRANK A. PONTARELLI,
Consultant, Vocational-Technical Education.

EXHIBIT M

SINGLE-ENTRY BOOKKEEPING WORKSHOP

(April 24, 1972—Rio Hondo College)

Chairman: Mrs. Joanne Murphy, Citrus College.

3:30–4:00 p.m.—Registration & Refreshments.

4:00–5:50 p.m.—Program.

6:00 p.m.—Dinner.

Speaker: Mr. Nicholas Picchione, Chairman of the Board, Dome Educational Aids, Inc.

Coordinator: Dr. Dorothy M. Ford, Consultant, Career Education, Office of the Los Angeles County, Superintendent of Schools.

Refreshments and Dinner Sponsored by Mr. Picchione.

EXHIBIT N

CHICAGO BUSINESS TEACHERS ASSOCIATION

Chicago Business Teachers Association is proud to announce the 1972–73 Accounting and Consumer Education section meeting.

Topics: Consumer education and bookkeeping.

Speakers: Dr. Gerald Bober, Bureau of Business Education, Chicago Board of Education.

"The Importance of Consumer Education in the Curriculum",

Mr. Alan Muncaster, Public Affairs Department, Continental Illinois National Bank, who will present Continental's new series of instructional materials on consumer education, and Mr. Nicholas Picchione, C.P.A., of Dome Educational Aids, Inc., will present a new approach to teaching bookkeeping.

Date: Friday, November 17, 1973.

Time: 4:00 p.m.–5:30 p.m.

Place: Jones Commercial High School—Cafeteria, 606 S. State Street.

All persons interested in consumer education and/or bookkeeping are invited to attend! Refreshments will be served. No reply is necessary.

SHARON IVERSON,
BARBARA O'CONNELL,
Co-Chairmen.

FEDERAL ELECTION REFORMS

Mr. SCOTT of Pennsylvania. Mr. President, in a recent poll of its members, the U.S. Chamber of Commerce learned that greater than 90 percent of those responding favor public disclosure of campaign contributions and an overall reform of the election process. I ask unanimous consent to have both a summary of the poll, and the poll itself, printed in the RECORD.

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

OVER 90 PERCENT OF BUSINESSMEN FAVOR FEDERAL ELECTION REFORMS, CAMPAIGN COSTS DISCLOSURE, NATIONAL CHAMBER POLL SHOWS

WASHINGTON, September 8.—Members of the Chamber of Commerce of the United States support "public disclosure of contributions to and expenditures by all candidates for federal office," results of the business federation's nationwide survey disclosed today.

An opinion poll conducted by the National Chamber shows 94 percent of those members responding to a mailed questionnaire on federal election reform in favor of public disclosure. Ninety-three percent indicated they favored overall reform of the election process.

Voluntary funding of political campaigns received 76 percent support, but almost half of the respondents believe individual contributions should be limited.

Amounts contributed to a political candidate or party labor union and business-related political action groups also received attention. Eighty-three percent indicated they would limit political action committee contributions.

Contribution ceilings preferred for individual contributions were $2,500 per candidate or party. Limitations for business and union groups or by the candidate and his family were mixed but fell between $2,500 and $10,000.

An overall limitation on campaign expenditures was favored by 79 percent, but 72 percent opposed a limitation for media advertising expenditures alone.

Among other reforms favored are:

Registration and absentee voting for Americans overseas (72 percent).

Stricter laws and penalties to curb violence and other improper campaign practices (92 percent).

Four-year term for U.S. representatives (73 percent).

An independent agency to govern and enforce the Federal Election Campaign Act (74 percent).

Shorter campaign periods (88 percent).

Tax deductions for political contributions (68 percent).

On the question of repealing Sec. 315 of the Federal Communications Act to allow radio and television stations the option of granting free time to Presidential and other federal candidates of only the major political parties, returns were equally divided.

But 68 percent specifically opposed requiring broadcasting stations to grant free time to Presidential candidates. Seventy-nine percent opposed that requirement for Senate and House candidates.

National Chamber membership is composed of about 2,500 local, state, and regional chambers of commerce, American Chambers of Commerce abroad, trade and professional associations and more than 46,000 corporations, firms and individuals. Eighty-five percent of the companies employ 25 persons or less. The Chamber counts its underlying membership as more than five million.

Of the 49,000 questionnaires mailed, 6,882 or 14 percent responded. The polling period covered the last two weeks in July.

A report of the results is attached:

OPINION POLL (TOTAL RESPONSES, 6,882; GENERAL MAILING, 49,550)

[In percent]

	Yes	No
1. Do you believe there is need for Federal election reforms?	93	7
2. Do you favor continued voluntary contributions to finance political campaigns or do you prefer government subsidization (funding) of Presidential, Senatorial or House (Federal) campaigns?		
	For	**Against**
Continued voluntary funding only of all Federal campaigns	76	24
Government funding only of:		
Presidential campaigns	32	68
Congressional campaigns	28	72
Combination of voluntary and Government funding of all Federal campaigns	32	68
3. Do you favor public disclosure of contributions to and expenditures by all candidates for Federal office; and if so, in what amounts?		
94 percent yes; 6 percent no:		
$10 and more		4
$100 and more		25
$500 and more		18
$1,000 and more		30
All contributions and expenditures		22
	Yes	**No**
4. Do you believe that an individual should be permitted, as at present, to contribute as much as he wishes to a political candidate or party in a Federal election?	48	52
5. Do you believe that labor unions and business-related political action groups should be permitted, as at present, to contribute whatever amount they wish to a political candidate or party in a Federal election?	17	83

	$2,500	$10,000	$25,000	$50,000	Other (specify)
6. If you favor limitations on contributions to individual political candidates or parties, what minimum limit would you set for contributions by:					
(A) An individual?	47	26	8	8	12
(B) A business/labor political action committee?	28	31	16	14	12
(C) A candidate or a candidate's family?	23	25	17	24	11
				Yes	**No**
7. Do you favor an overall limitation on campaign expenditures by all Federal candidates?				79	21
8. Or, do you favor a limitation only on campaign expenditures for media advertising by a Federal candidate, as in present law?				28	72
9. If your answer is "yes" to either question 7 or 8, do you favor an established formula, based on a fixed number of cents per eligible voter in the candidate's campaign territory (i.e., Nation, State or congressional district)?				81	19
10. Present law gives a taxpayer the option to designate $1 of his Federal tax payment (called tax checkoff) to go to his party of choice for Presidential campaign fund:					
Do you favor this law?				48	52
Would you favor increasing the tax option?				40	60
Would you expand such fund use to all Federal elective offices?				37	63
Would you repeal this law?				55	45

	For	Against
11. Present law allows either tax deductions ($50 per taxpayer, $100 per joint return) or tax credits ($12.50 per person, $25.00 per couple) for political contributions:		
Do you favor:		
Tax deductions?	68	32
Tax credits?	53	47
Would you favor increasing:		
Tax deductions?	42	58
Tax credits?	34	66
Would you repeal:		
Tax deductions?	33	67
Tax credits?	39	61
12. It has been recommended that sec. 315 of the Federal Communications Act be repealed to allow radio and television stations the option of granting free time only to major (not minor) party candidates. Are you in favor of or opposed to this recommendation?	50	50

	Yes	No
13. Should radio and TV stations be required by law to grant free time to major party candidates?:		
Presidential/Vice Presidential	32	68
Senate and House candidates	21	79

	For	Against
14. What is your opinion on proposals to:		
Require the Federal Election Campaign Act, including disclosure requirements, to be governed and enforced by an independent agency?	74	26
Limit time period for political campaigns, including period for contributions and expenditures?	88	12
Require each candidate to have only 1 central reporting/record keeping committee?	92	8
Grant free or reduced postal rates for Federal candidates?	17	83

	Yes	No
15. Do you favor enactment of stricter Federal laws to curb violence or threat of violence, fraud, misleading or malicious charges, sabotage, espionage, and other infringement on rights or privacy or other improper campaign practices, and to provide appropriate penalties for same?	92	8

	For	Against
16. What is your opinion on:		
Retention of present 4-year term for President, subject to reelection?	70	30
6-year single term for President?	40	60
Elimination of present 2-term limitation for the Presidency?	24	76
Retention of present 2-year term for U.S. Representatives?	40	60
4-year term for U.S. Representatives with half of House elected every 2 years?	73	27
A proposal to allow voter registration by postcard, via the mails, with Federal and State supervision and direction of such registration, and with applicants to be subject to State election officials' approval?	34	66
A proposal to authorize qualified American citizens overseas to register and vote absentee in all Federal elections in the last State where they resided prior to going abroad?	72	28

17. Check 1 of the following to indicate your firm's major activity:	
Mining	2
Construction	12
Manufacturing	25
Transportation	3
Communications and utilities	3
Wholesaling	10
Retailing	10
Finance, insurance	11
Real estate	1
Services	9
Trade or professional association	4
Local or State chamber	7
Other	3

A GLOBAL FOOD PLAN?

Mr. KENNEDY. Mr. President, we hear a great deal, and rightly so, about the growing energy crisis. But another, equally fundamental, crisis is developing in the world—a worldwide food crisis.

The most essential commodity needed to sustain human life is, obviously, food. So the threat of food shortages is menacing whenever or wherever they occur. Even in our own country, with a history of surplus, families today are acutely aware of a growing world food crisis and the interrelationship between international food pressures and domestic supplies.

So, Mr. President, as we take steps to remedy food problems here at home, we cannot neglect the global food problems, particularly those affecting hungry people in the Third World countries.

Yesterday, the Washington Star-News columnist Milton Viorst reviewed the global food problem in a provocative column which I commend to the attention of all Senators. Mr. President, I ask unanimous consent that this column be printed in the RECORD.

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

[From Washington Star-News, Sept. 10, 1973]

(By Milton Viorst)

NEEDED: GLOBAL FOOD PLAN

It may not seem as if a beefsteak shortage in a Chicago supermarket has much to do with famine in the sub-Sahara. One seems to be the product of poor economic management in Washington, the other of African drought.

But, in the long run, they are closely related—because in food, as in so much else, the world is growing increasingly interdependent. And the experts seem apprehensive that we are on the edge of a worldwide food shortage which will require, for the first time in decades, global cooperation and perhaps even global planning.

The problem, paradoxically, seems to stem largely from an excess of riches in one part of the world and an excess of poverty in the other.

This can best be understood by examining cereals, which occupy three-fourths of the world's crop area and provide most of man's food energy. What distinguishes the rich societies from the poor is the way these cereals are consumed.

Americans consume per capita almost a ton of grain a year—but less than 10 percent of it is in the form of bread and bread products. Most of it is consumed indirectly, through the feed that goes into animals, as meat, milk and eggs.

The citizens of the underdeveloped world consume a fifth of the per capita American intake. They subsist by consuming grain directly, at the rate of about a pound a day They have little to spare for conversion into animal protein.

Thus, it's fair to say that it takes five times as much in agricultural resources—land, water, fertilizer—to support an American as it does to support a Nigerian, Indian or Colombian.

Furthermore, the curve of American consumption is still rising. We each ate 55 pounds of beef in 1940, 117 pounds in 1972, and no one knows our ultimate capacity. Meanwhile, the other industrial nations are catching up with us—which means, in terms of the world's grain supply, increasing stress on the undeveloped world.

Unfortunately for the undeveloped world, inadequate food production both causes and is perpetuated by poverty. While the industrial countries invest to get greater food yields, the poor countries haven't the capital for fertilizer, irrigation, machinery, energy and the spread of technical knowledge.

For a while, great hope was vested in the so-called Green Revolution, the development of hardier strains of seed that seemed to promise abundance. But the Green Revolution, too, has required investment—and, almost a decade after the phrase became current, it seems to be a source of disillusionment.

Indeed, countries with considerable land mass like India, Nigeria and Brazil can, perhaps, triple their food production, if they can get the funds necessary to bring per-acre yields up to Japan and the United States.

Instead, for the past 20 years, food production in the undeveloped world has barely held its own with population increase. More important, it has not provided the sense of economic security which demographers believe is a prerequisite to slowing the birth rate.

The net result has been (almost as if no one were paying attention) that the world's grain reserve—concentrated in the United States, Canada, Australia and Argentina—began to diminish, and with Russia's crop failure and subsequent huge purchase last year, it virtually vanished.

The shortage has meant a major rise in the price of grain in the United States, followed by the imposition of government price controls and a reduction of beef supplies going to market. In the sub-Sahara, it has meant—despite generous American shipments from depleted stocks—impending starvation.

The American government, responding tardily to these new conditions, shifted its farm policy this year to encourage planting on every available acre. The new policy promises to abate any food crisis in the next few years, but it ominously eliminated the world's largest acreage reserve.

The answer to this problem—and some ex-

perts doubt whether there really is one—seems to lie in more investment by the rich countries in the farm lands of the poor ones. Of course, an alternative may be to let millions starve. Or we may give up beefsteak. But whatever we decide, we're likely to feel the effects of a food shortage, personally, for a long time.

INDIANA OPTOMETRIST HONORED

Mr. BAYH. Mr. President, the highest award given by the profession of optometry is called the Apollo Award. I would like to add my personal congratulations to all the other tributes that have gone to Henry W. Hofstetter, O.D., Ph. D., of Bloomington, Ind., upon his being so honored by the American Optometric Association at its recent annual congress.

Dr. Hofstetter is widely known in the State of Indiana as an outstanding educator and researcher—known not only by those in the vision field but by all educators. Dr. J. C. Tumblin, outgoing AOA president, has called him a man:

Who has devoted his life to the research and education that forms the backbone of quality vision care.

Although he has excelled in all phases of the profession, his contributions to education are perhaps the key to his career. He organized, nutured, and guided the division of optometry at Indiana University and for 18 years served as its director.

If that alone were not enough to merit the recognition and appreciation of his profession, he has added contributions to visual research—research in varied and vital topics such as accommodation, accommodation-convergence studies, color vision, illumination, industrial and environmental vision, strabismus and stereopsis. He has surveyed and studied the demographics and income data in the field, industrial safety, and optometric history.

Dr. Tumblin numbers him among the most gifted and respected researchers in optometry—the results of his research have benefited millions of Americans who have received improved vision care.

In addition, Dr. Hofstetter is well known for his far-reaching international influence in optometry. He has personally visited and allied the profession and optometric institutions in Europe, Africa, Australia, New Zealand, India, the Philippines, Singapore, Hong Kong, Thailand, Ceylon, and Fiji.

Again, as an administrator, Dr. Hofstetter has left his imprint upon professional organizations, serving as president of the Association of Schools and Colleges of Optometry. He is the first educator/optometrist to serve as trustee and president of the 17,800-member AOA.

Dr. Hofstetter himself refuses to cover himself with such glory. He speaks of himself as "a worker who, so to speak, kept the faith and tried to do a good job."

Dr. Hofstetter has compiled a record of achievement that few of us could hope to match. It is the dedication of such individuals that pulls and prods the human race along the road to progress. We all owe a debt to Dr. Hofstetter's accomplishments in the field of vision, one of our most precious gifts.

THE LEGACY OF A BAD DRUG LAW—NO-KNOCK NURTURES LAWLESSNESS

Mr. PERCY. Mr. President, as a result of the mistaken drug raids on two Collinsville, Ill., families, I have received numerous letters and articles about other incidents from across our Nation.

Many of the letters provide a vivid account of how certain law enforcement officials, Federal and local, have broken into the wrong residences and have unjustifiably harassed the victims.

Perhaps the most reprehensible and traumatic incident happened near Eureka, Calif., as reported by Joe Eszterhas in the publication Rolling Stone and recently highlighed by Andrew H. Malcolm in the New York Times. A total of 19 agents, including 5 Bureau of Narcotics and Dangerous Drugs agents, 2 Federal chemists, 9 sheriffs deputies and an IRS agent moved in on the mountain retreat of Dirk Dickenson on April 24, 1972. The objective of the raid was to seize what was thought to be a "giant lab" producing drugs.

After arriving on foot with dogs and by air in a borrowed helicopter, agents assaulted the cabin with guns and rifles. Reports indicate the agents were not in uniform and failed to identify themselves.

Mr. Dickenson, apparently frightened, ran towards the woods. One Federal agent fatally shot Dickenson in the back. No "giant lab" was found.

Another particularly distressing incident happened June 2, 1973, in Tucson, Ariz., and was reported in the Tucson Daily Star,. Agents of a metropolitan narcotics squad rushed into the wrong house, did not possess a search warrant, were not uniformed, failed to identify themselves, and proceeded to kick furniture around as they searched the house.

At a later time the agents determined they were in the wrong house. This incident seems particularly outrageous in view of the fact that the agents subjected a 23-year-old girl, a polio victim who walks with the aid of crutches, to such conduct.

Like the newspaper accounts of incidents, letters continue to flow into my office concerning similar irresponsible conduct by some narcotics agents during drug raids. Many relate abuses by city, county, regional, or State narcotics agents.

The letters do not highlight incidents only from one locality or section of the country. Such incidents have prevailed, and continue to occur across our country.

In response, my distinguished colleague, Senator SAM ERVIN, has strenuously objected to the mistaken and unreasonable searches of innocent homeowners. Specifically, he, like myself, ascribes much of this conduct to the no-knock provision in section 879 of title 21 of the United States Code—Public Law 91–513. It is my fervent hope that a greater awareness as to the number and severity of these drug raids will underscore the need for a wholesale reconsideration of this legislation. Its mere existence on the statute books appears to induce more repugnant conduct by certain law enforcement officials, who misconstrue the mandate, than constructive assistance to the critical law enforcement effort against illegal drug trafficking.

Mr. President, I ask unanimous consent to have the article "Death in the Wilderness" appearing in the May 24, 1973, edition of Rolling Stone, and the article "Wrong Residence Raided by Police" appearing in the Tucson Daily Star appended to my remarks at this point. In addition, I ask unanimous consent that a sampling of five letters, including one which was forwarded to me by Mr. and Mrs. Herbert Giglotto—forced to move from Collinsville, Ill., as a result of their experience as innocent victims of a deplorable drug raid—be printed in the RECORD.

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

DEATH IN THE WILDERNESS

(By Joe Eszterhas)

They were asleep in their cabin, at the edge of a woodline of sequoia and madrone, tucked safely into that vastitude of green darkness. Something woke her. He was staring at the ceiling, eyes large and unblinking. He was trembling.

"Tell me," she said.

. . . An execution squad was coming for him. Shotguns in their hands, hair as long as his own, wearing jeans, Army jackets, holstered .38s on their hips. They shouldered the cabin door, ripped it from its hinges, and kicked at the dogs with steel-toed combat boots. They saw him and stopped. He was on the back porch, frozen by panic, and couldn't move. They said nothing. Their faces were blank and waxy. They aimed and fired. He heard the gunshots and saw the glop of his own blood. He was dying. . . .

She held him and shushed him, and, together, they sought the familiar, reassurances of their pitchblack nights: Susurrus of coastal wind, the languid whoosh of redwoods, the thud and patter of their two St. Bernards, the moon's gentle white eye.

She thinks about his dream when she visits him these days. Judy Arnold looks at Dirk Dickenson's grave, on a plot of tacky suburban land far from his rugged proud mountains, and she remembers how she calmed him.

"You aren't going to die, babe, it's just a dream, a lousy, rotten, silly dream."

Stretching along the fog-shrouded Mendocino coastline to the Oregon border, Humboldt County, California, is a wilderness of skyscraping trees, rich green and russet foliage, and rock strata stark and magnificent. Sheep graze the hills and, except for US 101, the roads are knife-thin, veinous and steep. Parenthesized by mountain, the countryside is velvet-like and soothing. It is easy to be charmed here, to observe that all this polychrome beauty exudes a serenity: a nimbus of peace which hovers protectively over the treetops.

But there is little harmony in Humboldt; its splendor is a cruel mirage. Acres of redwoods have fallen victim to conglomerate cash registers and their arsenals of chainsaws. So there are hillsides which form sad and gutted bleakscapes of stumps, profound testament to the unending savagement of the big trees. The sound of sawtoothed metal screaming into wood has been echoed by the screams of dying men and their killers' weapons.

On the evening of February 26th, 1860,

a delegation of Humboldt sourdoughs, white settlers, visited a tribal celebration of Mad River and Yurok Indians. A young newspaperman named Bret Harte recorded their visit in the Arcata Northern Californian: "A report was brought from Eureka during the night that nearly all the Indians were killed by persons unknown. A few loaded canoes bringing the dead bodies to Mad River confirmed the report. A more shocking and revolting spectacle never was exhibited to the eyes of a civilized people. Old women lay weltering in blood, infants scarce a span long with their faces cloven with hatchets and their bodies ghastly with wounds." Two hundred Indians died—massacred, a local historian wrote, because they were Indians.

Decades later, in 1885, another posse of sourdoughs collected 480 "Mongolian Highbinders" as guilty as the Indians—of being Chinese. Accused of practicing amoralism and smoking heathen opium, the Chinamen were herded into a warehouse on the Eureka waterfront and banished to the San Francisco Bay aboard two barely worthy steamers. In that year, The Eureka City Council passed a law which ordered: "1. Expelling all Chinamen from the city and that none be allowed to return. 2. Appointing a committee for one year whose duty it shall be to warn all Chinamen who may attempt to come to this place to live and to use all reasonable means to prevent their remaining. 3. Issuing a notice to all property owners through the daily papers asking them not to lease or rent property to Chinese."

In 1937, Eureka's Chamber of Commerce was still pointing with pride to the success of its program: "Eureka is the only community in the country in which there are no Oriental colonies." No pigtail infected the city until 1945.

Says another newspaperman, Dan Walters, the managing editor of the daily Eureka Times-Standard, a man with tublike shape, moony face and spontaneous warmth: "Until about ten years ago, when US 101 was built through here, Eureka and much of Humboldt was a very insular place. Understandably. Not many people ventured through. We had two-lane roads often blocked by mudslides. Lumber trucks would barrel and rocket up and down and some people would suddenly find themselves sandwiched in some tiny car between tons of wood and steel. The world stayed away from Humboldt. The ideas and, I suppose, the prejudices folks had suckled since the days of their grandpappies were allowed to stand unchallenged. Then they built the superhighway and the world rushed in full chisel. Tourists, money, crime, thousands of students to Humboldt State University, and worst of all, hippies."

The hippies came in the fall of 1969, refugees on the autobum up the Coastal Highway from Marin and Mendocino, ragged out and ——— elegant in surplus-store finery, some so thin and wasted the lumberjacks claimed they could smell the ——— right through them. They were, by and large, aging kids who'd left the ghettoized hippie hellholes they'd found in the cities and, seeking transcendence and salvation, carrying joints, snorebags and little else, they came to the high, deep parts of the wilderness, to towns like Garberville and Alderpoint and Whitethorn, places so tiny you could just about ——— from one end of town to the other. Adventurous freak pioneers, the survivors of other trips, they came to grub for survival.

Seduced by the meretricious charms of the land, they came joyously to settle and discovered themselves despised and unwanted aliens . . . the Mongolian Highbinders incarnate . . . furry-faced *redniks* among redwoods rednecks . . . ——— no-accounts leaving their ——— all over the doright folks' tidy acres.

The new pioneers picked their shady spots and tumbledown cabins, paid their few city-earned dollars, and moved in, befouling the countryside with packs of unleashed dogs and birdlike women, the child-eyed nymphets they ruefully called old ladies. They made crowbait homes like the one inspected by Eureka architect William Van Fleet: "The place was a pleasant area, carved out in the madrone trees, remotely situated on an old dirt road, with little more than a lean-to for inclement weather. Though they had to carry water a mile from the nearest river, their sanitation facilities seemed quite adequate. They had no electricity, but they were well-stocked with candles."

Many settled in Southern Humboldt, about 100 miles south of Eureka, around Garberville and Alderpoint, and the sourdoughs responded predictably. Storeowners claimed they were being "stolen blind" and filed insurance claims; Garberville Chamber of Commerce members said they were "scared to death"; a real-estate agent said: "The county would be better off if they'd never started coming here. A couple of hard winters ought to be enough to phase them out." But the new pioneers had an old-fashioned settler's sticktoitiveness which wouldn't countenance "phasing out." More and more of them arrived, some of them apostatized dopers who craved the sanctum of the woods; others banded together in free-flowing communes where, the sourdoughs were sure, the dope addicts ——— like rattlesnakes, fed their women ———, and ceremonially ——— on the American flag.

While a lonely county official defended the "invaders"—"They are young, college-educated and pessimistic. They are trying to live their own lives. They feel misunderstood"—other residents saw whorls and splotches of blood: Sheep were being cannibalized, packs of wild starved hippie dogs stalked their ranches like mountain cats, feasting on their livestock.

On February 26th, 1971, a ramshackle farmhouse in Whitmore Valley burned to the ground. It was the home of a Christ-bitten freak commune. On March 18th, near Maple Hill, down the road from Alderpoint, another house burned. Occupants: a long-haired family. March 19th, a farmhouse between Briceland and Ettersburg; occupants: a black man and three white women. March 22nd, two fires in Briceland: a garage occupied by a bearded poet and a house which the Division of Forestry defined as "a hippie domicile." There were more fires: on April 5th, April 12th, April 19th, April 20th. On May 24th, three houses burned at the same time. All the fires were the result of "suspected arson." No one was arrested. A Division of Forestry spokesman said: "No, we never discovered who set the fires. The woods are very dry that time of year." The freak pioneers were systematically being burned out.

On June 22nd, near Garberville, three freaks hitchhiking at dusk along a hinterland road were met by a pickup truck. The truck carried six men, several of them wearing black cowboy hats, all of them armed and drunk. The longhairs were pistolwhipped and left semi-conscious in the middle of the road, easy target for cars barreling around the blind curves.

But the new settlers found one unlikely friend, the Garberville Justice of the Peace, William Thomas, a former sawmill operator who watched the influx and said: "In the past, when I was working in the woods here, this area was filled with drunks, parole violators and pranksters. I think these longhairs have upgraded the place." A recall drive was initiated against Thomas in the fall of 1971, spearheaded by a rancher named Archie Brunkel, who was also a Humboldt County Sheriff's deputy. Thomas, now called The ——— of the Peace, was accused of letting knowing his ———from teabags, of letting hippie-dogs ravage the hillsides, of "constantly rendering decisions that in the opinion of the large segment of the community tend to favor the lawbreakers." Archie Brunkel, as florid as his television almost-namesake, put it more bluntly. "The judge is soft on hippies," he said. The recall failed, but emotions grew more fevered. Loaded shotguns were racked into pickup trucks; longhairs stockpiled their cabins with ammunition.

Into this landscape of soaring beauty, arson-charred houses, and the pasttime of shed blood, came one more settler in the fall of 1971. He sought anonymity and quietude like all the others, yet in another year his name would be woods-legend.

Dirk Dickenson was 24 years old. Auburn-red hair poured down his back; his face was long and drooping; his eyes were hooded and simmered like charcoals. He was six feet tall and weighed 165 pounds. He grew up around Sacramento, a child of suburbia, and was married and divorced by the time he was 21. "I don't want to be just another patsy working 40 hours a week with a house and two cars and not much to live for," he told his friends. He decided he "had to learn how to live."

He came to the wilderness with his girlfriend, Judy Arnold, whom he often called his wife. She was 23 years old, a nurse's daughter who met him soon after she graduated from high school. Her blonde hair was as soft as gossamer; she was lithe and sloe-eyed and lovely and she spoke to him in hushed half-sentences. "We don't need to talk," she'd say to him, "we don't need words."

They came to Humboldt to get away from the gaseous shrouds of the city, from the hassles and scams and fears of making it in the urban streets. They wanted their own back porch at sunset, where they could sip Jack Daniel's and live happily ever after.

PATRICK BERTI 1948–1970

We Drink Hippie Blood, the sign said at the Ivanhoe Bar in Ferndale, a few miles south of Eureka. Backpacking caravans of barefooted freaks trudged through the weatherworn town in the summer of 1970 and the louse-infested hordes were obviously spreading their ——— and inner decay.

During commencement ceremonies at the local high school, the senior class had the brazenness to castigate its own administration. . . . At College of the Redwoods, Ferndale's new business school, four students showed up at graduation carrying a coffin with a placard that read: College of the Redwoods, Business as Usual. An enraged off-duty Ferndale policeman hastily performed a citizen's arrest and took the pallbearers to the pokey. The local paper urged readers to defend themselves: "For years we have been warning children not to accept rides from strangers. In today's world we must also tell them not to accept anything from strangers. Dispensers of drugs seem to not only frequent the big cities or some place miles from here, but have been known to recently approach local students with the idea of selling to them."

On Sunday, October 4th, 1970, an ambitious and hardworking Humboldt County sheriff's deputy sat on a dope stakeout in the deadfall on the banks of the Eel River near Ferndale. Two four-foot high marijuana plants were in full bloom, in clear violation of the State of California's Criminal Code. Watching the plants that week was sheriff's inspector Mel Ames, a hardnosed 15-year veteran of the department. Ames asked deputy Larry Lema, new to the force and eager, to watch the plants while he rested his eyes and took the weekend off.

On Sunday afternoon two young men came to the riverbank and began examining the plants in obvious merriment. One of them was Pat Berti, 22 years old, born and raised in nearby Ferndale, a member of Tau Gamm Theta fraternity, a graduate of Chico State

College, and about to enter San Diego Law School.

Deputy Sheriff Larry Lema knew Pat Berti (they were lifelong acquaintances) and saw him holding a twig of marijuana.

Lema thought the twig was a gun, a deadly weapon in the hands of a dope-grower. The deputy drew his gun and fired once from the bushes. Pat Berti, blood oozing from his chest, saw Lema as he bent over him. "* * * Larry," he grasped, "you've shot me," and died.

Humboldt County District Attorney William Ferroggiaro, a former public defender elected to office in 1967, took the case to the Humboldt County Grand Jury. The shooting was ruled "justifiable homicide."

Deputy Sheriff Lema was transferred off patrol to guard-duty at the crumbling Humboldt County Jail; a griefstruck young man confessed responsibility for cultivating the two plants; Pat Berti, who'd visited the riverbank because he couldn't imagine marijuana growing beanstalk-high, paid the price of his curiosity . . . and was buried.

Dirk Dickenson and Judy Arnold found the cabin at the very heart of the area scorched by the house-burnings. It was perched on the eastern slope of Pratt Mountain, 80 miles south of Eureka in the Humboldt hinterland, 13 miles from Garberville on the road to Alderpoint. They chose it for its view: Their back porch commanded a panoramic expanse of valley, woodline and mountain. They had no electricity, used a woodstove for heat, and piped the water from a hilltop a thousand feet away.

They faced immediate problems when they moved in. To get to their 40 acres from the road, they had to drive a snaking gravel path through the property of the rancher who had supplied water and electricity to their cabin's previous tenants. The rancher disliked longhairs and welcomed his new neighbors by shutting the water and electricity off. They answered him by making do. They built their own pipeline and didn't really need electricity. "After that," Judy Arnold says, "he let us alone."

They furnished their place as best they could. They lugged in a seven-foot redwood table and built a crude addition they called a living room. A bathroom was their next project. They already had a tub, but it was still out on the back porch. Until the new bathroom was ready, the living room would serve as their Saturday night bathing spa.

They missed the plastic comforts of their apartment in Hayward, a place of billboards and hamburger stands southeast of San Francisco, but it was an easy sacrifice. They were happy. Dirk was learning the woodworking craft and, most important, he had cleaned up his private life. He knew his way around drugs and, for a while in Hayward, he was next to people who were stuffing pillow covers with dope-deal money. But he was tired. He decided to strike out as a backwoodsman. He badly wanted to live in the mountains, and thanks to the growing redwood burl industry, he could make solid money and still open his eyes each morning to a lofty view.

The redwood burl business was booming in Humboldt. Demand for the burl tables in the city increased rapidly and some tourist-galleries on Ghirardelli Square and Union Street in San Francisco sold the tables for as much as $800. Crafting burls was a relatively simple process. You picked out a good burl tree, cut it up, smoothed the wood, and stood to make as much as $10,000 on that single tree. Or you could buy dry burls for $20 apiece, take them home, polish and smooth them for two or three days, and sell each burl for a minimum $200. Dirk Dickenson figured he'd even have an additional income from the hundreds of Christmas trees crowded onto his 40 acres. You didn't need a potful of money to survive in the wilderness.

While Dickenson happily scouted his burls, the San Francisco office of the United States Department of Justice's Bureau of Narcotics and Dangerous Drugs was feverishly trying to locate what it believed to be the largest manufacturing plant of PCP in California. Phencyclidine hydrochloride is a hallucinogen, an animal tranquilizer which provides an acidlike high and, doctors say, gradually damages the brain.

An informer providing "hard intelligence" told the BNDD the "million dollar" PCP-operation was rigidly organized and lethally dangerous; that members of this organization were armed and "would not hesitate to use guns." The ring's "master chemist," according to this informer, was Dirk Dickenson. His 40 acre site was allegedly the location of a "giant lab," supposedly guarded by Dickenson's St. Bernards, Boogie and Vernon, both "trained to go for the throat."

BNDD agents got in touch with the Humboldt County Sheriff's Department, specifically with Undersheriff Bob Bollman, 58 years old, hulking and plainspoken, the number two badge in the department, a hardline law and order man who made no secret of his belief that hippie-dopers were turning Humboldt County into a nightmarish scumpit.

Bollman assigned one of his most trusted men, Inspector Mel Ames, to liaison with the Feds. Mel Ames was his "dope expert," the cop who'd kept himself concealed in the bushes, eyes trained on the two marijuana plants, for a full week—before Deputy Sheriff Larry Lema shot and killed Pat Berti.

In February and March of 1972, Mel Ames scouted Dirk Dickenson's property three times, seeking a single glimpse of the "giant lab." He saw nothing but tree tops and foliage. For reasons known only to Mel Ames, all the reconnaissance was done from an airplane; no traditional surreptitious visits were paid to the property itself, though Dickenson was away for days at a time visiting his parents.

It was Mel Ames who devised the ploy of an "inside man" to help the future bust on the Dickenson property. The "inside man" was tailor-made for the job. He was the county dogcatcher, squarefaced Bill Bushnell, who held office hours at the Garberville Sheriff's Substation, headquarters of the sourdoughs' recall campaign against ——— of the Peace William Thomas.

Dogcatcher Bushnell knew the traps and secrets of the rugged terrain and often hiked miles to some isolated laid-back leanto. He'd arrived sweating like a bull, armed with a gun in one hand and a complaint about an unleashed/untagged hippie dog in the other. He'd finagle his way inside the house, with radar-eyes zooming in on ashtrays to spot a few suspicious cigarette butts. He'd come back hours later with Jeepsful of sheriff's deputies.

Fate provided Bill Bushnell the final qualification for being the inside man on the Dickenson raid. The BNDD informer said Dickenson kept those two go-for-the-jugular St. Bernards. Bushnell was expert at "incapacitating" dangerous dogs.

Undersheriff Bollman added another gothic wrinkle to the case. He neglected to tell the District Attorney about it. In the undersheriff's opinion, William Ferroggiaro was a liberal soft on law and order, a Hightalian egghead who talked like he'd swallowed a dictionary and more often than not acted like a pure-grade horse's ———. He could somehow botch the whole investigation and what the DA didn't know wouldn't hurt any ——— . . . neither the Sheriff's Department, nor the United States government.

Undersheriff Bollman saw no need, either, to concern the sheriff much with the Dickenson case. For all practical purposes, Humboldt County was without a sheriff. Oh, sure, there was a man sitting in a courthouse office, behind the fancy door that said SHERIFF on it, but Sheriff Gene Cox looked eroded and sallow and had all-consuming problems of his own. Sheriff Gene Cox drank too much and spent a few weeks in Napa now and then under clinical supervision—as even the Eureka Times-Standard was forced to report—drying out.

BUNKY FERRIS—1950–1971

On December 4th, 1971, in a ——— Willow Creek bar near Hoopa in Northern Humboldt, site of the largest Indian reservation in the State of California, a fistfight broke out between Indians and local sourdoughs.

One participant was Bunky Ferris, a 21-year-old Indian, a UCLA student back at the reservation during semester break. Ferris was militant, longhaired and tough.

Robert Marmon, the jowly bartender, tried to "break up" the fight. Ferris and some of his friends disliked and distrusted Marmon who they said liked to taunt them with racial slurs.

Marmon tried to "break up" the fight with a gun. The gun "went off" and Bunky Ferris was dead.

Indian activists demanded District Attorney William Ferroggiaro seek a murder indictment against Robert Marmon. Ferroggiaro took the case to the Humboldt County Grand Jury.

One of the witnesses on the bartender's behalf, Indian militants claimed, was so drunk she fell off a chair. The District Attorney let the pratfallen lady's testimony stand, and, an Indian leader alleged, "He played to the majority around here who still feel the only good Indian is a dead Indian."

Ferroggiaro said he did the best he could.

The death of Bunky Ferris, the grand jury ruled, was "accidental."

"If it wouldn't have been for Under-sheriff Bollman's ego," says portly Dan Walters, managing editor of the Eureka Times-Standard, "chances are the world never would have found out about Dirk Dickenson. Chances are things might have been, you might say, *tidied up.*"

On Friday, the 24th of March, 1972, in McKinleyville, a tanktown 20 miles outside Eureka, a crewcutted 20-year-old named Allen Thornhill became despondent, went bersek, barricaded himself in his house, and started shooting target-practice at passersby with two pelletguns and a rifle.

All available sheriff's deputies surrounded the house and were pinned down by Thornhill's gunfire. It was a moment of high frontier drama, a carnival-like siege just like the ones produced periodically in Brooklyn, Detroit City and Chicago. The whole town buzzed about the shootout and reporters and photographers from the Times-Standard flitted grimly around the scene.

After several melodramatic hours, Thornhill, as a deputy said "came crawling out." Times-Standard photographers recorded his capture and next day's front page was plastered with three- and four-column pictures of gun-toting deputies leading the sniveling owly-eyed sniper off to jail.

"Bollman loved the publicity," says Dan Walters, "I mean, he thought it was the greatest thing to ever happen to the sheriff's department to get splashed like that all over the paper."

"Of course," adds Dan Walters sardonically, "I thought they looked like a bunch of ——."

The reason Dan Walters, who likes policemen and types himself a political conservative, thought the deputies looked like ——— was directly because of Undersheriff Bollman.

The undersheriff, more than anxious to command his forces in battle, never made it to the shootout. He didn't make it because, speeding to McKinleyville, he crashed a red light at 5th and V Streets in Eureka.

His patrol car glanced off one car, careened into another, then flipped like a jumping bean and tumbled 50 feet. Three Eurekans were rushed screaming to the emergency

room, casualties in the war against crime. The Times-Standard ran a picture of Bollman's belly-up sheriffmobile with a headline that said: The Undersheriff Didn't Make It.

On the night of April 3rd, Undersheriff Bollman called Dan Walters and said he was giving him a good story, a story even better than the McKinleyville shootout. Undersheriff Bollman was officially in charge of the department; Sheriff Cox had temporarily exiled himself to a rehabilitation center called Duffy's in Calistoga.

Bollman dramatically told the managing editor to assign a reporter to him the next day and make sure the man brought his camera. He couldn't say why, but it was *big!*

Walters pressed for details. All right, Bollman said, I'll tell you: The Sheriff's Department was going to be involved in the biggest narcotics bust in the history of Humboldt County! Maybe the biggest bust in the history of the State of California!

The undersheriff didn't tell Dan Walters anything else, except that the bust would take place "up in the boonies."

On the morning of April 4th, 1972, a bright and sunny day, Dirk Dickenson and Judy Arnold got up at nine o'clock and decided to visit their tree. It was a splendrous majestic burl stretching high into the cloudless sky . . . perfect, Dirk thought, for eight to ten tables.

"It was so big we couldn't believe it," Judy Arnold says. "We stood there and looked up at it. Dirk was really jazzed, he was so excited."

They decided to buy it and inquired at a nearby ranch after the burl's owner. It belonged to Bill Bushnell, the dog-catcher.

They drove to Garberville looking for Bushnell and found him at the sheriff's substation. Bill Bushnell had time to talk to them; he was killing time. He was waiting to hook up with the Fed/sheriff posse which would raid Dirk Dickenson's property with a warrant for his arrest in less than three hours.

But the cagey dogcatcher said nothing to Dirk Dickenson about that and when Dickenson asked if the tree was for sale, Bushnell said sure—"No problem, you wanna buy it, it's yours."

They agreed to finalize their deal "tomorrow."

They shook hands on it; the dog-catcher smiled.

Dirk Dickenson and Judy Arnold climbed back into their blue Scout and drove down the street to a craft shop, listening studiously to the owner's advice about smoothing their burls.

"Then we went home," Judy Arnold says. "We stopped at the liquor store and Dirk bought me a real big bottle of Jack Daniel's. We were going home to celebrate our tree."

When Kenny Krusco, the pint-sized boss of the federal narcotics team, heard that the undersheriff of Humboldt County had invited three newsmen to accompany and film the mountain riders, he was furious. The bust would be a high-tension commando-like operation; they were going after criminals their intelligence said were armed and dangerous; they would be exposing their throats to the fury of homicidal St. Bernards. The newsmen would foul everything up; the witnesses would have to stay behind.

But Undersheriff Bollman, his eyes trained on Sheriff Cox' wobbly job, insisted the reporters go. There were some harsh words and Krusco, perhaps not wanting to offend a cooperating agency, backed off. No sweat, Bollman assured him, the reporters would take orders: They had promised to ask questions of no one except the two of them.

There would be three reporters: two Eureka television news-photographers, Ron Rose and Carol Olson, and Richard Harris, the sour ace of the Eureka Times-Standard staff, a former Vietnam Public Information Officer, so straight he didn't even drink, a young man with an old man's love of the golf course.

Krusco would honcho the bust. The raid would be composed of two assault teams, a total of 19 men: five Bureau of Narcotics and Dangerous Drugs narks, two federal chemists, nine sheriff's deputies and an IRS agent one of the reporters would describe as "a grayhaired Dustin Hoffman." Plus Bushnell, the dogcatcher. They would all be armed with shotguns, revolvers and rifles; fed narks would be camouflaged in longhair, Levis and tie-dyed T-shirts.

Two platoons were needed because of the logistical importance of the element of surprise. No one knew how many bigtime dopers would be holed up in the cabin. Gunplay, their intelligence said, was a probability since the members of the "Dickenson Ring" were thought to be armed. One nark team would drive to the cabin, lurk in the trees, and strike as grunts from the road. The other would be airlifted in a Huey helicopter borrowed from the US Army. When the chopper touched down in a clearing near the cabin, both teams would run for the cabin door. The St. Bernards, it was clear, might have to be shot. The killing of the dogs was the dogcatcher's special responsibility. The agents were certain the raid would uncover the "million dollar . . . giant lab." The three reporters would stay the hell out of the way and would under no circumstances take pictures which showed any of the agent's faces.

If there were any problems, Kenny Krusco would bark all the signals. Krusco was an experienced federal narcotics agent, the little big man of the BNDD's San Francisco office, a legend among his colleagues: the man who had put the cuffs on the Acid King himself, Owsley Stanley. He had also participated in the Kafkaesque 1970 arrest of Bay Area attorney Michael Metzger, the former assistant US District Attorney who had waged a one-man war against narcotics agents' tactics, a war directed primarily against Kenny Krusco and his drinking buddy, state narcotics agent Gerritt Van Raam. Metzger had called Krusco a liar several times in court (on one of those occasions the government couldn't even deny the allegations) and when the posse came for Michel Metzger, Kenny Krusco was there.

On this sunflecked day in the mountain town of Alderpoint, as the three reporters waited for the land/air assault to be launched, they kept hearing federal agents refer to the suspects they'd find in Dirk Dickenson's cabin. The agents kept describing these suspects with a hissed single word: "Creeps."

Richard Harris, the golf-loving reporter, had an unnerving flash of deja vu. It was Vietnam all over again. They were going to to take a remote hooch with a kind of helicopter strike; this time, instead of gooks, they were hunting creeps.

DIRK DICKENSON, 1948–1972

When they got back to their cabin, Jack Daniel's No. 7 Tennessee Sourmash in hand, Dirk Dickenson and Judy Arnold stretched out on the back porch, cracked the seal on the new bottle, and toasted the burl tree that would make them rich. The bathtub was sitting out there too, incongruous and absurd in the noonday sun, and they decided to devote a lazy afternoon to building a room for it.

But the gunmen were coming for them. While Undersheriff Bollman, Inspector Mel Ames, and seven federal agents were airborne in the Huey, cameraman Ron Rose was near the rear of an elaborate nark caravan. "A blue Ford pickup with Bushnell, the animal control officer, was leading us," says Ron Rose, "the bed of the pickup had regular facilities for carrying animals. Then there were two sheriff's cars and a green Ford van plastered with tourist stickers that had two federal agents in it, followed by a Scientific Ident man's station wagon. Then us—Carol Olson, Rich Harris and I.

"We stopped twice, once a half mile from the cabin. The deputies were trying to make radio contact with the chopper. The chopper was about ten minutes out. We sat there for two or three minutes and then the caravan moved on to another clearing. There was a house on the right, people were out mowing their front lawn. This clearing came back to a point. At the end of that, a dirt road went on through the trees. We stopped the cars there. We still couldn't see the house. We got out of the cars and started walking. This was a heavily wooded area. We went from the roadway onto a hillside and we kept concealed in the trees waiting for the helicopter."

Judy Arnold says: "We were clearing the bathtub out and we were going to bring it inside, trying to figure out where to put it, and that's when we heard the helicopter."

Aboard the Huey, federal narcotic agent William Filben, gangling and carotene, looked down and saw armed longhairs hanging like apes out of the trees surrounding the cabin. Krusco's briefing had been less than complete and Filben got nervous. He thought the longhairs were creeps. "I really didn't think the whole time in the air we'd find anybody in the place at all," he'd say later. "But when I saw the bunch in the trees, I thought—'Oh, boy, we really walked into it.' It wasn't until we got down and I saw the TV cameras that I realized they weren't hostile."

"We heard the helicopter," Judy Arnold says, "and we'd just come inside. So we went out on the back porch again. We had our two dogs, Boogie and Vernon, with us. We weren't afraid. Dirk wanted to show the dogs; they'd never seen a helicopter before. He said—'Come on, you guys, wanna see a helicopter?"

The copter was coming toward the house. It was a long green unmarked copter. The door opened. It got right over the cabin and they looked down and smiled and waved at us. We smiled and waved back. They didn't look like police people at all. They all had fairly long hair and most of them had moustaches and they looked happy. They looked like they were having fun.

Dirk said—"It looks like it's gonna land." It was over the house and it was really low. We left the back door open and came back inside the cabin. Boogie and Vernon weren't barking. They were clam. Our front door was open and the copter was starting to land. Dust and dirt were coming into the cabin. Dirk walked over and closed the front door. Most of the door was glass. We stood at the corner of the big redwood table in the kitchen facing out the front door. We could see out the door. The copter set down and the men jumped off."

Landing the big Huey in the clearing next to the cabin wasn't easy; Mel Ames' skybound surveillance had miscalculated the length of their chaparral landing zone. When the chopper finally touched ground, the grunt assault team raced from the trees toward the cabin. Nine gunmen scrambled out of the Huey. It was a distance of 60–90 feet, a five second dash. The noise was deafening; agents couldn't hear each other from the shrill kuh-chook-chook-chook whirring of blades. At the crest of the hill overlooking the cabin, a logger named Ronnie Robertson looked at the figures scurrying below and thought: "It's like some stupid rabbit hunt, all those people running around like crazymen this way and that." Times-Standard reported Richard Harris watched the attack and jotted a nervous scribbled sentence into his notebook: "Looks like an assault on an enemy prison camp in Vietnam."

Both film photographers, Ron Rose and Carol Olson, saw the Huey land and the men running but both failed to catch the full sequence of the action with their cameras.

The gust from the force of the chopper-blades knocked Carol Olson to the ground. Her pictures blurred." "Just as the helicopter touched down," Ron Rose says, "something happened. It was the wind. It blew a large branch off a tree and it started showering down on me, so I turned my back and shut my camera off momentarily. And then I turned back around and started filming."

Judy Arnold says: "I didn't have anything to be afraid of until I saw the guns and I got petrified then. The guns were drawn, shotguns and rifles and everything. I thought it was some kind of ripoff."

As the commandos vaulted from the Huey toward the cabin door, agent William Filben allegedly stumbled and fell. "I did a belly-flop," he'd say later, "I just outran my feet."

Three men allegedly saw Filben fall—agents Krusco and Lloyd Clifton, a beefy 30-year-old former Berkeley policeman with a drooping mustache and long hair stickily layered with hairspray, and Undersheriff Bollman. No one else saw Filben's fall; neither camera recorded it.

Bollman, who said he had to step over Filben, said he didn't think Filben was hurt.

But Lloyd Clifton, as he was to testify, thought Filben had been shot by a sniper in the cabin.

Krusco backed him up and said he, too, thought Filben had been hit.

Judy Arnold says: "I saw a foot come through the door, the foot and then the door was pushed open. It was busted open. And at that time Dirk turned and ran and told me to run."

The man who busted the door down, shattering its plywood paneling and cracking the jamb, was Lloyd Clifton. Right behind him were Krusco, Bollman and federal agent Ed McReedy, 37 years old, a former Arizona highway patrolman, bearded, frizzy-haired, and looking a dozen years younger.

"Before I could do anything," Judy Arnold says, "they had me. Dirk jumped off the back porch and ran. There's a terrace back there and a slope toward the woodline. They told me to freeze. There were at least ten of them inside by now. The one who broke the door down, Clifton, ran through the house after Dirk. He wore a pair of Levis, a T-shirt, corduroy jacket and hair down to his chin. His size struck me. He was big, really big.

"It was terrifying. I was shaking. It was like some terrible storm had crashed down out of the sky at us. They held me. The dog got excited and they were barking. There was mad confusion in the place."

Lloyd Clifton was standing on the back porch.

He saw Dickenson running for the treeline.

He raised his snubnosed .38 revolver.

He aimed it at Dickenson's back.

He yelled, "Stop or I'll fire!"

He fired one shot.

Kenny Krusco, standing next to Clifton on the porch, had his shotgun trained on Dickerson's back but didn't pull the trigger.

The roaring kuh-chook-chook-chook of the helicopter had muffled the gunshot and, some said later, Clifton's order to stop. "I heard a crack," says Carol Olson, "which at the time in the rush I interpreted as a tree breaking. Agents were running around. Then I saw somebody down on the ground. It didn't occur to me that it could have been the sound of a shot until I actually saw somebody down on the ground."

"I heard somebody say—'He's been hit!'," Judy Arnold says, "I didn't hear the shot. The copter was taking off again and making this insane noise and the dogs were really barking. It was chaos."

Dickenson was shot in the back at a distance of 40 yards from a position 40 feet higher in elevation. He dropped 25 yards short of a steel and wire fence at the woodline, face down, and crawled forward a few inches. He wore a pair of Levis, work boots and a brown T-shirt. The bullet entered his back three inches above the waist next to the spinal cord, sliced down at a 60 degree angle, and exited through a small bloodless hole in the lower groin.

Undersheriff Bollman, gun in hand, ran toward the body "sure I'd find some sort of weapon." He found nothing. Incredulous, he scrambled down on his hands and knees and searched the entire area. Still nothing. Bollman, a newsman noted, was ashen.

Dirk Dickenson was still writhing on the ground, barely alive. "I was shooting film at close range," Ron Rose says, "Rich Harris and I were both asked to help hold his head. I heard Dickenson say—'I can't breathe, it's hard to breathe.' A deputy said—'He's already urinated his pants, he's in bad shape.' The deputy said—'Get the ——— first-aid kit and stretcher down here fast.' He was yelling. Another deputy said—'There's a stretcher in my car,' threw the key to someone else, and this guy started running up the embankment to where the cars were parked." Dickenson needed a doctor immediately. He couldn't be rushed to a hospital; the Huey had taken off again and had to be summoned back by radio.

Inside the cabin, Judy Arnold couldn't comprehend what was happening. "I heard he was out there and he'd been hit and I asked if I could go out there and see him. They said no. I said—'Well can I at least go out on the back porch and see how he is?" So they held me and took me to the back porch. I looked off and I could see him. I saw him move his leg. It was spasmodic, like a twitch. They said—'Oh, it's OK, he's gonna be all right." Clifton was leaning over him, saying something. I don't know what, he was too far away.

"They took me back to the cabin, they still hadn't identified themselves. I finally saw a badge on the inside of this guy McReedy's coat, but they still hadn't said who they were. So McReedy goes—'I'm gonna take you outside, ask you a few questions.' There were a couple more of them leaning in the door and they asked me if I was the only one there. As they were taking me out, I asked—'How's Dirk?' They wouldn't tell me how he was, wouldn't say anything. So they took me outside. There was an orange truck out there, Dirk's, with a busted motor. They put me in the orange truck and I said again—'Well, who are you?' That's the first time they officially told me who they were."

The three reporters, critically important eyewitnesses at the scene of a killing, were behaving less than authoritatively. They asked no questions. "I didn't ask anyone about the shot," Ron Rose says. "I didn't know who was who. I didn't know whether I'd be talking to an agent or a suspect. And we were told not to question anyone except Undersheriff Bollman and agent Krusco."

"The narks were treating me all right," Judy Arnold says. "They said—'If you promise not to run, we won't handcuff you.' So I told them OK, I wouldn't run. The guy said—'We're federal narcotics agents looking for a PCP lab.' And I just laughed. I just laughed in his face and I said—'Well, you blew it this time, there's no lab here.' And he goes—'Well, we know there is.' And I said—"There isn't' there's no lab.' So they took me out of the truck to the other side of the cabin."

Ron Rose says: "I started working myself down the hillside and onto the flat portion where there were some rabbit hutches and a chicken coop. They were going into the chicken coop and around it and into the woods. I presumed they were looking for something other than eggs."

"Then this agent, McReedy," says Judy Arnold, "starts talking to me about the land, how much he liked the land, wasn't this beautiful country, how much he'd like to live here. He was trying to act super-nice. He started telling me where he was from, his experiences in Arizona and all this. It was a big sick game. He was supposed to charm me into giving them information while they took my old man's body away. I kept asking how Dirk was and they wouldn't tell me. The copter was back and they were taking Dirk away and I said—'Can I go with him in the copter?' They said, 'No, you'd just be in the way.' One of the dogs, Boogie, was out there running around Dirk's body. They were carrying Dirk onto the copter and Boogie was crying. I guess he wanted to go along. The copter took off and Boogie stood underneath it, looking up—the roar wasn't scaring him at all now and he was howling."

As the agents continued interrogating Judy Arnold, Dirk Dickenson—who had to wait 20 minutes before the Huey came back—was dying. The bullet did not strike any bones or vital organs but had punctured major blood vessels in the abdomen, causing massive internal bleeding. When the chopper touched down in Eureka, Dickenson was dead. ("There was absolutely no chance of saving him," the coroner, Ed Nielson would say. "He would have died if he'd been shot in downtown Eureka.")

Kenny Krusco, meanwhile, ordered the three reporters off the property. "The cameras bothered the Feds," reporter Richard Harris would write, "and a half hour after we got there, we were told to leave the cabin area." Says Ron Rose: "We were asked by Krusco, through Bollman, to leave the area so that 'they could go about their work.' We went back to the Feds' van. We got into it because it was cold. The wind had come up and there was some cloud cover. We waited there quite a length of time."

"The copter took off," says Judy Arnold, "and they took me back to the other side of the cabin and took me back in the truck and a guy said—'I wanna ask you a few more questions.' Vernon, the other dog, was super-protective of me and he wanted to get in the truck with me. So they let Vernon in with me and the agent had the door open and he was talking to me about the dogs and everything. At one point, I got really mad, I don't remember about what, and the dog could feel my vibes and he tried to bite him. And so the agent slammed the door of the truck and he goes—'If you don't take care of the dog, I will. I'll have to shoot him.'

"So McReedy goes—'Well, we better take you out of the truck. I can't talk to you with your dog snapping at me in there. They locked Vernon in the truck and took me back to the cabin again. Then they left me by a tree while they searched the cabin. I was standing by that big tree looking up into the sun and starting to cry. I just kept thinking about Dirk, you know, wondering how he was, being scared, trying to feel myself together with him."

Ron Rose says: "We were sitting in the Feds' van and then Undersheriff Bollman came out and he gave us a very minor briefing. Then Kenny Krusco came out and at that time we were allowed to ask any questions we had. We asked what the weapon was. We wanted to make sure of our own hearing. We asked how many shots were fired. We did not ask who did the shooting. I think we all had enough common sense about us to know we would not get an answer. We were more interested, at this point, whether they'd found the lab or not." Adds Carol Olson: "I don't think we asked who did the shooting or why. Maybe we should have."

"We were asked at the scene," Rose says, "to have our film processed and before it was shown take it over to the sheriff's office so that Krusco and Bollman could look at it—and more or less—not censor it, but point out where we might have inadvertently gotten an agent's face into the picture. We agreed to this request."

"They packed me in a squad car and took me to the county jail in Eureka," says Judy Arnold, "and after a while, I'm not sure how long because I lost track of the time, they

called me out and told me he was dead. Just like that. No beating around the bush. No softening it. He's dead. Almost like—'By the way, you know that guy you were with, well, he's dead.' I never felt that bad before in my life. The hurt was so bad I wouldn't believe it. I got sick. I was in a trance. I was a puppet and they had to guide me everywhere."

The fed/county raiders had a serious public relations problem. They had one dead body, they had no PCP lab. Their "master chemist" had been shot in the back as he ran unarmed. An extensive search of the area netted only a penny-ante stash. The contents of the "master chemist's" stash were neatly cataloged and listed in a summary some of Dirk Dickenson's friends would view as a grotesque requiem.

No. 1—One hand-rolled cigarette suspected marijuana.

No. 2—Excedrin bottle containing one partially smoked cigarette suspected marijuana.

No. 3—Plastic bag containing suspected marijuana.

No. 4—Plastic bag containing suspected marijuana.

No. 5—Bottle containing suspected marijuana.

No. 6—Bottle containing suspected peyote buttons.

No. 7—Bottle containing two suspected LSD tablets.

No. 8—Tin can containing five suspected peyote buttons.

No. 9—Brown jacket containing plastic bag suspected marijuana.

No. 10—Bottle containing partially-smoked cigarette suspected marijuana.

That day in Lincoln, California, 25 miles north of Sacramento, Mrs. Mittie Dickenson, the wife of a Chrysler Motors manufacturer's representative, got a phone call from a friend. Her friend was listening to the radio and humming along with the music and, as was her custom, she listened only half-mindedly when the news came on. That's how she found out, between jingles and commercials that Mittie's son was dead. She called only to tell Mittie how sorry she was. Mittie Dickenson gasped. No one had bothered to notify her.

Her husband, Chester, was on a business trip in Nevada. She dialed the phone and told him. Chester Dickenson heard his son was dead and said nothing for a very long time.

"Chester?" his wife finally said.

"I heard you," he said, "I heard you."

While they had a bullet-holed corpse and no PCP lab, the Feds made much of $1500 cash found in Dickenson's wallet, as well as what they called a "small arsenal"—three rifles, a crossbow and a shotgun—stockpiled in the cabin. Their emphasis of these discoveries implied this was enough to circumstantially prove Dickenson was indeed involved in a nefarious dope ring. The implication carried a sneaky bottom line: Think about it, pal, if the guy was a dope merchant in the business of corrupting your children, his corpse wasn't worth shrieking about.

The shooting catalyzed Humboldt and, in the weeks afterward, as investigations were demanded and proclaimed civil libertarians (mostly at Humboldt State College in Arcata and in the Bay Area), replied to the Fed innuendos by pointing out that in the primordial part of the wilderness where Dirk Dickenson lived, everyone was well-armed, especially those longhairs who survived the vigilante terrorism and the house burnings. Besides, as one attorney later said, "I don't care if the ——— hippie was a Mafia kingpin second only to Lucky Luciano's heirs, I still worry about that bullet in his back."

Civil libertarians were troubled by unanswered and nagging questions:

Since he knew a raid on the Dickenson property was imminent, knew there was a warrant for Dickenson's arrest, why didn't dogcatcher Bushnell arrest Dickenson? At least turn him over to a sheriff's deputy when Dickenson sauntered into the Garberville substation wanting to buy the burl tree?

What happened to the infallible "hard intelligence" which was the basis for the search warrant, which said the property housed a million-dollar lab? Why didn't the agents conduct a land survey before 19 men hit the cabin with their trigger-fingers ready?

Why didn't agents identify themselves when they came hurtling out of the sky to the cabin door? Why didn't they state their warrant and demand entry instead of savaging the door from its hinges?

Why did the reporters permit agents to view their films before those agents made their statements about the shooting (a question made critical by the fact Filben claimed he fell at the exact moment the two films blurred)?

Why did it take three days after the shooting . . . and after the agents had viewed the films . . . for Filben to reveal his fall and for Bollman, Krusco and Clifton to say they saw it happen?

Why did only three men out of a 19-man party—the killer, his superior and a raid organizer—see Filben's fall?

Why, if Filben did indeed fall, didn't Krusco and Clifton check him? Make sure he had been hit? Lean down and check the wound before one of them shot an unarmed man in the back?

Why, if gunplay was thought probable, was no provision made for the aid and evacuation of wounded men?

Why were the three reporters and their cameras suddenly ordered off the property after the raid? After it was clear there would be no more shooting and the reporters' lives wouldn't be endangered? Was there something to hide?

And those three lily-livered reporters? What about their sense of professionalism? How could they have agreed to an arrangement not to ask questions of anyone but Bollman and Krusco. How could they honor that agreement once they realized they had witnessed a killing? How could they, as Ron Rose admitted, still be concerned with the lab after two of them helped hold a dying man's head? Why didn't they even ask Krusco who had done the shooting or why shooting was necessary?

Local police officials quickly tried to explain the shooting by blathering on about the "Uptight Society." By this convoluted rationale, Dirk Dickenson was killed because of the policemen who'd been killed in America in the past. "You can't blame officers for being uptight," said Undersheriff Bollman. "They're aware of the situation today. Officers don't go out on duty thinking they're going to shoot someone, but many times they may wonder if they're going to return home that night. 'Is today my day?' they ask themselves."

Agents who participated in the raid said very little, except for Ed McReedy's comment that "the idea of shooting to wound is bush league. You just get more people killed that way." Lloyd Clifton, who had pulled the trigger, became very unavailable and was transferred from door-stomping duty to the anonymous safety of the BNDD chemical lab.

His fate rested with two agencies: the United States Department of Justice and the Humboldt County District Attorney's Office. Both announced high-priced investigations; no taxpayer dollars would be spared in the pursuit of "the facts." The Feds could technically indict Clifton on charges of violating Dirk Dickenson's constitutional rights, of "summarily executing" him. District Attorney Ferroggiaro could seek charges ranging from involuntary manslaughter to first degree murder. Or both agencies could do nothing, find the shooting regrettable and tragic, shed public crocodile tears, and conclude Lloyd Clifton's muted gunshot was "justifiable homicide."

Thirty-seven-year-old Bill Ferroggiaro, looking paler each day, his horn-rimmed glasses sliding in sweat off his spoon-shaped nose, was on the hot grill again. He was a man whose once grandiose political ambitions . . . the United States Congress, the Senate . . . were being sandbagged by twists of violent circumstance. He announced, with a fine sense of politic, that he would do nothing . . . until the Feds concluded their own investigation. Clifton, after all, was a federal agent and the Humboldt County DA said: "We're waiting for the Department of Justice to act and then we'll make our decisions."

In San Francisco, United States Attorney James K. Browning Jr. flashily told the press the government investigation would be far-reaching and fair. The fact that no federal narcotics agent anywhere in America had ever been charged by the government with violating a suspect's constitutional rights was coincidental and irrelevant. Browning admitted a rather brain-scalding conflict of interest: As the US Attorney, he was responsible for determining whether Dickenson's constitutional rights had been violated; and as the US Attorney, he was dutybound to act as defense counsel for all government personnel—including Lloyd Clifton.

A few weeks after the shooting, as the federal investigation got under way, US Attorney Browning said: "We are attempting to be as impartial as possible. We've got an open mind."

In the next sentence, long before the government's probe was even halfway complete, he demonstrated his impartiality. "Nevertheless, on the basis of incomplete reports received by this office, I suspect it will fall into the category of justifiable homicide."

It didn't look like either Lloyd Clifton, who pulled the trigger, or Kenny Krusco, his boss and chief corroborative witness, had much to worry about.

The sourdoughs of Humboldt were sharing their feelings about the dead hippie who'd kept marijuana in his home and lived in belly-to-belly sin with his sweetfaced girlfriend. The Times-Standard, which called vehemently for an investigation, was getting fat sacksful of letters to the editor:

"Why all the sympathy for a dope pusher escaping arrest? It's because of bleeding hearts like you that our valued lawmen are hampered by over-lenient courts and laws . . . It's about time that we started thanking the federal agencies instead of criticizing them. So hang in there, guys, you're all doing a great job."

Meanwhile, not long after the shooting, five lonely longhairs stood in bereavement outside the Eureka courthouse with a sign that said: Oh No, Dickenson Goodbye.

WILLIAM SMITH
1934–1972

Three weeks after Dirk Dickenson's death . . .

On the evening of April 25th, 1972, 18 miles north of Eureka, in Arcata, the home of Humboldt State University, an adrenalized SRO crowd jammed into a college auditorium to hear America's most renowned Marxist. Herbert Marcuse, the grand old ideologist of the American Left, mentor to Angela Davis and hero to millions of Third World peoples, drove a lot of sourdoughs raving ga-ga with his visit. A celebrated Red was in their hometown, brainwashing their kids with sin and sedition. Police cruised the campus in teams, ready for action.

At 8:30 that night, while Marcuse stood at a speaker's stand less than 500 yards away, a 43-year-old California Highway Patrolman named Robert Hahn, with 13 years' service on the force, noticed a scruffy motorcyclist

driving south on Highway 101 near the University gates.

The patrolman watched the cyclist ditch his machine on the side of the road and run through the brush. He thought the cyclist's actions suspicious and gave chase, gun in hand. The patrolman caught up with him on the embankment of the highway and yelled to the man to stop. The cyclist stopped and turned.

When he turned, Patrolman Robert Hahn shot him between the eyes with his Colt Officer's Model Match .38 Special revolver.

Patrolman Hahn walked back to his squad car and drove away; the cyclist's body was found later that night by a passing motorist. The motorist called the Highway Patrol. The dead man was identified as William Smith, 38 years old, a Win-Ton Indian, the father of five, an employee of the Simpson Lumber Company.

The first patrolman on the scene, Edward Radelich, listed the death as a hit and run accident until the coroner washed the corpse's face and found the bullet hole in the middle of the forehead. Radelich called another Highway Patrolman to help him with the investigation. He was Robert Hahn.

For three days, Patrolman Hahn investigated the killing with his colleagues. On the morning of the fourth day, he confessed to killing the Indian because, he said, "I couldn't sleep." He confessed, too, to falsifying his log, placing himself 20 miles away in McKinleyville at the time of the shooting. Why did he kill the Indian? "I don't know why I shot him," he said in a statement, "whether it was the heat of the chase or what."

District Attorney Ferroggiaro had a unique case: The cop who killed an innocent man, walked away from the bleeding body, made up an alibi, and then began investigating his victim's murder.

Yet the District Attorney only referred to the killing as an "accident" and called Hahn "negligent." In light of those statements, some thought it not very surprising that Hahn was charged only with involuntary manslaughter—a legal slap on the wrist when it comes to dealing with a homicide.

American Indian activists said: "The indictment is a joke. Hahn killed Bill Smith in cold blood. Smith's body actually landed at Hahn's feet. It was a senseless murder."

Hahn was dismissed from the Highway Patrol and there was a trial. His counsel was James McKittrick, in his mid-30s, an ice-pick-thin, vitriolic man who liked to run the table at George's Pool Hall on Third Street, drove a Lincoln Continental, wore suspenders like a Roaring Twenties gambler, and kept a private eye on his staff.

Hahn testified that when he asked Smith to stop and Smith turned, he felt an "object" strike his leg. The object, a stone, caused his gun to "discharge." He admitted the Colt was cocked and his finger was on the trigger when Smith turned. He did not say why he was chasing a man who had violated no law with a cocked gun . . . if he didn't intend to fire. (A Highway Patrol official testified: "It is extremely dangerous for an officer to cock a pistol unless he intends to fire it.")

The gun discharged, the hatchet-faced McKittrick maintained, because of a "faulty trigger mechanism." More exactly, the gun had been honed so that it could be fired "with less than standard trigger pressure." It had, in short, been hair triggered . . . souped-up the way Billy the Kid and Wyatt Earp and their gunslinging Wild West sidekicks doctored their Colts . . . and a Eureka gunsmith testified that honing guns was "a common practice among law enforcement personnel." No one knew, it turned out, who had hair triggered Hahn's gun, though it developed the patrolman had failed to turn in his weapon for its annual Highway Patrol inspection.

And Hahn?—the District Attorney questioned—Was he asked during his confession whether he shot Smith intentionally or whether the gun accidentally discharged? Both witnesses to the confession, another highway patrolman and an Arcata policeman, said they "couldn't remember" whether Hahn had been asked that seemingly routine and all-important question.

In his summation, defense attorney McKittrick dwelled on "the hundreds of policemen slain in America in the line of duty." He did not, understandably, tell the jury there had never been a cop killing in the history of Humboldt County.

He concluded: "The fact that people have been killed by officers is too bad, but I would say by and large they have brought their unhappy fates upon themselves."

The jury deadlocked 10–2 for acquittal.

District Attorney Ferroggiaro announced he would not ask for a new trial; Robert Hahn filed suit to regain his job with the Highway Patrol; Bill Smith's widow wondered how she'd feed her five children.

Pool-playing Jim McKittrick scored the biggest victory of his distinguished courtroom career, a victory which would take him a long way . . . to the Justice Department in Washington and the bullethole in Dirk Dickenson's back.

Bay Area attorney Phil Ryan was representing Judy Arnold, who had been charged after the raid with possession of marijuana and LSD, but the way he saw it, his real client was a dead man, Dirk Dickenson. Phil Ryan swore to himself he would not let a man get shot in the back without making every effort to bring his killer to justice.

He knew that two federal narcotics agents slept in Dirk Dickenson's cabin the night he was killed. They stayed on his land the next day, searching (with what must have been some desperation) for the million-dollar PCP lab their intelligence promised. They found nothing. A few days later, Undersheriff Bollman announced the property had been sealed off.

But nearly a full month after the shooting, District Attorney Ferroggiaro made his own inspection outing to the cabin site. He wanted to diagram the shooting. As the DA wandered around making his precise drawings, he stumbled onto a long black hose 200 feet from the cabin. He wondered where it would lead and—sweet creeping . . . it led to the million-dollar lab . . . at least part of it. The DA tracked the wondrous hose 200 yards into the woods and found a tent platform, two cans of a chemical component of PCP, a shattered measuring flask, and jagged bits and pieces of laboratory bottles.

Now this miraculous development was very strange. The entire 19-man nark posse had somehow overlooked the hose the day of the shooting, as did the two agents who scoured the ground the next day—even though the hose was right at their toes, 200 feet from the cabin! Unless, of course, the hose, the tent platform, and the whole suspicious jimbang hadn't been there that day. Unless someone had sneaked back onto the property to leave these incriminating little items . . . ready and waiting for the DA to come out to make his drawings.

According to courthouse insiders, District Attorney Ferroggiaro was apoplectic, he had blundered on to the ruins of that alleged lab. He felt he'd been set up, suckered into making a highly dubious discovery. Publicly, the DA said: "There's a certain taint to the discovery" and "the possibility must be considered that the materials were planted on the Dickenson property subsequent to the initial search."

When Phil Ryan heard the DA had found the lab, he laughed. He had no doubts the evidence was planted; no doubts the United States government would "obviously try every dirty sleazoid trick" to get one of its hired guns off the hook.

Ryan is a crusty Black Irishman who sees, in the attempted enforcement of drug laws, "the massive corruption of law enforcement." He likens agents to an "armed clergy" who have "a macabre lust for the death forces." He believes agents have a single rule of conduct: "You tell a lie often enough everyone will believe it," and once told a judge while court was in session: "I don't want any agents in this room, they're all liars."

When he heard once that narcotics agents were investigating him for his oft-expressed views, Ryan confronted the agent in charge, ambled genially close to him, and said, "Now let me give you some advice. If you bug me, you better have that search warrant pinned to your lapel. Because if I don't know who you are and you come crashing through my door, I'm liable to blow your ——— head off."

Ryan had examined the details of the Dickenson case, guessed at the extent to which the government would go to defend one of its own, and decided he needed some help. He asked attorney Michael Metzger, victim of one of the most tainted busts in BNDD history, a raid led by BNDD agent Kenny Krusco . . . who led the raid on Dirk Dickenson's cabin and was now agent Lloyd Clifton's superior and chief witness.

The two men made their own investigation of the case and reached very personal conclusions. They alleged that the raid on the Dickenson cabin was a twisted Keystone Kops affair; Krusco had been a miserable quarterback and no one knew exactly what was going on; that Lloyd Clifton shot Dickenson because he got carried away by the thrill and expectation of battle.

That neither Clifton nor Krusco believed agent Filben had been shot and that they had worked out their alibis afterwards; that Clifton was lying to save his skin and Krusco was lying to save one of his men and his own reputation; and that the "PCP lab" had been planted for District Attorney Ferroggiaro because the government itself didn't want to "find" a lab a month late and badly wanted to soften the impact of the killing by sullying Dickenson's reputation at all costs.

(Metzger, who had worked with Krusco while a United States Attorney in San Francisco, had long alleged Krusco was a liar—"he never looked you in the eyes"—and had weakened Krusco's clout by forcing the government into a position where it could not defend some statements made by the agent in an affidavit. As a result, Krusco had been summoned to the office of the United States Attorney and questioned about his tactics and inconsistencies.)

Ryan went into high gear. He discovered a few words that seemed to weigh heavily against Lloyd Clifton, words contained in the BNDD's own manual to its agents. A paragraph of the manual (Subsection 42–43) said: "The agent should not shoot at any persons except to protect his own life or that of some other person. The agent will not fire at fleeing automobiles, suspects or defendants."

Lloyd Clifton had killed Dirk Dickenson, Phil Ryan underlined, in violation of his own agency's regulations. He had fired at a "fleeing suspect."

Defending Judy Arnold, Ryan and Metzger were able to prove that Clifton smashed the cabin door down without identifying himself or stating his warrant. The charges against Judy Arnold were dismissed by Federal District Court Judge William T. Sweigert, who reprimanded Clifton for his tactics.

In addition, Ryan filed a $2 million wrongful death suit against the federal government on behalf of Dickenson's family.

But the case seemed a bottomless pit and needed a herculean investigative job, and Ryan turned for further help to another man who'd had dealings with narcotics agents in the past. He was Michael Murphy, 27 years old, retired private detective, graduate of the Haight-Ashbury, a rail-thin longhair who had once convinced one of the California Bureau of Narcotics Enforcement's

star informers to testify against her own superiors.

The informer was once asked by a reporter how many times she'd heard Murphy's name mentioned in the narcotics squad.

"At least 20," she said, "maybe 30."

"How many times were threats leveled against him?"

"Every time," she said.

A field supervisor for that agency had turned to the informer and said—"I want Murphy done." Murphy became such a thorn in the bureau's side he was shadowed everywhere and one top nark bragged: "We know every time Murphy ———."

Murphy's constant companions were Terror and Paranoia. The job devoured him and his personal life was in ruins. His wife, who complained she hardly saw him anymore, walked out. So, in the spring of 1972, Michael Murphy dropped out of the gumshoe business, stopped investigating narks, stopped investigating anything, and laid back doing odd jobs.

When Phil Ryan asked him to help with the Dickenson investigation, Murphy refused.

Ryan outlined the case to him, described the gruesome way the bullet ripped into Dickenson's back and exploded his insides, and Murphy changed his mind.

On a muggy summer day in 1972, he sat with a reporter who was also a friend—the two had helped derail one particularly sinister narcotics agent's high-speed career—and Murphy said he was happy to be investigating again. He had gotten himself together; he had patched fences with his wife; he believed in what he was doing.

The reporter asked to buy him a drink and Murphy refused. He was on the wagon, he said, no booze. Besides, he was busy, he had to run, on time to ———. He wanted to devote as many hours as he could to this particular job.

He was investigating BNDD agent Lloyd Clifton.

For five long months, working 12 hours a day, Michael Murphy delved into Lloyd Clifton's police background. When he began his digging, Clifton's image was snow-white; the hardworking Brigham Young sociology grad who had devoted his life to upholding the law. But as Murphy turned his reports in to Phil Ryan, agent Clifton didn't look immaculate anymore.

This is what Murphy found:

In the winter of 1968, while a Berkeley policeman, Lloyd Clifton stopped a man named James Baird for a traffic violation. He found a bottle of gas in Baird's car.

On February 21st, 1969, Clifton was questioned about the arrest by Baird's attorney, James Giller, in the Superior Court of the State of California. A court transcript revealed this dialogue:

GILLER. Did you ask him [Baird] a question?

CLIFTON. Yes.

GILLER. And what question did you ask him?

CLIFTON. I asked him what was in the bottle.

PHIL RYAN. Tough-guy attorney had * * *.

GILLER. Did he reply?

CLIFTON. Yes.

GILLER. What did he say?

CLIFTON. He said "Gas."

GILLER. Did you call him a name at that point?

CLIFTON. I referred to him as a "murder."

GILLER. After you referred to him as a murderer, what did you do?

CLIFTON. He smirked at me and I hit him.

GILLER. Where did you hit him?

CLIFTON. In the stomach.

GILLER. With what?

CLIFTON. My baton.

GILLER. Prior to beating him in the stomach with your baton, at any time did you choke him with your baton?

CLIFTON. No.

GILLER. When you hit him in the stomach, he had made no gestures or any attempt to do anything to you, did he?

CLIFTON. No.

GILLER. You just did that on your own?

CLIFTON. Yes.

GILLER. You had never seen the man before?

CLIFTON. No.

GILLER. Yet you called him a murderer?

CLIFTON. Yes.

GILLER. What else did you do to him? How many times did you hit him after that? You hit him more than that one time, didn't you?

CLIFTON. Not that I recall.

GILLER. You don't recall that, huh?

A few months later, a young black named Steven Wilson was arrested by the California Highway Patrol for ignoring some traffic warrants.

Wilson was taken to the Berkeley police station. He told the patrolmen the car in question wasn't his anymore and asked their permission to make a phone call. He said he could establish identity of the new owner. The arresting officers said fine, he could make the call.

He used the phone at the booking desk. He was going back to the patrolmen when policeman Lloyd Clifton walked into the room.

Steven Wilson alleged that Lloyd Clifton. . .

Grabbed him by the shirt and said: "What the ——— are you walking around here for?" Threw him into an open elevator and smashed his head against the side of it. Took him upstairs and continued beating and slapping him on the way up.

When they got off the elevator, Steven Wilson said several Berkeley policemen saw Clifton beating him. They grabbed Clifton and told him to "let the guy go."

The policemen told Lloyd Clifton to let him go because his victim was the son of Superior Court Judge Lionel J. Wilson.

(Judge Lionel Wilson, ironically, had been sitting on the bench when Clifton admitted hitting James Baird because "he smirked at me.")

Steven Wilson filed a formal complaint with the Berkeley Police Department; Lloyd Clifton was officially reprimanded for his conduct.

On March 24th, 1970, another young black man named Jemeral Young was being released on bond at the Berkeley City Jail. Present were Mrs. Edna Young, his mother, a bailbondsman and Lloyd Clifton.

Mrs. Young alleged that as they were getting ready to leave, Lloyd Clifton began beating her son with his fists. When she tried to stop him and screamed she'd bring charges, Clifton said her son was under arrest. The bailbondsman, streetwise and shrewd, talked him out of it.

Questioned by his superiors, Clifton did not deny the beating. He said he beat Young "because he called me a ———."

As he read Murphy's reports, Phil Ryan was sickened. The bullet in the back was not an isolated incident. Ryan saw a "pattern of conduct." Dirk Dickenson's killer was a man who had assaulted one suspect for a smirk, another for an obscenity, and a third for no discernible reason at all.

The Department of Justice, meanwhile, seemed in no hurry to conclude its investigation of Dirk Dickenson's death. A flurry of press releases in the spring and summer of 1972 announced the Feds were coordinating a task force of bigwigs to sift facts: A Department attorney from San Diego was assigned exclusively to the case; a BNDD Division of Inspection agent flew from Los Angeles to Garberville; all government investigators, the Department said, were "fully cooperating" with District Attorney Ferroggiaro.

In June, an assistant US Attorney in San Francisco said a decision whether Clifton would be indicted would be reached within three weeks. At the end of September, there was still no decision and a public relations assistant to Attorney General Richard Kleindienst in Washington hinted at an even lengthier delay: "We've had recent cases in which indictments have been obtained on one-year old cases."

At the same time, also in Washington, BNDD chief counsel William Lench said the Bureau had made no formal decision whether Clifton had violated its internal regulations "but on the basis of reports we've reached a preliminary conclusion Clifton was justified in shooting." The chief counsel obviously did not attach much significance to BNDD manual Subsection 42–23 which forbids agents to shoot "fleeing suspects."

On the 15th of November, Attorneys Phil Ryan and Michael Metzger wrote Attorney General Kleindienst demanding the government conclude its investigation "without further delay."

The letter also detailed the fruits of hard-working Michael Murphy's labors. "Our investigation," concluded the letter to Kleindienst, "has established that the violence which agent Clifton perpetrated on April 4th was part of a pattern of behavior in which he has engaged for some time and about which his superiors at the Bureau of Narcotics and Dangerous Drugs should be familiar."

Ten days later, in San Francisco, the bespectacled US Attorney for Northern California, Nixon-appointee James L. Browning, made the announcement which Ryan and Metzger feared and expected: In the government's eyes, Lloyd Clifton had done nothing wrong. He was cleared. The fatal bullet in the back had not violated Dirk Dickenson's constitutional rights.

While federal civil rights statutes prohibited an officer from acting "with the specific intent of depriving another of a federal constitutional right," Browning explained, Lloyd Clifton did not act with an intent to purposely inflict "punishment without trial."

Browning went to great pains to describe the scope of the Justice Department probe (if they put so much effort into it, they could not have been wrong): "Extensive independent investigation" by his office and the BNDD over a six-month period; interviews with more than 25 witnesses and the collection of scores of exhibits; the results of all this digging reviewed by Browning's office as well as by the Department of Justice in Washington.

Lloyd Clifton was off scot-free, unless the shellshocked Humboldt County DA, Bill Ferroggiaro . . . who was at that moment losing ingloriously to Jim McKittrick in the involuntary manslaughter trial of Highway Patrolman Robert Hahn . . . took some action. But Ferroggiaro said not surprisingly again that he would do nothing . . . for the time being, until he concluded the Hahn case.

Ryan and Metzger watched this legal tapdance with some alarm; they were being kept directly out of the case by their real client's fate (dead men don't testify) and they were thus powerless to go after Clifton in a criminal courtroom. That, if he chose, would be the task of the rather vague and muddling Mr. Ferroggiaro, who could seemingly do nothing right: branded a gutless voteseeker by those decrying the premature deaths of Pat Berti, Bunky Ferris and Bill Smith . . . and damned as soft on law and order by Undersheriff Bollman and most of the sheriff's department.

As the District Attorney weighed his decision—sure to cause him further grief from either sourdoughs or creep lovers—the routine of life in the Humboldt wilderness continued:

Another Highway Patrolman stopped a Wyot Indian for drunk driving. This Indian, flashing on the bullet in the forehead the other Indian got, asked the patrolman if

"I'm going to get shot too." The drunken Wyot was not shot, but was allegedly beaten to the ground.

In the Eureka jail, a policeman was questioning an Indian named Merrifield. Merrifield wasn't very cooperative. The policeman kicked the Indian black and blue and was charged with assault.

And then there was the newest caper pulled by sheriff's investigator Mel Ames . . . who had staked out that marijuana plant for a whole week . . . who had been Undersheriff Bollman's liaison with Kenny Krusco and Lloyd Clifton . . . who had conducted the airborne surveillance of the "million dollar lab."

One night Mel Ames and another sheriff's detective named George Gatto collared a kid they heard was dealing grass. They asked him to score for them. The kid was no dummy. "You kidding?" he said, "you guys smell like cops."

At which point Mel Ames and his partner threw the kid up against the car, put guns to his head, and said they were "Mafia gunrunners from Portland." Unless the kid scored, they said, "we'll blow your brains out."

The kid scored and, naturally, they arrested him. They offered him a deal. If he turned informer, they'd let him off. The kid turned informer, served them well in a dozen cases, so well that Mel Ames lent him out to other agencies.

When the kid was burned out and everyone in Humboldt County knew he was a nark (of no further use to any agency), Mel Ames arrested him again. The kid was charged with dealing grass.

An incredulous judge listened to these surreal details in court with eyes popping out of his skull, heard how Mel Ames had identified himself as a "Mafia gunrunner from Portland," shook his head, and threw the case out of court.

MICHAEL MURPHY 1945–1972

Michael Murphy, the gangle-shanked private eye, relentlessly continued his investigation of Lloyd Clifton. He was sure the narks were aware he was mining Clifton's past, and he warned his wife, Pam, to remember all the old safeguards: Never let anyone into the house, always assume the phone is tapped, keep a close eye on schleppy salamander-like door-to-door salesmen. It was the same tired energy-draining games, but, remembering the threats agents had leveled against him in the past, he knew the game was high-staked. He knew, too, that the allegations he had unearthed impugning Lloyd Clifton's professional competence, allegations which Phil Ryan publicized in a press conference, had given the BNDD a black eye at a time they were most interested in sanctifying their public image.

Murphy believed in his job and was content. Doing investigative work for a cause he felt righteous gave him a deep sense of satisfaction; his work on the Clifton case even convinced him to apply for a California detective's license, the kind Lew Archer carried, to enable him to work as a full-fledged private investigator. He enjoyed Christmas with his wife and two-year-old son, told friends he spent too much but, what the ———, playing Santa Claus was a small way of making up for a stormy year.

He took his state investigator's exam four days after Christmas, on the 29th of December. He didn't study hard because he assumed the test, mostly designed for Popeye-biceped yoyos, would be a mickey mouse exercise. He'd put in over 4000 man hours of grueling investigative work and he figured if he didn't know the basics after all that sweat and worry, he never would. He got up a few minutes after 7 AM on the 29th, a ridiculous hour for Irishmen, and left his home in Berkeley just after eight.

The test began at nine o'clock. He had two and a half hours to finish it. The bozos sat at the desks around him and fidgeted. Murphy was through in an hour. He called Phil Ryan and suggested they meet for lunch to celebrate. "The test was a ———," he said.

They met at Perry's, a flashy and celeb-gathering restaurant on Union Street, a block from Ryan's office, and Ryan was more than an hour late. Murphy was sitting at the bar, sipping a beer. The bartender, a professional Irishman named Shamus, leaned over to Phil Ryan and cracked: "What the hell kind of Irishman is this guy? He's been here two hours and he drinks two beers."

Perry's was filled with junior execs and hustling salesmen so they walked a block to a less-popular place, Thomas Lord's. Murphy drank a glass of mountain red burgundy wine with lunch and a single Irish coffee. They talked about the Dickenson case.

Murphy was chagrined Clifton had been cleared by the government and, cynical and bitter, he said: "No one really cares. That's the trouble with nark cases. People say, 'Yeah, yeah, yeah, it's terrible,' but there's no movement against their excesses. People shake their heads but don't get involved and the narks move on to slap up the next guy."

Ryan complimented him for his painstaking research. Murphy said he "hoped it would help."

Around 2:30, Phil Ryan went back to his office and Murphy said he was headed for a music store to price guitars. "I can't work 24 hours a day," he laughed. "When he left," Phil Ryan was to remember, "he was stone sober."

Around 6:30, Pam, out visiting a girl friend called him at home. They spoke for a few minutes and Murphy told her he'd take her to a movie.

Then he said: "Listen something came up. I've got to go out for a little while to meet a guy. I'll be back by 7:30 and we can go to the show."

Pam didn't ask who the "guy" was and didn't ask what "came up." She remembered his fears about the phone being tapped and assumed from his tone it was "business."

"Watch yourself," she said.

"I always do," Murphy laughed.

At 8:25, 19 miles from home Michael Murphy drove his Volvo station wagon onto the MacArthur Freeway in San Leandro. He drove it onto an exit ramp—the wrong way. He raced it at speeds up to 75 mph—the wrong way—for two and a half miles. Cars swerved out of his way. Horns blared; tires screeched. Murphy drove on.

Two and a half miles down the freeway he hit a Toyota head-on. He was killed instantly; so were two people in the other car.

An autopsy by the Alameda County Coroner's Office showed he had a blood decibel count of .29 when he died. A blood alcohol count of .10 is enough for a drunk-driving arrest. At .20 the function of the motor area of the brain is depressed and the individual staggers. At .30 the more primitive perceptive areas of the brain are dulled and the person is stuporous.

Phil Ryan notified that Michael Murphy was dead was in shock. It was he thought a most suspicious accident. The guy had taken his test that morning, he had gotten his loose-jointed life together, he was hardly drinking, he was cold sober when he left lunch that afternoon . . . and now Phil Ryan was told Murphy died because he got stuporously drunk.

He didn't buy it. He thought Murphy could have been lured from home by a suckering phone call and drugged. He knew Murphy had made powerful enemies.

Ryan hired a nationally respected toxicologist to examine the body. Dr. Charles Hines' tests showed no traceable drugs in the blood or internal organs—except the booze. Pam Murphy went to the newspapers and asked the "guy" who met her husband that night to come forward. She got no response.

Michael Murphy's death was ruled "accidental."

Michael Murphy was buried in the first week of 1973. That same week, the Humboldt County Grand Jury indicted Lloyd Clifton for the murder of Dirk Dickenson. The charge was second-degree murder—an involuntary manslaughter charge was tacked on later—and Clifton became the first agent in the five-year history of the government's Bureau of Narcotics and Dangerous Drugs to face homicide charges.

District Attorney Ferroggiaro also charged that the Department of Justice had very definitely *not* cooperated with his investigation; that the Department "sat on its hands for a day and a half" after the shooting; that the BNDD purposely withheld its internal regulations manual from him; that "there was a delay" before the Department allowed him to interview federal agents who had participated in the raid.

The government expressed surprise: "It's a classical case of justifiable homicide under state law," said James Browning, the federal attorney for Northern California. "I've seen almost the same exact facts considered by almost every other district attorney in the state and it's been held to be justifiable homicide."

"That," said Ferroggiaro, "is ———."

The District Attorney told Phil Ryan he sought the murder charge on the basis of Michael Murphy's research. Clifton's record of past brutality, he thought, was most relevant to the single shot on Pratt Mountain.

The District Attorney, courthouse observers noted, was not in good humor. He felt he'd been tricked into finding the lab; he felt the government was treating him like a small-town briar. He felt he'd done his best in the trial of Highway Patrolman Hahn; yet he had been made to look foolish. The high-pitched Jim McKittrick, rocking back and forth on his heels like legendary San Francisco coplawyer Jake Ehrlich, had run dizzying legal circles around him. According to some courthouse analysts, the DA would not have pushed on the Clifton case if he had won a conviction on Hahn.

On January 16th, agent Lloyd Clifton, looking paunchier, with a new haircut but the same overdose of hairspray, was arraigned at the Humboldt County Courthouse. He was released on bond on his own recognizance and was never even booked at the county jail. The courtesies he received had been afforded no other indicted murderer in the history of Humboldt County.

At Clifton's side were a nondescript government attorney and the man who would be in charge of his defense. He was James McKittrick, who had concluded his summation in the Hahn case by saying: "The fact that people have been killed by officers is too bad, but I would say by and large they have brought their unhappy fates upon themselves."

Why was Humboldt County's hotshot mouthpiece defending Lloyd Clifton if the government was responsible for the agent's defense? The US Attorney quickly answered that intriguing question. Jim McKittrick was now a part of the government: He had been deputized as a special United States Attorney. He had been whisked to Washington, where he had taken the oath and met with Attorney General Richard Kleindienst. The federal government was paying all the costs.

The People vs. Lloyd Clifton was based on these arguments:

Lloyd Clifton had violated his own department's regulations—first by breaking down the Dickenson cabin door, then by firing at the fleeing Dirk Dickenson even though BNDD regulations specifically warned against "firing at a fleeing suspect."

In shooting Dirk Dickenson, Lloyd Clifton demonstrated an "abandoned and malignant

heart." as the District Attorney later explained, "that he had a coldness or cast of heart by which he didn't exhibit care." This coldness was the basis of the second-degree murder charge. The other charge, involuntary manslaughter, was based on viewing Clifton's action as "without due caution and circumspection, a criminal negligence-type situation."

The government answered. Jim McKittrick, now a special United States Attorney, wrote a letter to the editor of the Times-Standard: "I should like to point out . . . that all of our institutions in this country are under fire today and that the police perhaps more than any other are called in question by radical elements in our society, who for reasons of their own desire to bring our country down. I do not include Mr. Ferroggiaro in this category, but I must say that his efforts during the past year must have been viewed with satisfaction by such persons."

The government argued that the District Attorney had not presented all the facts to the grand jury. He had not asked Lloyd Clifton to testify. Replied the DA: "It is poor practice to request or require prospective defendants to be subject to grand jury questions because they cannot be represented by an attorney at the hearing."

At the same time, the government argued the DA had given the grand jury too many facts—specifically the BNDD internal regulations manual forbidding the shooting of "fleeing suspects." To support this argument, McKittrick presented two letters. The first was from Attorney General Richard Kleindienst, which said BNDD regulations were "internal guidelines . . . not intended to negate any common-law rights or defenses." (The regulations make nice reading, Kleindienst seemed to be saying, but should not be taken too seriously.)

The other letter was even more remarkable. It was from Andrew Tartaglino, the acting director of the BNDD. Notwithstanding subsection 42–23, wrote Tartaglino, Clifton "properly and necessarily discharged his weapon . . . in accordance with BNDD regulations."

The usually low-key District Attorney seemed a bit riled by all of that and said "the statements are beyond belief, a brazen attempt to bootstrap an employee out of a situation created by that agency and that employee." The letters were "self-serving," the DA said, because Dickenson's family had sued the BNDD for $2 million. Ferroggiaro shook his head and said: "I expect next we'll have a letter from Nixon himself explaining how this whole thing falls under the jurisdiction of his heroin hotline."

The government argued that the prosecution of Lloyd Clifton was interfering with the process of Justice. To wit: Lloyd Clifton's reputation was being impeached in other cases involving other busts he had participated in. Attorneys representing those clients were moving to impeach Clifton's testimony by revealing that the man who had busted their client was an alleged murderer. The government expressed fear that if the murder/manslaughter charges weren't dismissed, then they'd lose a whole year's worth of narcotics cases.

But the government's main argument was a black humorist's dream: The charges against Lloyd Clifton had to be dismissed because of the . . . Civil Rights Movement!

It worked this way: Lloyd Clifton was acting as a federal agent, a man in the employ of the United States government, when he fired his revolver. The United States government's investigation absolved him of any wrongdoing. The County of Humboldt and the State of California had no right to institute proceedings . . . because Lloyd Clifton was a federal employee.

What would have happened, McKittrick asked, if civil rights registrars and federal marshals in the Deep South would have been arrested for "spitting on sidewalks" by redneck deputies and badge-wearing Klansmen in Selma, Montgomery, and Neshoba County, Mississippi? As McKittrick put it: "The Department of Justice is extremely concerned with Mr. Clifton's case. The Attorney General feels he has as great an obligation to protect Lloyd Clifton from prosecution here in Humboldt as he does in protecting federal voting rights officials. . . ."

McKittrick added: "If we are not to permit the Southern states to prosecute such federal officers, are we in a position to say—'Well, our motives are more pure than theirs and therefore we can do it while they can't.'?"

In reply to that, a member of the DA's staff posed this question: Say, just as illustration, that a government agency, like the FBI for instance, is taken over by evil and corrupt men who form its agents into execution squads. Say that these FBI assassins spread out around the country and kill ten men in ten different states. The FBI director announces an extensive impartial investigation which finds the agents innocent of wrongdoing.

Assume now that the government's argument in the Clifton case has been upheld: States can not prosecute federal employees for alleged crimes committed in the performance of duty. What happens then? According to the government's argument, nothing. The murderous FBI men go on to their next hit.

Almost as afterthought, in reply to McKittrick's Civil Rights analogy, District Attorney Ferroggiaro pointed out the charges against Lloyd Clifton were not charges of "spitting on the sidewalk."

At the same time, the government reiterated Federal Attorney Browning's claim that the shooting of Dirk Dickenson was not in violation of state law and should have been ruled justifiable homicide. At issue were State Penal Codes 196 and 197 which said:

"Justifiable homicide by public officers is . . .

". . . when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest . . . when necessarily committed in attempting, by lawful ways and means, to apprehend any person for a felony committed . . . or in lawfully keeping and preserving the peace."

The District Attorney said the key word was "necessarily" and asked: How did Lloyd Clifton know the man fleeing toward the woodline was Dirk Dickenson, accused felon? How did he know the running man 50 yards from him wasn't a visitor to the cabin terrified by the roaring helicopter and the gunmen who never identified themselves?

Ferroggiaro referred, too, to the regulations of other police agencies. The Highway Patrol Enforcement Tactics Manual said to justify shooting, "There must be actual fear for one's own life or of serious bodily injury . . ." The Humboldt County Sheriff's Firearm Regulations said: "Members must exhaust every other means of apprehension before resorting to the use of firearms . . . Firearms may be discharged in the defense of one's own life when all other reasonable means have failed." Was Lloyd Clifton's life threatened, the DA asked. Why didn't agents use a bullhorn to order Dickenson to stop when they admitted the helicopter was so loud they "couldn't hear each other"? Why wasn't Dickenson chased by the 19-man posse instead of shot in the back?

The District Attorney argued that his interest was to pose these questions to a jury and let them decide. Why did the government want to quash the charges before the case ever got to a jury?

The government's first formal step in trying to get the charges dismissed was to ask on January 22nd for the disqualification of a Superior Court Judge "for prejudice." He was William Watson, the man who had tossed Mel Ames' "Mafia gunrunner" drug case far out of court, who raised goats and was sometimes seen at a place called The Keg in Arcata, eating spaghetti and listening to a rock band. Watson didn't want the hassle and agreed to a disqualification.

That put the case before Superior Court Judge Thomas Montgomery, who had just returned from a New Zealand vacation and who said, the first time he heard the DA and McKittrick hammer away at each other, "I hope I don't have a Pentagon Papers trial on my hands." In mid-March, Montgomery denied the government's motion to dismiss the charges, which was not unexpected. The denial made it possible for the government to appeal and seek dismissal in more friendly territory—in federal court. In mid-February, Federal Attorney Browning had said: "We don't want to give the appearance of being heavy handed by asking a federal judge to take the play away from the state courts, but we don't want to rule that possibility out."

At the same time, Phil Ryan was informed that the government's file contained the transcript of a taped conversation between Judy Arnold and Dirk Dickenson's parents. Their dialogue was taped at Undersheriff Bollman's direction three days after the shooting, as Chester and Mittie Dickenson waited to post bond for Judy at the Humboldt County Jail. It was the first time they had seen each other since Dirk's death. They spoke over a telephone, separated by a pane of glass.

JUDY. Hello [sobbing].

MITTIE. Hi, honey. We're going to take you home . . . Cry, I know.

JUDY. I have to get out of here. I'm going crazy.

MITTIE. What dear?

JUDY. I said, I have to get out of here. I'm going crazy.

MITTIE. I know you are.

JUDY. All I can think about is Dirk.

MITTIE. It's a nightmare. I'm so sorry, Judy, so terribly sorry. [crying] Let daddy talk.

CHESTER. Hi, hon. We'll have you out of here in a little bit. We're going home as soon as we can get the paper taken care of.

JUDY. How long will it be?

MITTIE. It shouldn't take very long. I'm going to check.

CHESTER. Just a little while, sweetheart.

JUDY. It wouldn't be so bad if they just . . . They have the radio on and it seems like the news about it comes on every 30 minutes.

MITTIE. I don't know why they had to kill him.

JUDY. There was no reason.

MITTIE. [crying] No.

JUDY. No reason, no reason.

MITTIE. Have you eaten?

JUDY. No, I haven't eaten in three days. I can't.

MITTIE. You've got to have something to eat, honey. We haven't eaten either. Drink coffee and that's about it.

JUDY. I don't think I even want to go to the funeral. I can't.

MITTIE. I'm thinking of having a closed casket. I don't think I want it open.

JUDY. I don't think I want to see him [softly]. I feel terrible saying that but I just don't.

MITTIE. No, honey, I know what you mean. I understand. I understand, darling.

JUDY. We had everything worked out. It was all going to be all right. And then it had to happen. It's horrible.

CHESTER. Ask her about his dogs and everything.

JUDY. Uh, we have a friend taking care of the dogs.

MITTIE. Oh, God, I'm so shocked Judy.

JUDY. Yeah. It was quite a shock. It happened so fast. And they wouldn't even tell me. I didn't know he was dead 'til about seven o'clock. And they knew when they brought me here that he was. And they wouldn't even tell me.

MITTIE. Did you have to identify him?

JUDY. [crying] No.

MITTIE. Well. . .

JUDY. But there were so many of them; I couldn't believe it.

MITTIE. Senseless, it was just a senseless killing.

JUDY. I know. That's what I told them. That's what they kept asking me—why did he run? I go—What would you do if 20 men come bursting in your front door with shotguns? What would you do? And they go—Well, he didn't have to run. I go—Well, just what would you do if you were in his place? It was horrible. It was just no need for it to happen at all.

MITTIE. What will we do?

JUDY. I didn't get to make a phone call until yesterday. Last night was the first one I got to make. My lawyer just really flew apart at that. He raised a big stink about that and told them they had no right not letting me call. Because I asked as soon as I got here if I could make a phone call and they wouldn't let me.

MITTIE. God.

JUDY. It's been awful in this place. People were taking pictures and stuff. It was like a bunch of vultures. They acted like I committed murder or something.

MITTIE. Are you warm enough?

JUDY. Yeah, I have one blanket. It stays pretty warm in there. It's just an Army blanket.

MITTIE. What clothes do you have

JUDY. Just what I had on me. I couldn't even—they wouldn't let me bring my purse or nothing.

MITTIE. Would you like a Coke or something? My mouth tastes like, I've smoked so many cigarettes my mouth tastes like a. . . .

JUDY. I've had sips of coffee and that was it. The coffee tastes so bad. . . . We just didn't know what was happening. I couldn't believe it. You know, Dirk didn't run until they were inside the house, 'til they busted the door in and then, you know, he jumped off the back porch. Then they were trying to do me, you know, like—Oh, did Dirk have a gun with him? They were just trying to get me all confused and everything.

MITTIE. Dirk never carried any gun.

JUDY. No, he never had no gun with him. We were getting the house fixed up. We were going to put the bathroom in. It was awful.

MITTIE. Oh, God.

JUDY. I wonder if they are going to do anything about what happened to Dirk?

MITTIE. Somebody else told us too that it was just out and out murder.

JUDY. Yeah, that's it.

MITTIE. Cold-blooded murder. Some gungho jerk.

JUDY. I can hardly talk about it.

MITTIE. Where's Dirk's clothes?

JUDY. A lot of his clothes are in Garberville.

MITTIE. Well, he's got quite a few clothes at home, too. I've cried when I didn't think I could. I'm just numb.

JUDY. [crying] Just think of how happy we were.

MITTIE. I know it. Daddy and I were talking about that. You were just so happy.

JUDY. It's going to be so hard.

MITTIE. Yes, Judy, it's going to be awfully hard on you, honey.

JUDY. I just can't make it without him.

MITTIE. What?

JUDY. I just can't make it without him [crying].

MITTIE. I'll be so glad when you get out of here so I can just love you.

Now, in May of 1973, more than a year after the shooting, the United States government's motion to dismiss the case of *The People* v. *Lloyd Clifton* is pending in federal district court. All sides agree it could take as long as two years for a final decision.

Asked whether he is optimistic, the weary District Attorney Ferroggiaro, his political ambitions a memory, answers with a wry, "No comment."

"I'm optimistic," McKittrick bubbles, "we'll win."

Says Phil Ryan: "The real victory of the people in this case was actually the indictment itself. To expect that Clifton is really going to be put on trial is to entertain illusions about how the system operates. I am saddened but hardly surprised."

The sun shines on Humboldt in the spring; rivulets of spunkwater dot the meadows; herds of deer lope through the sequoias searching for lily ponds; sheep wander the bleakscapes of stumps; canyons echo the chain saws' screams.

In the spring of 1973, at a meeting of the county planning commission, a logger named Pete Johnson gets up to speak his peace. "Sometimes I get in trouble because of talking too much," the logger says, "but I call it like I see it. It is those hippies against us straights, and the rednecks around here better wise up. Those hippies don't contribute one thing to the area except dope."

In Whitethorn, Ms. Elaine Lester, a veteran of New York and Berkeley, a grade-school teacher at an alternative school, is asked about life in the wilderness. She doesn't want to talk about it. "Things are hard enough for people just to survive," she says, "without media intervention—even the hip media."

On the nearby Samoa Peninsula, the coroner recovers another body. The body had a broken nose, broken hands, battered ears, startlingly blue eyes and Indian features. The body waits for an identification. Weeks pass and it is assumed the dead Indian will never be identified, just like the murdered Indian found near Kneeland four years ago.

A militant Indian named Russ Redner says: "We don't want to tear the whole damn thing apart, we aren't revolutionaries, but we will if that's the only way we can reach our goals. I wouldn't feel bad at all if we marched on the Humboldt Courthouse again and this time burned down the damn thing to the ground."

In early March, 1973, Mrs. Mittie Dickenson writes Phil Ryan a letter. Attached to it is a newsclip, a letter to the editor of the Times-Standard from a Eurekea housewife:

"Lloyd Clifton has been charged by our DA Ferroggiaro with the unnecessary killing of Dirk Dickenson. . . . I have been under the impression that we elect a DA for our protection and the grand jury is chosen to make our decisions. . . . From my point of view, Clifton was justified and did the public a big favor. . . . The past few years' record proves that it takes a lot of guts to enforce the law. So let's back 'em up and not mow 'em down."

Mittie Dickenson writes:

"I want so much to answer that letter. Lord, it's almost a year and it all still seems like a nightmare. Dirk had a right to a trial by jury, not death. I wonder if I'll ever accept his passing. The tears seem to flow more often instead of less."

In a cemetery in Lincoln, Calif., Judy Arnold stands in front of a gravestone, looking at the ground. She has lost weight; her eyes are sunken and hollow. She lives in Berkeley, taking the days "one by one, slowly." She is thinking about Dirk's dream. . . . They were coming for him. It was an execution squad. They shouldered the cabin door. Their faces were blank and waxy. He heard the gunshots and saw the glop of his own blood. . . . Judy Arnold stands by his grave and remembers how she comforted him: You aren't going to die, babe, it's just a dream, a lousy, rotten, silly dream.

In mid-March, a helicopter hovers over the eastern slope of Pratt Mountain between Garberville and Alderpoint. It is headed for a cabin. It is a long green Huey borrowed from the Presidio of San Francisco. The chopper touches down in a clearing and armed men leap from it and run for the cabin door. Leading the charge is BNDD agent Lloyd Clifton. Behind him are Undersheriff Bollman and agent Kenney Krusco. Suddenly Lloyd Clifton is on the back porch, and there is a shot.

It is a carefully orchestrated replay of the shooting. Watching everything is attorney James McKittrick. It ends when the Huey takes off again. There is a man inside playacting Dirk Dickenson's death. The government wants no loose ends.

[From the Tucson (Ariz.) Daily Star, June 2, 1973]

WRONG RESIDENCE RAIDED BY POLICE

(By Ben MacNitt)

Undercover narcotics agents broke into the wrong northside home May 22 and held two innocent victims at gunpoint before realizing that their intended target was the home next door.

"When I first saw them, I thought they were gangsters," Kathy Rote says of her encounter with the narcotics team, which broke into her house without a warrant.

Police confirmed yesterday that agents, including Lt. Don Lowe, head of the Metropolitan Area Narcotics Squad, mistakenly broke into Miss Rote's home and threatened her friend, Earl Edmonson, with a gun in "an unfortunate incident" connected with a valid drug raid at an adjoining home.

Police Major Clarence Dupnik said that because the raid was made incidental to an arrest there was no need for a search warrant. He added that warrantless searches are standard operating procedure in such cases.

However, Deputy County Atty. David Dingledine said he would conduct a thorough investigation early next week into the incident to make sure "the constitutional rights of those involved were not violated."

After conferring with Dupnik, Dingledine said last night he was not sure whether the search made in the incident was legal without a warrant.

Miss Rote, 23, lives in a rented home at 3504 N. Geronimo Ave., which is separated by a walkway about eight feet wide from another home at the same address where police arrested Kevin M. Conlin and Steven R. Weisner on charges of possession of marijuana and attempted sale of marijuana.

Details of the incident supplied by Miss Rote, Edmonson and Dupnik are as follows:

On the morning of May 22, undercover narcotics agent Peter Pershing made a deal to purchase marijuana at the Geronimo address later in the day.

Three arrest teams were staked out near the house when Pershing arrived in the afternoon. When the transaction was about to take place, Pershing announced he was a police officer and arrested Weisner. Conlin reportedly fled and Pershing shot at him, hitting a kitchen cupboard.

When the arrest teams heard the shot and were told by radio what was happening they rushed the property thinking Pershing might have been injured. At least two and maybe as many as six other agents rushed the wrong house.

At the same time Edmonson was putting some trash into a garbage can outside the house when two men "who looked like hippies" jumped out of a car, pointed pistols at him and ordered him to "freeze."

After the incident, Edmonson recalled thinking, "Oh my God, I'm going to get shot, I'm going to get shot . . ." He ran, was stopped and forced to lie spread eagle on the ground.

Miss Rote, who was in the house, said she saw two men pointing guns at Edmonson and

"they looked like gangsters" so she went to the telephone to call police. Before she made the call, two agents entered through the front door, pointed guns at her and told her to sit down.

Miss Rote is a polio victim and walks with the aid of crutches. She said her bout with the disease has weakened her heart and when the men entered with guns she began to feel her heart beat quite fast. "It's amazing what your subconscious can do when someone points a gun at your head," she said.

Shortly afterward, she said, two other men, one of them Lt. Lowe, entered the house by breaking through a screen at a rear bedroom window. One or two others came in later.

At no time, according to Miss Rote, did any of the men identify themselves or tell her why they were in her home. None were in uniform.

Lowe denies that and says he told Miss Rote he was a police officer on a narcotics raid. He was armed with a special police model 12-gauge shotgun. Dupnik said after the incident Sgt. Werner Wolff explained the police presence to Miss Rote. She says it is not so.

Miss Rote said the men searched her home, "kicked some furniture around" and slightly damaged a piece of sculpture in her living room. At one point a man wearing a badge entered the house and Miss Rote said she realized it was probably a police raid when she saw uniformed officers through a window outside.

Edmonson, meanwhile, was taken to the Conlin house. He said he saw a man, apparently Weisner, sitting in a chair with his hands tied behind his back. A police agent was giving him sips of beer from a can he had in his hand.

Edmonson was spread eagled against a wall and searched. Pershing then said, "He's not the one." Police confiscated 306 pounds of marijuana at the Conlin residence and later arrested Juan Z. Cota, a Sonoran, on charges of transportation and possession of marijuana for sale in connection with the same incident.

After telling police he had nothing to do with the Conlin house, Edmonson was escorted to the Rote home.

Both Edmonson and Miss Rote produced various pieces of identification and tried to convince the police they had no connection with the Conlin house. "That doesn't keep you from doing dope deals with them, does it?" one man asked, according to Miss Rote.

"Yes, it does," she answered. "You're in the wrong house. This is a separate house." One of the men then said to Edmonson, "Nothing personal, you understand," and the men left.

Edmonson said he did take the incident personally, adding that he was "scared spitless."

Dupnik said the department "has stringent procedures to try to preclude this sort of thing from happening. Unfortunately in the heat of battle when officers think their lives are at stake they begin to respond instinctively."

Edmonson was stopped, he said, because officers thought he was either attempting to get away or disposing of evidence in the garbage can. Edmonson said he was throwing out some watermelon rinds.

Police Chief William Gilkinson, following standard procedure, set up a board of inquiry immediately after the incident to investigate Pershing's use of his weapon. Dupnik said the department is also investigating other aspects of the incident.

Dupnik confirmed that no narcotics or marijuana was found in the Rote home and that neither Miss Rote nor Edmonson were in any way connected with the alleged drug traffic in the Conlin home. He said the department will pay for the damaged screen.

Two members of the force visited Miss Rote's home yesterday to explain the incident to her, he added.

CHICAGO, ILL.,
May 19, 1973.

DEAR SENATOR PERCY: I have heard that you are presently involved in getting investigations started on the various "mistaken" drug-raids which have been taking place throughout our state; I am writing to inform you of one more such raid that you might want to use to strengthen the case even more.

On May 9th of this year, 4 plain clothes policemen entered our apt. (at the above address) and because my husband didn't know who they were, he tried to prevent their further entry, at which time they jumped him. He was hit in the mouth, held in a neck lock—which had him literally choking for almost ten seconds (we have a witness to that part)—while that was going on—I was on the phone calling the police—because I also didn't know that these (for lack of a better word) attackers were in fact police officers. These men got my husband handcuffed, I told them that I had called the police at which point, they said that they were the police. I asked for their badges, etc. They then showed me a warrant which had a name I never heard of on it. Then they asked our name. The officers that I called on the phone arrived promptly (which I will always be grateful for). I requested that the uniformed officers stay, because quite honestly, after seeing how they had already treated my husband I was terrified. The officers said that they had a right to search our apt. even though the warrant had the wrong name on it. The thought occurred to me that there were so many men searching our apt. that it would be possible for them to plant drugs and there wouldn't be any way of preventing it. I immediately called a relative and asked that our lawyer be told of the situation. I told that relative all that I have told you. The police found nothing here but they still asked my husband to go downtown with them. Before they left, my husband had been released from the handcuffs. Presently he has been charged on 3 counts; 1) resisting arrest (which I really don't understand since he wasn't arrested before he left our home, and since he went with them on his own—without handcuffs etc.), 2) battery—the officers say that he attacked them (may I also add, my husband was kicked in the leg, hit on the head, and 1 officer put his foot on my husband's chest)—these claims can be verified by the doctor that examined him the following day, 3) possession of a control drug—which isn't true. The officers took one caps. of Achromycin we have already been told that that charge will probably be dropped.

Another reason I am writing is to say that my husband is an English citizen—needless to say his family is outraged, and to date the English Embassy hasn't been informed by the police of the incident—which according to the embassy is in violation of the international agreement. When it all happened I though that nothing could be done to prevent this type of thing happening to unsuspecting, and innocent people. I am grateful that a man of your importance and influence can see the urgency of the matter and that you are trying to do something about it. I believe that most people do want to fight against the improper use of drugs etc. and that most people want to respect the police. I never thought that the day would come in this country, when people would have to be afraid of the police, especially in their own homes. Anyone, that this type of thing has happened to, would feel inclined to sue the necessary authority, to get the officers involved better trained, and to spare anyone else such an ordeal. As things are, court and lawyer's fees—we will be barely able to afford proving ourselves innocent, without being able to do anything to prevent this type of thing from happening anywhere in the future. Thank you for involving yourself, your interest will do more than 100 such complaints or suits on the part of individuals.

I am not a member of your party but the fact that you introduced to the Senate the idea of insisting on an outside investigator (prosecutor) for the Watergate affair—I think will at least show that many politicians are still trustworthy. It was brave of you.

Thank you for your time and good luck in your endeavors.

Sincerely,

MRS. JAMES MICHAEL FLYNN.

P.S.—I'm not a Democrat either so I must be an independent. I have voted for you—if it matters.

ESCONDIDO, CALIF.,
May 1, 1973.

DEAR MR. and MRS. GIGLOTTO: I read in my local newspaper what happened to you by the federal agents. I am writing to ask you to please press charges. You see. D.A.L.E. agents (Drug abuse law enforcement) broke into my home on April 9. They had no warrant and hung up on my lawyer. There was 20 of them, they called me names shoved me around and made my 8 yr. old and 7 yr. old boys watch the whole thing in tears. They would not let me put them to bed, they came in drinking beer and ate my dinner off the stove. I felt very much like a Jew during the war—No rights of any kind.

But you see I can not do anything, it seems my husband was arrested an hour earlier at another address for possession of marijuana.

Why they came to my home I'll never know. They seemed to only want to terrify my children and myself like they thought of it as a big party. My 8 year old is afraid now when a car drives up to our house at night.

Hundreds of people are terrorized by these men that act like they belong in a motorcycle gang but use a badge to justify their cruelty!

Please don't get me wrong I believe in a law enforcement against narcotics. But that night I was praying for a black & white car to drive up with a uniformed officer in it. By the way they found *nothing* illegal in my home, although they tore it up for two hours.

Please—for the sake of many others you are in the ideal spot to bring these so called "law enforcement officers" to the public's eyes. Don't let anyone tell you it was just one district of agents—they are like that almost every where. Please check into it before you chalk it up as a little thing! It's a big thing all over the U.S. It needs badly to be publicized!

Thank you.

NANCY C. PARVIN.

TAYLOR, TAYLOR & SIKES,
Chicago, Ill., May 22, 1973.

Re *Barba, etc., et al.* v. *Battleson et al.*, No. 72 C 336.

Hon. CHARLES H. PERCY, Jr.,
U.S. Senator, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: In connection with the recent hearings which you conducted in Chicago concerning activities of the United States Bureau of Narcotics and Dangerous Drugs, I summarize the captioned lawsuit.

An automobile with a cache of marijuana was apparently followed to Illinois by agents of the Bureau of Narcotics and Dangerous Drugs (and also possibly by United States Customs Agents) from somewhere in Texas. It appears probable that the driver of the car was an informant for BNDD or Customs. On arrival in the Chicago area, as is the mode of operation of these cases, the informant called his intended receiver and said that his automobile was "disabled" on the south side of Chicago and asked if he could please arrange to have the car picked up.

Then, apparently, the receiver or someone acting on his behalf, approached the first of my clients, one Raymond Toledo, the operator of a repair shop on South Kedzie Ave-

nue in Chicago and asked Mr. Toledo if he could tow a "disabled" automobile in for repair. Mr. Toledo dispatched a Mr. Charles Poltes, the second of my clients, with a tow truck. The "disabled" automobile was towed in by Mr. Poltes and dropped in an alley behind Mr. Toledo's repair shop. Moments later, federal agents arrested Mr. Poltes, Mr. Toledo, two mechanics of Mr. Toledo who were repairing other vehicles at Mr. Toledo's garage (the third and fourth of my clients) and two customers of Mr. Toledo who were waiting for the repair of the automobile of one of them (the fifth and sixth of my clients). The arrests occurred at approximately 5:30 p.m. on September 1, 1971.

All of my clients were handcuffed and some subjected to various physical assaults (slapping, kneed to the ground, etc.) and were then transported to the offices of the Bureau of Narcotics located in the same building as your Chicago office.

There, along with being photographed and fingerprinted, all six of my clients were subjected to various degrees of harassment and accusatorial conduct and questioning including being stripped of all clothing and placed in small cubicles having no lavatory facilities or furniture. What can best be described as college-type hazing then took place. Apparently the cubicles are serviced by outside lighting switches and have no windows. The agents kicked on the doors from the outside, flipped the light switch on and off and indulged in hazing laughter from outside the cubicles, and on occasion entered to see if the client wanted to confess.

At approximately 12:30 a.m. on the morning of September 2, 1971, all my clients were removed to the Chicago Police Department lock-up where they remained until the following morning. They were given some food or allowed to buy some food through the jailer. Until this time, my clients had had nothing to eat and were apparently allowed no meaningful opportunity to communicate with their families, although one client did get through to his wife.

The clients were brought before the United States Magistrate, but not until 2:30 p.m. the afternoon of September 2, 1971. It was at this point that I, having been designated the private attorney on duty with the Federal Defender Program, on that day, was appointed to represent the six above clients and a seventh, who subsequently jumped bond and has, to my knowledge, not been heard from since. I believe he was a receiver, or agent for the receiver.

The complaint that was filed against my six clients was dismissed, by the government. There simply was no probable cause. Thereafter, and mindful of the then recent case of *Bivens vs. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, I explained the civil rights to my clients. My clients employed me to represent them in the above civil case, which was filed in January, 1972.

I only knew the name of one agent, the one that had signed the complaint against all my clients. I undertook normal discovery to determine the names of the other agents that had participated in the unwarranted and illegal arrest and detention. In questioning a Mr. John Evans, Regional Director of the Bureau of Narcotics and Dangerous Drugs, I met with claimed executive privilege in answer to questions concerning reports filed by the arresting agents and the names of the agents.

In deposing the one known agent, I received the same executive privilege answer to questions concerning identification of other agents. The government simply will not reveal the names of the agents nor give me any of the relevant reports which are customary things in any civil action.

Since the agents must have been acting on someone's information, I also want the names of the informant or anybody else that has relevant knowledge concerning whether or not the agents had any probable cause to affect an arrest and detention of my clients. I am met with the so-called informer's privilege.

Respectfully, I prevail upon your good office to use your influence, legally, to remove this shroud of secrecy under which the government and, in particular, the Bureau of Narcotics and Dangerous Drugs, is attempting to sweep its gross violations of the fourth, fifth and sixth amendment rights of citizens.

While my clients have as their goal the vindication of constitutional rights via monetary judgment, I, as a citizen and officer of the court, am concerned greatly with the "O.K. Everybody downtown!" tactics and the constitutionally demeaning and personally debasing aura of such arrests and detention. Frankly, it is time to blow the whistle.

Thank you for your cooperation.

Yours very truly,

RICHARD T. SIKES.

STANGE CO. ADD-A-SAUCE ® DIVISION,
Broadview, Ill., July 17, 1973.

Hon. Senator CHARLES PERCY,
Senate Office
Washington, D.C.

DEAR SENATOR: I read that you are opening Senate hearings to investigate the subject of narcotic officers breaking into the wrong homes and frightening innocent citizens. I recently had a very frightening experience while staying at a Holiday Inn in Providence, Rhode Island. It is described in the attached letter of complaint to the Holiday Inn's. I have enclosed their reply to my first letter and my subsequent reply. Also enclosed is a copy of a newspaper article from the Providence Journal detailing the arrests made at the Holiday Inn the night I thought I was dead!

Criminals should and must be apprehended. However, the honest citizen should not be subjected to frightening experiences and harassment by the very agencies they employ to protect them.

If my experience can be of any help in correcting the existing search and seizure laws, I will be only too happy to provide whatever assistance is necessary to prevent others from having an experience similar to mine.

Very truly yours,

CHARLES DAME.

JUNE 22, 1973.

Mr. WILLIAM WALTON,
President, Holiday Inn,
Memphis, Tenn.

DEAR SIR: For many years I have spent many enjoyable hours at Holiday Inns both on business trips and vacations with my family.

On the evening of June 19, I was in Providence, Rhode Island on business and stayed at the Holiday Inn. I had a very frightening experience which I will briefly describe. I went to bed on the 19th at approximately 11:30 P.M. and locked the door. At approximately 2:50 A.M. I was awakened by a crashing noise as men entered my room. As I leaned up in bed, one man stood at the foot of my bed with a 38 revolver pointed at my head and shouted "don't move, freeze". Another man with a rifle pointed at me was beside him. I fully expected to be robbed and shot. Two more men, one with a shot gun and another with a rifle, walked into the room. They asked me where my companion was and did I have company earlier. Someone in the background said, "I think we have the wrong room". They searched the room and then someone said "Take it easy, we are Massachusetts State Police". They requested identification and then explained they had apprehended a rape suspect in the lobby and he had stated he had just left room 1400 (my room). They immediately obtained a pass key from the night manager and then burst into my room. I requested and saw the badge of the officer in charge and two arrest warrants but no search warrant. The officer apologized and left. I checked with the desk and was informed that police officers were in the building. I did not sleep the remainder of that night.

Needless to say, I want criminals apprehended but I also expect that when I rent a room at one of your Inns, to have some semblance of privacy and protection. I am not happy with the way the police handled the situation as they could have checked to determine who was in the room prior to unannounced entering and should have identified themselves immediately, which would have put me at ease. What would have happened if I had a heart problem or was armed and attempted to protect my property? Above all, I was disillusioned to find that the night lock can be easily overcome by simply having a master key. This certainly does not make me feel secure in a Holiday Inn.

I waited until approximately 6 P.M. on the 20th before complaining to your management. The assistant manager was surprised that such a thing happened and apologized. At approximately 9:30 that evening, the assistant manager called and said he had discussed the situation with the manager and that they were giving me the night of the 19th complimentary. Since I stayed two nights I only paid for one.

Not only am I horrified that such a thing happened to me but am disappointed that Holiday Inn's management never expressed any concern about the incident until I complained. Their apparent lack of knowledge of the situation only accentuates their lack of interest in the Inn's "guests". The shoddy condition of my room: a large burned area on the bathroom sink, dirty walls, and a partly painted ceiling, further amplifies poor management.

I think you should be aware of the condition of your Inns and what happens in them. How would you like to be awakened at 3 A.M. to find armed strangers in your bedroom and with a 38 revolver and rifle pointed at you?

Yours truly,

CHARLES DAME.

CHICAGO, ILL.,
May 23, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Perhaps you can explain to me why innocent citizens have to be subjected to humiliation, embarrassment, costly lawyers' fees, lost wages, wasted time, worry and aggravation for absolutely nothing.

I am aware that this country has a grave drug problem and law enforcement officers have a terrific job on their hands, but occasionally they are on the wrong track as in our case.

On March 9, 1973 my husband and I returned home from work and were greeted by our janitor with a Search Warrant. The Warrant was for possession of marijuana and the reverse side stated they had found a quantity of drugs in our apartment and for Robert to turn himself in Saturday, March 10, 1973 at 2:00 P.M. at 11th and State. He immediately called the Police Station telling them there must be some mistake and asked if he could come down that night and get it straightened out.

We got downtown at 7:00 P.M. and they let him out of jail at 3:30 A.M. on a $1,000.00 reconnaissance bond for Possession of Narcotics.

The narcotics they confiscated were nothing more than prescription drugs, for myself, my husband, and my ex-roommate, Lynda Morrissey. Her and I shared this apartment for a year and when Robert and I were married, we took over the lease. Lynda left numerous things here, furniture, clothes, and

old prescription bottles, which I never thought twice about.

After this ordeal of 8½ hours at the Police Station was over, we began the task of seeking legal advice. The first lawyer we contacted quoted us a fee of $1,500.00. For what? Having prescriptions in our home? I never knew this was against the law. After numerous phone calls to many lawyers, American Civil Liberties Union, States Attorney, U.S. Attorney Offices, etc., with no results, we went to the 49th Ward Office. We spoke with a lawyer, Tom Riley, whose field was narcotics. He quoted us a fee of $500.00. This is ⅓ the price of the first lawyer, but who has $500.00 lying around. True, we were both employed, but being newly married we have more than our share of bills, and it would be financially impossible for us to take on even one more monthly payment.

We decided to try it on our own. We got copies of the lease Bob and I signed and the one Lynda and I signed and affidavits from doctors each of us have seen within the last four years.

The court date was April 16, 1973 at 9:00 A.M. We were there about 8:45 AM and his case was not called until 2:00 P.M. He presented all the documents and naturally the judge gave a verdict of "not guilty". So here is another 5½ hours of wasted time, one days lost wages, and one parking ticket. They conveniently provide no parking except a lot for "employees only" and line the street with two hour parking meters. Seeing that we were "occupied" for over two hours we returned to our car to find a $10.00 ticket. More expense!

All medication taken from our apartment became property of the Court. Why? Have you been to a drugstore lately? Prices of medication are even more outrageous than food prices these days. Just another loss we have to take because of the law!

Also my husband, who has never been arrested, has to go thru the rest of his life with a Police Record for Possession of Narcotics. Of course, the Record shows "not guilty" but what employer is going to hear those last two words.

Evidently Bob's employer didn't, for he was called into the office Friday and "fired"! Why? Because he has a Police Record. Company policy!!

But there is an alternative: Employ the services of a lawyer and for a mere $400.00 these records can be expunged. More expense to us, and one less paycheck coming in.

Now I ask you Mr. Percy, is this fair? Is this Justice?

I realize we will never be reimbursed for the expense and inconvenience we have already been put thru, but I am appealing to you, if there is anything at all you can do to get his record cleared, we will be eternally grateful.

Respectfully,

ROBERT G. OLSON II,
JENNIFER C. OLSON.

JUDGE JOSEPH WADDY'S DECISION IN THE POCKET VETO CASE

Mr. KENNEDY. Mr. President, on August 15, 1973, during the summer adjournment of Congress, Judge Joseph C. Waddy of the U.S. District Court for the District of Columbia issued his decision in the court action I brought challenging the constitutionality of the President's use of a pocket veto to disapprove the Family Practice of Medicine Act during the 5-day Christmas adjournment of Congress in 1970. In his decision, Judge Waddy ruled that the President's use of the pocket veto was invalid and that S. 3418 is a valid law of the United States.

I ask unanimous consent that the text of Judge Waddy's decision and order in the case may be printed in the RECORD. I also ask unanimous consent that the text of the Family Practice of Medicine Act may be printed in the RECORD.

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

MEMORANDUM OPINION

United States District Court for the District of Columbia

Edward M. Kennedy, Plaintiff, against Arthur F. Sampson, et al., Defendants

Civil Action No. 1583–72

This case is before the Court on defendants' motion to dismiss or in the alternative for summary judgment, and plaintiff's cross-motion for summary judgment. The case presents a question concerning the veto powers of the President of the United States under Article 1, Section 7 of the Constitution of the United States, specifically that portion involving what is known as the Pocket Veto.

In this action plaintiff seeks a declaratory judgment declaring that the Family Practice of Medicine Act, S. 3418, 91st Cong., 2d Sess., (hereinafter S. 3418), became a validly enacted law of the United States on December 25, 1970, without the signature of the President, in accord with Article I, Section 7, Clause 2 of the Constitution. He also seeks the issuance of an order in the nature of mandamus or a permanent injunction requiring the defendants, the Acting Administrator of the General Services Administration, and Chief of White House Records, respectively, to publish S. 3418 as a validly enacted law of the United States, "in accord with their ministerial, non-discretionary duties under 1 USC 106a, 1 USC 112 and 1 USC 113."

The following material facts are not disputed:

1. Plaintiff is a taxpaying citizen of the United States, the Senior Senator from the Commonwealth of Massachusetts and the Chairman of the Subcommittee on Health of the Committee on Labor and Public Welfare of the United States Senate.

2. On December 14, 1970, S. 3418 was presented to the President of the United States for his consideration. The legislation had been approved by the Senate, in which it had originated, by a vote of 64–1 and by the House of Representatives by a vote of 346–2 The Bill authorized the Congress to appropriate 225 million dollars for the fiscal years, 1971, 1972 and 1973 for grants to public and private non-profit hospital and medical schools to assist them in establishing special departments and programs in the field of family practice of medicine, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine.

3. Plaintiff was among the Senators voting in favor of the Bill.

4. On December 22, 1970 the Senate and the House of Representatives adjourned for the Christmas Holidays. The Senate was in adjournment until December 28, 1970, and the House until December 29, 1970. The adjournments were consented to by the Senate and the House of Representatives.[1] During the recess of the Senate the Secretary of the Senate was authorized by unanimous vote of the Senate to receive messages from the President of the United States and the House of Representatives and the President pro tempore or Acting President pro tempore was authorized to sign duly enrolled bills.[2]

5. On Thursday, December 24, 1970, while both Houses of Congress were in the aforementioned adjournment the President of the United States issued a Memorandum of Disapproval, announcing that he was withholding his approval from S. 3418.

6. Under the provisions of 1 U.S.C. 106a, 1 U.S.C. 112 and 1 U.S.C. 113, it is the duty of the Administrator of the General Services Administration of the United States to receive bills that have become laws of the United States and to publish them in slip form and in the United States Statutes at Large.

7. The Chief of White House Records is an employee of the United States whose duty is to receive enrolled bills from the Congress and to deliver bills that have become laws of the United States to the Administrator of General Services Administration of the United States for publication.

8. S. 3418 was not transmitted by the President or the Chief of White House Records to the Administrator of General Services Administration and it has not been published in slip form or in the Statutes at Large as a law of the United States.

9. On December 15, 1971, by Pub. L. No. 92–184, Congress appropriated $100,000 to carry out the program set forth in S. 3418 for the fiscal year 1972.[3]

"HEALTH MANPOWER"

"For an additional amount of 'Health Manpower' to remain available until expended to carry out the Family Practice of Medicine Act of 1970 (S. 3418, Ninety-first Congress,) $100,000."

In reporting on the proposed legislation the Senate on Appropriations stated:

"The Committee recommends $100,000 to fund the provisions of the Family Practice of Medicine Act.

"There is no dispute that the most serious shortages within the private practice of medicine is that of general or family practitioners. Without exception, public witnesses who have appeared before the Committee over the years have emphasized these needs and many requested early implementation of the Family Practice of Medicine Act, overwhelmingly passed by the Congress during the 91st session. Last year the Congress included the modest sum of $100,000 in the 1972 Supplemental Appropriations Act to be allocated under the provisions of the Family Practice of Medicine Act. Unfortunately these funds were not allocated. The Committee is again recommending a modest sum to implement the provisions of this Act. The Committee views this amount as a first installment and would be receptive to a budget request for greatly increased funding for the item. Because of the impending expiration of the authorization legislation, the Committee has included language which allows the fund to remain available until expended." S. Rep. No. 160, 93rd Cong., 1st Sess., pp. 48–49.

10. Plaintiff is not within the class intended to be benefited by the Bill.

With regards to the merits of the case, the question before this Court is whether the President's exercise of the Pocket Veto in this case was constitutionally valid, or, in other words, did S. 3418 become law without the signature of the President. Before reaching the merits, however, the Court must consider several preliminary issues raised by the defendants in their motion to dimiss and/or for summary judgment. They contend that the plaintiff lacks standing to maintain this action; that the President is an indispensable party who cannot be sued; that the issue before the Court does not present a substantial case or controversy because it is (1) a non-justiciable political question, and (2) the complaint seeks an advisory opinion.

The Court holds that each of defendants' contentions is without merit.

STANDING

In *Flast v. Cohen*, 392 U.S. 83 (1968) the Supreme Court of the United States stated:

[1] S. Con. Res. 87, 91st Cong., 2d Sess. (1970).

[2] 116 Cong. Rec. 43221, (Dec. 22, 1970).

[3] On July 1, 1973, President Nixon signed into law the "Second Supplemental Appropriations Act, 1973," H.R. 9055, 93rd Cong., 1st Sess., Chapter VII of that bill provides in part:

"The fundamental aspect of standing is that it focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated. The 'gist of the question of standing' is whether the party seeking relief has 'alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions. *Baker v. Carr*, 369 U.S. 186, 204 (1962). In other words, when standing is placed in issue in a case, the question is whether the person whose standing is challenged is a proper party to request an adjudication of a particular issue and not whether the issue itself is justiciable." 392 U.S. at 99.

In *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150 (1970), the Supreme Court formulated a dual test for determining standing to sue. This test requires, first, that plaintiff allege that the challenged acts have caused him "injury in fact, economic or otherwise," 397 U.S. at 152, and second, that "the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question." 397 U.S. at 153. Or, as the Supreme Court stated in *Flast, supra*, a "logical nexus between the status asserted and the claim sought to be adjudicated." 392 U.S. at 102. This test for the determination of standing was reaffirmed by the Supreme Court in *Sierra Club v. Morton*, 405 U.S. 727 (1972).

When the above-mentioned test is applied to this action it becomes clear that this plaintiff has the requisite standing to sue. The precise injury of which he claims is that the President's exercise of the Pocket Veto to disapprove S. 3418 was an unconstitutional act that rendered plaintiff's vote in the Senate for the bill ineffective and deprived him of his constitutional right to vote to override the Presidential veto in an effort to have the bill passed without the President's signature. This claim of nullification of his vote for the bill and deprivation of his right to vote to override the veto and thus inhibiting him in the performance of his Senatorial duties, is a clear allegation of injury in fact.

The maintenance of the effectiveness of his vote in the Senate which plaintiff seeks to protect is certainly arguably within the zone of interests to be protected by Article I, Section 7 of the Constitution and supplies the logical nexus between his status as a Senator and the claim sought to be adjudicated.

A finding of standing under the circumstances here presented is consistent with the above-mentioned cases and with the finding of the Supreme Court in *Coleman v. Miller*, 307 U.S. 433 (1939) and of the United States Court of Appeals for the District of Columbia Circuit in *Mitchell v. Laird*, No. 71–150 (March 20, 1973).

In *Coleman* a proposed Child Labor Amendment to the Constitution of the United States was submitted to the Kansas State Legislature. In 1925, that Legislature adopted a resolution rejecting the amendment.

Subsequently, in 1937, a resolution favoring ratification was introduced in the Senate of Kansas. When the resolution was considered by the State Senate 20 State Senators voted for ratification and 20 voted against. The Lieutenant Governor, the presiding officer, cast the deciding vote in favor of ratification. Thereafter, the resolution was approved by a majority of the Kansas House of Representatives. Twenty-one State Senators, including the twenty Senators who had opposed the resolution for ratification, and three members of the State House of Representatives, then brought a suit in the State Supreme Court contesting the validity of the resolution and alleging that the Lieutenant Governor had no power to cast his vote. Relief was denied and the Supmeme Court of the United States granted certiorari.

One of the principal contentions of the respondents before the United States Supreme Court was that the petitioners lacked interest to invoke the jurisdiction of the Court to review. Chief Justice Hughes, writing for the Court, squarely rejected that contention and stated:

"We find the cases cited in support of the contention, that petitioners lack an adequate interest to invoke our jurisdiction to review, to be inapplicable. Here, the plaintiffs include twenty Senators, whose votes against ratification have been overriden and virtually held for naught although if they are right in their contentions their votes would have been sufficient to defeat ratification. We think that these senators have a plain, direct and adequate interest in maintaining the effectiveness of their votes. Petitioners come directly within the provisions of the statute governing our appellate jurisdiction. They have set up and claimed a right and privilege under the Constitution of the United States to have their votes given effect and the state courts has denied that right and privilege." 307 U.S. at 438 (Footnote omitted) (Emphasis added).

In *Mitchell v. Laird*, supra, thirteen members of Congress filed an action in this Court seeking to enjoin the prosecution of the war in Indo-China and a declaratory judgment that the carrying on of the war by the defendants was in violation of Article I, Section 8, Clause 11 of the United States Constitution. On appeal the United States Court of Appeals for the District of Columbia, citing *Flast v. Cohen*, supra, *Data Processing v. Camp*, supra, and *Barlow v. Collins*, 397 U.S. 157 (1970), found that the Congressmen had standing to sue on a ground that had not been alleged by them. The Court stated at page 4 of the slip opinion:

"If we, for the moment, assume that defendants' actions in continuing the hostilities in Indo-China were or are beyond the authority conferred upon them by the Constitution, a declaration to that effect would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, or to take other legislative actions related to such hostilities, such as raising an army or enacting other civil or criminal legslation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint."

This Court is satisfied that these authorities support the determination that plaintiff has standing to sue in this case and so finds.

INDISPENSABLE PARTY

Defendants contend that the President of the United States is an indispensable party to this suit and that under the constitutional scheme of separation of powers this Court lacks jurisdiction over the President. They quote the following provision of 1 U.S.C. 106a:

"Whenever a bill, order, resolution, or vote of the Senate and House of Representatives having been approved by the President, or not having been returned by him with his objections, becomes a law or takes effect, it shall forthwith be received by the Administrator of General Services *from the President*, . . ." (Emphasis theirs)

and argue therefrom that when a bill becomes law, it can be promulgated and published only through joint action of the President and the Administrator of General Services. This Court disagrees.

The language of 1 U.S.C. 106(a) relied upon by defendants is no more than a direction to the Administrator of General Services to get the bill from its custodian. This is made clear by the following language within the same paragraph of 1 U.S.C. 106(a) which appears immediately after that quoted by defendants: "and whenever a bill, order, resolution or vote is returned by the President with his objections, and, on being reconsidered, is agreed to be passed, and is approved by two-thirds of both houses of Congress, and thereby becomes a law or takes effect, it shall be received by the Administrator of General Services from the President of the Senate, or Speaker of the House of Representatives in whichsoever House it shall last have been so approved, and he shall carefully preserve the originals."

The complaint in this case and the relief requested by plaintiff do not require any jurisdiction by the court over the President of the United States. The order requested by plaintiff requires no action by the President.

Article I, Section 7, Clause 2 of the Constitution specifies the actions the President may take with respect to legislation presented to him by Congress. Thus, the President may approve the legislation by signing it into law or by allowing it to become law without his signature at the end of the ten-day period set aside by the Constitution for his action. Or, he may veto the legislation and return it to Congress with his objections. Or, he may "pocket veto" the legislation by withholding his signature when the ten-day period expires while Congress is in an adjournment that "prevents" him from returning the bill.

Whichever course he follows, the action of the President is complete upon the expiration of the ten-day Constitutional period. The time for deliberation has then passed. He has decided. His judgment has been made, and the status of the legislation has been determined. All that remains is for other Federal officers—in this action the defendants—to carry out their ministerial, non-discretionary duty of publishing Acts that have become laws of the United States in slip form and in the Statutes at Large.

This principle has been settled law since the ruling of Chief Justice Marshall in *Marbury v. Madison*, 5 U.S. 137 (1803). He stated at page 170:

"It is not the office of the person to whom the writ is directed, but the nature of the thing to be done that the propriety or impropriety of issuing a mandamus, is to be determined. Where the head of a department acts in a case, in which executive discretion is to be exercised; in which he is the mere organ of executive will; it is again repeated, that any application to a court to control, in any respect, his conduct, would be rejected without hesitation.

But where he is directed by law to do a certain act affecting the absolute rights of individuals, in the performance of which he is not placed under the particular direction of the President, and the performance of which the President cannot lawfully forbid, and therefore is never presumed to have forbidden; as for example, to record a commission or a patent for land, which has received all the legal solemnities, or to give a copy of such record; in such cases, it is not perceived on what ground the courts of the country are further excused from the duty of giving judgment . . . ."

Marbury v. Madison is one of the leading precedents for the principle that mandamus is an appropriate remedy to require subordinate federal officers to carry out their ministerial duties. That case involved the refusal by President Thomas Jefferson to acquiesce in the "midnight" judges appointed by President John Adams shortly before President Adams left office. While holding that the Act of Congress authorizing actions for mandamus to be brought in the original jurisdiction of the Supreme Court was unconstitu-

tional. Chief Justice Marshall also held (1) that the action of President Adams was complete when the President signed Marbury's commision as a justice of the peace in the District of Columbia, (2) that all that remained was the ministerial, non-discretionary duty of President Jefferson's new Secretary of State, James Madison, to affix the seal of the United States to the commission and to deliver the commission to Marbury; and (3) that mandamus was an appropriate remedy to direct the Secretary to carry out his duty.

Similarly, in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), the steel mill seizure case arising out of a threatened nation-wide strike of steel workers during the Korean War, the Supreme Court found no difficulty in granting relief against the Secretary of Commerce, who had seized the nation's steel mills pursuant to an Executive Order of President Truman, claiming the inherent power to take such action as President and Commander in Chief in a time of national emergency. The Court held that the President had no power under the Constitution to take such action, and affirmed a lower court decision granting injunctive relief against the Secretary.

Finally, it is noted that two prior cases involving the exercise of the veto clauses by a President of the United States have been decided by the Supreme Court. *Pocket Veto Case*, 279 U.S. 655 (1929); *Wright v. United States*, 302 U.S. 583 (1938). The President was not a party to either of those cases and the Supreme Court exercised its jurisdiction and decided the cases on the merits without considering the absence of the President as a party.

SUBSTANTIAL CASE OR CONTROVERSY

The justiciability of plaintiff's claim inheres in the standing to sue that the Court has already found. Plaintiff seeks to protect the integrity and effectiveness of his vote. He claims that the refusal of the defendants to publish S. 3418 in reliance upon the Pocket Veto of the bill by the President has effectively nullified his vote. In order to decide plaintiff's claim it is necessary to determine the validity of the pocket veto of S. 3418 just as it was necessary in order to adjudicate the claims of the Indian tribes to determine the validity of the pocket veto in the *Pocket Veto Case*, supra, and in order to adjudicate the claim of David A. Wright to determine the validity of the return of the bill in the *Wright* case, supra.

In commenting upon the restriction of the jurisdiction of federal courts under Article III of the Constitution the Supreme Court stated in *Flast v. Cohen*, supra:

"Embodied in the words 'cases' and 'controversies' are two complementary but somewhat different limitations. In part those words limit the business of federal courts to questions presented in an adversary context and in a form historically viewed as capable of resolution through the judicial process. And in part those words define the role assigned to the judiciary in a tripartite allocation of power to assure that the federal courts will not intrude into areas committed to the other branches of government. Justiciability is the term of art employed to give expression to this dual limitation placed upon federal courts by the case-and-controversy doctrine." 392 U.S. at 94–95.

The Court finds that this case meets those requirements.

Since as early as 1793, the restriction to "cases" and "controversies" has been accepted as imposing a rule against advisory opinions on federal courts. *Flast*, supra, note 14, at 96. Plaintiff does not contest this settled Constitutional principle. In part, the rule against advisory opinions maintains the doctrine of separation of powers under the Constitution by avoiding unnecessary confrontations between the Judicial Branch and the Legislative or Executive Branch of the Government. Another reason for the rule against advisory opinions is to insure that suits before the federal courts are pressed " . . . with that clear concreteness provided when a question emerges precisely framed and necessary for decision from a clash of adversary argument exploring every aspect of a multifaced situation embracing conflicting and demanding interests . . . ." Cr. *United States v. Fruehauf*, 365 U.S. 146, 157 (1961).

By these standards, the complaint in this action clearly demonstrates that the requisite elements of a "case" or "controversy" are present within the meaning of Article III of the Constitution. Contrary to the suggestion in the defendants' Statement, plaintiff seeks no advisory opinion from this Court. Plaintiff sponsored, supported, and voted for S. 3418 in the Senate. The action of the President in disapproving S. 3418 and the injury to plaintiff caused by the refusal of the defendants to perform their ministerial, nondiscretionary duties in reliance upon that action provide exactly the sort of clear concreteness, precise framing of questions, adversary argument, conflicting and demanding interests, and necessity for decision that have always been regarded as meeting the Article III requirement for the exercise of Federal judicial power.

THE MERITS

Article I, Section 7, Clause 2 of the Constitution establishes a basic part of the procedure by which our laws are made. Its provisions allocate a dual responsibility to Congress and the President that is an important aspect of our system of checks and balances:

"Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States. If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases, the Votes of Both Houses shall be determined by Yeas and Nays, and the Names of the persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, *unless the Congress by their Adjournment prevent its Return*, in which Case it shall not be a Law." (Emphasis added).

In effect, Article I, Section 7, Clause 2 contemplates four possible actions by the President when a bill passed by Congress is presented to him:

The President may approve the bill by signing it within the ten-day constitutional period.

The President may disapprove, or "veto" the bill by returning it to Congress with his objections within the ten-day period, in which case Congress has the opportunity to override the veto by a two-thirds vote in each House.

The President may allow the bill to become a law without his signature at the end of the ten-day period.

The President may disapprove the bill, by declining to sign it in circumstances where the adjournment of Congress "prevents" the President from returning the bill to Congress with his objections. In this last situation, the President is said to "pocket veto" the bill.

The issue on the merits of the present case is whether the Pocket Veto Clause of the Constitution is applicable in the circumstance of the Senate's 1970 Christmas recess. The specific question posed may be stated as follows:

Where a bill duly passed by both houses of Congress is submitted to the President of the United States pursuant to Article I, Section 7 of the Constitution of the United States and thereafter, during the same session of Congress, by mutual consent, the House of Representatives adjourned for a 6 day period and the Senate, in which the bill originated, adjourned for a 5 day period extending for 2 days beyond the 10th day the President had within which to sign or return the bill,[4] was the President *prevented* from returning the bill within the 10 day period where, prior to adjourning, the Senate designated its Secretary to receive messages from the President of the United States and its President pro tempore to sign duly enrolled bills during the adjournment.

This Court has concluded that the answer to that question is to the negative.

The question of when an adjournment of a House of Congress *prevents* the return of a bill under Article I, Section 7, Clause 2, has been before the Supreme Court on two occasions: *Okanogan Indian Tribe, et al v. United States*, 270 U.S. 655 (1929) (the Pocket Veto Case), and *Wright v. United States*, 302 U.S. (1937).

In the *Pocket Veto Case*, supra, Congress had approved an Act authorizing the Okanogan tribe and other Indian tribes in the State of Washington to pursue certain claims against the United States in the Court of Claims. On July 3, 1926, before the ten-day constitutional period for the President to consider the bill had expired, "the first session of the 69th Congress was adjourned." 270 U.S. at 672. The President did not sign the bill nor return it to Congress, and the Indian tribes filed a petition in the Court of Claims alleging that the Act had become a law without the signature of the President. The issue before the Court was whether the Pocket Veto Clause applied only to final adjournments at the end of a Congress, or whether it also applied to adjournments at the end of a session of Congress. The Court, in an opinion by Mr. Justice Sanford, held that the clause applied to adjournments at the end of a session; that the adjournment prevented the return of the bill, and that therefore the bill had not become a law.

Nine years after the *Pocket Veto Case*, the Supreme Court again dealt with the scope of the President's veto power. In *Wright v. United States*, supra, the bill in question granted jurisdiction to the Court of Claims to hear the petitioner's claims against the United States. The bill had originated in the Senate, which was the House to which the President's objections would be returned if the bill were vetoed. After the bill, as passed by both Houses, had been presented to the President, the Senate adjourned for three days, while the House remained in daily session during the period. During the recess of the Senate, the President vetoed the bill, and the bill was returned with his objections to the Secretary of the Senate. When the Senate reconvened, the message of the President was read and the bill was referred to the Senate Committee on Claims, in effect sustaining the President's veto.

Subsequently, the petitioner, as the beneficiary of the private bill, brought an action in the Court of Claims alleging that the bill had become law, on the grounds (1) that there had been no adjournment of Congress within the meaning of the Pocket Veto Clause, since only the Senate had adjourned,

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[4] If the intervening Sunday, December 27, 1970, is not counted, the period the House was in adjournment is 5 days and the period the Senate was in adjournment is 4 days and would extend for only one day beyond the 10th day the President had within which to sign or return the bill.

and (2) that the President's return of the bill with his objections was not valid, since the Senate had not been in session on the day of the return, and, under the *Pocket Veto Case*, supra, a return could not be made to the Secretary of the Senate as an agent of the Senate.

Interpreting the Pocket Veto Clause and the other provisions of Article I, Section 7, Clause 2, the Supreme Court held, in an opinion by Chief Justice Charles Evans Hughes, that the bill had not become a law.

The Court held: (1) that since the House of Representatives was still in session, even though the Senate had adjourned for a brief period—there was no adjournment of "Congress" within the meaning of the Pocket Veto Clause of the Constitution as the reference to "The Congress" in the Constitution means the entire legislative body consisting of both Houses: (2) that in returning the bill to the Secretary of the Senate there was no violation of any express requirement of the Constitution since that instrument does not define what shall constitute a return of a bill or deny the use of appropriate agencies in effecting the return; (3) that the three-day recess of the Senate did not "prevent" the President from returning the bill with his objections to the Senate, since the organization of the Senate continued and was intact and the Secretary of the Senate was available to receive the President's message; (4) that the fundamental purposes of the constitutional provisions are (a) to give the President suitable opportunity to consider the bills presented to him, and (b) to give the Congress suitable opportunity to consider his objections to bills and on such consideration to pass them over the veto if there are the requisite votes.

In reaching its conclusion in the *Pocket Veto Case*, supra, the Court emphasized that "the determinative question in reference to an 'adjournment' is not whether it is a final adjournment of Congress or an interim adjournment, such as an adjournment of the first session, but whether it is one that 'prevents' the President from returning the bill to the House in which it originated within the time allowed." 279 U.S., at 680. In concluding that the adjournment at the end of a *session of Congress* prevented the return of the bill in question, the Court adopted the view that the provision in the Constitution, for the return of a bill to a House, is intended to refer to a *House in session*, and that a return could not be made to an officer or agent of a House while the House was not in session. 279 U.S. at 680–687. In this connection the Court also noted that Congress had never enacted a statute authorizing such a procedure nor were there any rules of Congress granting an authorization, and opined that the delivery of the bill to such officer or agent, "even if authorized by Congress itself, would not comply with the constitutional mandate." 279 U.S. at 684.

The rationale for the Court's opinion was stated, in part, in the following language:

"Manifestly it was not intended that, instead of returning the bill to the House itself, as required by the constitutional provision, the President should be authorized to deliver it, during an adjournment of the House, to some individual officer or agent not authorized to make any legislative record of its delivery, who should hold it in his own hands for days, weeks or perhaps months—not only leaving open possible questions as to the date on which it had been delivered to him, or whether it had in fact been delivered to him at all, but keeping the bill in the meantime in a state of suspended animation until the House resumes its sittings, with no certain knowledge on the part of the public as to whether it had or had not been seasonably delivered, and necessarily causing delay in its reconsideration which the Constitution evidently intended to avoid." 279 U.S. at 684.

While this language of the Supreme Court appears at first blush to militate against this Court's conclusion, upon closer scrutiny it is clear that it does not. It must be kept in mind that the Supreme Court's language in the *Pocket Veto Case* applied to an adjournment *at the end of a session and not to a short recess during a session* where, as here, the Senate had specifically authorized its Secretary to receive messages from the President during the recess. Further, the subsequent opinion of the Court in the *Wright* case found the reasoning of the Court in the *Pocket Veto Case* to be inapposite to the circumstances of a case which involved a short temporary recess of the House in which the bill originated as distinguished from an adjournment of Congress at the end of a seession. The following excerpts from the Court's opinion in *Wright* support the view of this Court.

In commenting upon the "House in session" view of the Court in the *Pocket Veto Case*, supra, the Supreme Court in *Wright* stated:

"But that expression should not be construed so narrowly as to demand that the President must select a precise moment when the House is within the walls of its Chambers and that a return is absolutely impossible during a recess however temporary. Such a conclusion . . . would frustrate the fundamental purposes of the constitutional provision as to action upon bills." 302 U.S. at 594.

Referring to the rationale for the opinion in the *Pocket Veto Case*, mentioned herein previously, the *Wright* Court stated:

"The statements show clearly the sort of dangers which the Court envisaged. However real these dangers may be when Congress has adjourned and the members of its Houses have dispersed at the end of a session—the situation with which the Court was dealing—*they appear to be illusory when there is a mere temporary* recess." (Emphasis supplied). 302 U.S. at 595.

Continuing, the *Wright* Court said:

"Each House for its convenience, and *during its session and the session of Congress*, may take, and frequently does take, a brief recess limited, as we have seen, in the absence of the consent of the other House, to a period of three days. In such case there is no withholding of the bill from appropriate legislative record for weeks or perhaps months, no keeping of the bill in a state of suspended animation with no certain knowledge on the part of the public whether it was seasonably delivered, no causing of any undue delay in its reconsideration. *When there is nothing but such a temporary recess the organization of the House and its appropriate officers continue to function without interruption, the bill is properly safeguarded for a very limited time and is promptly reported and may be reconsidered immediately after the short recess is over.* The prospect that in such a case the public may not be promptly and properly informed of the return of the bill with the President's objections, or that the bill will not be safeguarded or duly recorded upon the journal of the House, or that it will not be subject to reasonably prompt action by the House, is we think wholly chimerical." 302 U.S. 595. (Emphasis supplied).

Although the Supreme Court found support for its holding in *Wright* in Article I, Section 5, Clause 4, its reasoning in support of its determination that a short temporary recess of a House existing on the final day for the return of a bill while the Congress is in session does not "prevent" the President from returning the bill is clearly applicable to the facts and circumstances of this case. Here we have a short temporary recess of the Senate, in which the bill originated, during the session of Congress. The recess was consented to by the House of Representatives. Prior to the adjournment the Senate by unanimous vote designated its Secretary to receive any messages from the President. The Senate returned on the third day after the final day for the President to act. The interim two days would have caused no long delay in delivery of the bill; no keeping it in "suspended animation". In three days the public would have been promptly and properly informed of the President's objections, and the purposes of the constitutional provisions would have been satisfied. Under these circumstances—

"(T)here is no greater difficulty in returning a bill to one of the two Houses when it is in recess during the session of Congress than in presenting a bill to the President by sending it to the White House in his temporary absence. Such a presentation is familiar practice. The bill is sent by a messenger and is received by the President. It is returned by a messenger, and why may it not be received by the accredited agent of the legislative body? *To say that the President cannot return a bill when the House in which it originated is in recess during the session of Congress, and thus afford an opportunity for the passing of the bill over the President's objections, is to ignore the plainest practical consideratons and by implying a requirement of an artificial formality to erect a barrier to the exercise of a constitutional right.*" 302 U.S. 590 (Emphasis supplied).

In the instant case the Senate was in a short temporary recess extending at most for two days beyond the 10th day the President had within which to act. Its organization and appropriate officers continued to function without interruption. Indeed, the Senate specifically designated its Secretary to receive any messages from the President. Just as none of the dangers envisaged by the Court in the *Pocket Veto Case* were present in *Wright*, none are present here. *Under the facts of this case the Senate could have adjourned at the close of business on December 24, 1970, until December 28, 1970, without the consent of the House of Representatives and such adjournment would not have prevented the President from returning the bill.* This fact places this case squarely within the rationale of *Wright*. The circumstance that the recess began on December 23 with the consent of the House of Representatives in no way detracts from that conclusion. What is to be considered is not the time when the recess began but whether the House was in a recess on the tenth day that prevented the President from returning the bill.

As previously noted the two fundamental purposes of Article I Section 7 of the Constitution are (a) to give the President suitable opportunity to consider the bills presented to him, and (b) to give the Congress suitable opportunity to consider his objections to bills and on such consideration to pass them over the veto if there are the requisite votes.

As to the first of these purposes there can be no question in this case that the President had such opportunity and availed himself of it. In a Memorandum of Disapproval, dated December 24, 1970, one day before the expiration of the time allowed for his consideration, and released December 26, 1970, the President stated that he was withholding his signature from the bill and gave his reasons therefor.

As to the second fundamental purpose, the Senate returned from the recess on December 28, 1970. It did not adjourn *sine die* until January 2, 1971. There was ample opportunity to consider the President's objections to the bill and on such consideration to pass it over the veto provided there were the requisite votes. To find that the President's action in this case was a valid pocket veto would require the adoption of a construction that would frustrate the second of these purposes, contrary to the holding of the Supreme Court in *Wright*. 302 U.S. 583, 596.

The plaintiff has urged the Court to hold that the Pocket Veto Clause is applicable only to *sine die* adjournments and not to any adjournments within a session. Such a holding is not necessary for the determination of this case and this Court declines to swim in waters that the Supreme Court pointedly avoided in *Wright*. Cf. 302 U.S. at 598. All that is determined here is that the short recess of the Senate in this case, extending only two days beyond the ten day period the President had to sign or disapprove the bill, did not *prevent* the return of the bill to the Senate in which it originated. It follows therefore that the pocket veto was invalid and S. 3418 became a law without the signature of the President, in accord with Article I, Section 7, Clause 2 of the Constitution.

Based upon the foregoing the Court concludes that there is no genuine issue of a material fact and that plaintiff is entitled to a judgment as a matter of law.

ORDER

U.S. District Court for the District of Columbia

Edward M. Kennedy, Plaintiff, against Arthur F. Sampson, Acting Administrator, General Services Administration; Thomas M. Jones, Chief White House Records, Defendants.

Civil Action No. 1583–72

This matter having come before the Court on plaintiff's motion for summary judgment and defendants' motion to dismiss or, in the alternative, for summary judgment, and the Court having considered the pleadings, motions, and statements filed by the parties and having heard oral argument and having filed a memorandum opinion herein and having found that there is no genuine issue as to any material fact, and concluded that plaintiff is entitled to a judgment as a matter of law, it is this 15th day of August, 1973, hereby

Ordered, adjudged and decreed:

1. That plaintiff's motion for summary judgment be and it is hereby granted, and that defendants' motion to dismiss or, in the alternative, for summary judgment is denied.

2. That the Family Practice of Medicine Act, S. 3418 (91st Congress, 2d Session) became a law of the United States on December 25, 1970, in accord with Article I, Section 7, Clause 2 of the Constitution, and defendants are under a ministerial, nondiscretionary duty to publish said law in accordance with the provisions of 1 U.S.C. 106a, 1 U.S.C. 112 and 1 U.S.C. 113.

3. This Court retains jurisdiction and the matter of the issuance of an injunction restraining the defendants from failing and refusing to publish S. 3418 as a law of the United States in accord with the provisions of 1 U.S.C. 106a, 1 U.S.C. 112 and 1 U.S.C. 113 will be held in abeyance until September 19, 1973, on which date the defendants shall report to this Court at 10:00 am. the action taken by them to comply with the declaratory judgment entered herein.

TEXT OF S. 3418—THE FAMILY PRACTICE OF MEDICINE ACT

TITLE I—FAMILY MEDICINE

SEC. 101. Part D of title VII of the Public Health Service Act is amended to read as follows:

"PART D—GRANTS TO PROVIDE PROFESSIONAL AND TECHNICAL TRAINING IN THE FIELD OF FAMILY MEDICINE

"DECLARATION OF PURPOSE

"SEC. 761. It is the purpose of this part to provide for the making of grants to assist—

"(1) public and private nonprofit medical schools—

"(A) to operate, as an integral part of their medical education program, separate and distinct departments devoted to providing teaching and instruction (including continuing education) in all phases of family practice;

"(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a medical school or as separate outpatient or similar facility;

"(C) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine; and

"(D) to operate, or participate in, special training programs to teach and train medical personnel to head departments of family practice or otherwise teach family practice in medical schools; and

"(2) public and private nonprofit hospitals which provide training programs for medical students, interns, or residents—

"(A) to operate, as an integral part of their medical training programs, special professional training programs (including continuing education) in the field of family medicine for medical students, interns, residents, or practicing physicians;

"(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a hospital or as a separate outpatient or similar facility;

"(C) to provide financial assistance (in the form of scholarships fellowships, or stipends) to interns, residents, or other medical personnel who are in need thereof, who are participants in a program of such hospital which provides special training (accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education) in the field of family medicine, and who plan to specialize or work in the practice of family medicine; and

"(D) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 762. (a) For the purpose of making grants to carry out the purposes of this part, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1971, $75,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973.

"(b) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for the purpose for which appropriated until the close of the fiscal year which immediately follows such year.

"GRANTS BY SECRETARY

"SEC. 763. (a) From the sums appropriated pursuant to section 762, the Secretary is authorized to make grants, in accordance with the provisions of this part, to carry out the purposes of section 761.

"(b) No grant shall be made under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall have prescribed by regulations which have been promulgated by him and published in the Federal Register not later than six months after the date of enactment of this part.

"(c) Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

"(d) In the case of any application for a grant any part of which is to be used for major construction or remodeling of any facility, the Secretary shall not approve the part of the grant which is to be so used unless the recipient of such grant enters into appropriate arrangements with the Secretary which will equitably protect the financial interests of the United States in the event such facility ceases to be used for the purpose for which such grant or part thereof was made prior to the expiration of the twenty-year period which commences on the date such construction or remodeling is completed.

"(e) Grants made under this part shall be used only for the purpose for which made and may be paid in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

"ELIGIBILITY FOR GRANTS

"SEC. 764. (a) In order for any medical school to be eligible for a grant under this part, such school—

"(1) must be a public or other nonprofit school of medicine; and

"(2) must be accredited as a school of medicine by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirements of this clause shall be deemed to be satisfied, if (A) in the case of a school of medicine which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in the first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

"(b) In order for any hospital to be eligible for a grant under this part, such hospital—

"(1) must be a public or private nonprofit hospital; and

"(2) must conduct or be prepared to conduct in connection with its other activities (whether or not as an affiliate of a school of medicine) one or more programs of medical training for medical students, interns, or residents, which is accredited by a recognized body or bodies, approved for such purpose by the Commissioner of Education.

"APPROVAL OF GRANTS

"SEC. 765. (a) The Secretary, upon the recommendation of the Advisory Council on Family Medicine, is authorized to make grants under this part upon the determination that—

"(1) the applicant meets the eligibility requirements set forth in section 764;

"(2) the applicant has complied with the requirements of section 763;

"(3) the grant is to be used for one or more of the purposes set forth in section 761;

"(4) it contains such information as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this part;

"(5) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require (pursuant to regulations which shall have been promulgated by him and published in the Federal Register) to assure proper disbursement of and accounting for all Federal funds paid to the applicant under this part; and

"(6) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R.

3176; 65 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(b) The Secretary shall not approve any grant to—

"(1) a school of medicine to establish or operate a separate department devoted to the teaching of family medicine unless the Secretary is satisfied that—

"(A) such department is (or will be, when established) of equal standing with the other departments within such school which are devoted to the teaching of other medical speciality disciplines; and

"(B) such department will, in terms of the subjects offered and the type and quality of instruction provided, be designed to prepare students thereof to meet the standards established for specialists in the specialty of family practice by a recognized body approved by the Commissioner of Education; or

"(2) a hospital to establish or operate a special program for medical students, interns, or residents in the field of family medicine unless the Secretary is satisfied that such program will, in terms of the type of training provided, be designed to prepare participants therein to meet the standards established for specialists in the field of family medicine by a recognized body approved by the Commissioner of Education.

"(c) The Secretary shall not approve any grant under this part unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

"PLANNING AND DEVELOPMENTAL GRANTS

"SEC. 766. (a) For the purpose of assisting medical schools and hospitals (referred to in section 761) to plan or develop programs or projects for the purpose of carrying out one or more of the purposes set forth in such section, the Secretary is authorized for any fiscal year (prior to the fiscal year which ends June 30, 1973) to make planning and developmental grants in such amounts and subject to such conditions as the Secretary may determine to be proper to carry out the purposes of this section.

"(b) From the amounts appropriated in any fiscal year (prior to the fiscal year ending June 30, 1973) pursuant to section 762(a), the Secretary may utilize such amounts as he deems necessary (but not in excess of $8,000,000 for any fiscal year) to make the planning and developmental grants authorized by subsection (a).

"ADVISORY COUNCIL ON FAMILY MEDICINE

"SEC. 767. (a) The Secretary shall appoint an Advisory Council on Family Medicine (hereinafter in this section referred to as the 'Council'). The Council shall consist of twelve members, four of whom shall be physicians engaged in the practice of family medicine, four of whom shall be physicians engaged in the teaching of family medicine, three of whom shall be representatives of the general public, and one of whom shall, at the time of his appointment, be an intern in family medicine. Members of the Council shall be individuals who are not otherwise in the regular full-time employ of the United States.

"(b)(1) Except as provided in paragraph (2), each member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year, after the date of appointment.

"(2) The member of the Council appointed as an intern in family medicine shall serve for one year.

"(3) A member of the Council shall not be eligible to serve continuously for more than two terms.

"(c) Members of the Council shall be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service, employed intermittently.

"(d) The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this part. The Council shall consider all applications for grants under this part and shall make recommendations to the Secretary with respect to approval of applications for, and of the amount of, grants under this part.

"DEFINITIONS

"SEC. 768. For purposes of this part—

"(1) the term 'nonprofit' as applied to any hospital or school of medicine means a school of medicine or hospital which is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'family medicine' means those certain principles and techniques and that certain body of medical, scientific, administrative, and other knowledge and training, which especially equip and prepare a physician to engage in the practice of family medicine;

"(3) the term 'practice of family medicine' and the term 'practice', when used in connection with the term 'family medicine', mean the practice of medicine by a physician (licensed to practice medicine and surgery by the State in which he practices his profession) who specializes in providing to families (and members thereof) comprehensive, continuing, professional care and treatment of the type necessary or appropriate for their general health maintenance; and

"(4) the term 'construction' includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings and initial equipment of any such buildings, including architects' fees, but excluding the cost of acquisition of lands or offsite improvements."

TITLE II—MALNUTRITION

SEC. 201. (a) The Secretary of Health, Education, and Welfare, shall conduct a study, in cooperation with schools training health professional manpower, of the feasibility and desirability of establishing at such schools courses dealing with nutrition and problems related to malnutrition, and of establishing research programs and pilot projects in the field of nutrition and problems of malnutrition.

(b) The Secretary is authorized to make grants to health professional schools, in connection with the study provided for by subsection (a), for the planning of programs at such schools, and for the conduct of pilot projects at such schools, to assist such schools in the establishment of courses dealing with nutrition and problems related to malnutrition.

(c) The Secretary shall report to the President and to Congress by July 1, 1972, the results of such study, together with such recommendations as he deems advisable.

(d) There is authorized to be appropriated $5,000,000 to carry out the purposes of this section.

STATEMENT ON S. 994—THE KIDNEY TRANSPLANT ACT OF 1973

Mr. BAYH. Mr. President, kidney disease patients in this country still suffer from high costs and inadequate services. Of the 55,000 people who die each year from kidney disease, 13 to 19 percent could be treated by dialysis or transplantation if proper medical care were available to them. Long waiting lists for transplant operations exist; often, an individual must undergo twice-weekly hemodialysis for 1 or 2 years before a kidney for transplant becomes available.

For these reasons, Mr. President, I urge that the Senate act quickly and responsibly on S. 994, the Kidney Transplant Act of 1973. As introduced by Senator MONDALE on February 26, 1973, and cosponsored by Senators ABOUREZK, BIBLE, BIDEN, CHURCH, CLARK, DOLE, HART, HUGHES, HUMPHREY, JAVITS, MCGOVERN, MOSS, PASTORE, PELL, RANDOLPH, SCHWEIKER, SPARKMAN, STEVENS, TUNNEY, and myself, S. 994 seeks to remedy the situation facing our renal disease patients. Last year, the Congress passed H.R. 1, amendments to the Social Security Act, which included a section that made medicare benefits available to those suffering from chronic kidney failure. Although this was a step in the right direction, this coverage is not extended to all citizens, nor does it cover all costs for the expensive treatment needed by these patients. Moreover, H.R. 1 failed to set up any delivery system for these services. The problem which confronts us is not only supplying the money to the victims so that they can get treatments, but providing that facilities exist which can give these services.

The Kidney Transplant Act of 1973 offers a remedy to these problems. The bill, if enacted into law, authorizes the Secretary of Health, Education, and Welfare to make grants to the States to be used for the care and treatment of persons suffering from chronic renal disease. Each State would have to provide appropriate assistance to all residents who need this care. Under S. 994, 100 percent of the cost of care would be covered, less any amounts available from public and private insurance, which includes the medicare benefits offered under H.R. 1. In effect, this section of the bill insures that all citizens who need these services would not fail to have them for lack of finances. The bill also authorizes the Secretary to make grants to public or nonpublic entities to establish renal failure centers, which would provide a comprehensive range of services to kidney disease patients. This portion of the bill aims at reducing the probability that a patient will not be given treatment because facilities do not allow so. This will surely lower the tragic number of kidney disease patients who die every year, because hospitals reject victims for lack of space.

In addition, the bill authorizes the Secretary to make grants to public and private nonprofit entities for the construction or improvement of facilities for the collection and short-term preservation of organs and regional tissues used by transplant patients. Transplantation is now an accepted cure for kidney disease. The process is no longer termed experimental, but rather, therapeutic. A kidney transplant, when possible, is cheaper and safer for the patient. Dr. Benjamin T. Burton in 1971 wrote:

> Maintenance dialysis alone, without transplantation, would at best be a dismal solution for irreversible kidney failure because of the need for continued repetitive treatments for the life of the patient, because of the not infrequent failure to restore the patient to physiologic life, and last, but not least, because of its high and repetitive cost. (Annals of International Medicine)

S. 994 would, if passed, insure that, in all possible cases, kidney transplants will occur and these unfortunate victims will be able to resume a normal life.

Mr. President, it will be argued by some that this is an expensive adventure that we commence upon. No doubt it is expensive. But, we have invested much of our resources in technology and science, and the purpose has always been to provide our people with the benefits of the research. We are faced here with an alternative of saving money or saving the lives of the previously incurable. Given that choice, Mr. President, I opt for the latter and urge my colleagues to do the same.

POLITICAL PRISONERS IN SOUTH VIETNAM

Mr. KENNEDY. Mr. President, there appears to be a stubborn determination by this administration to continue discredited policies and programs of the past in South Vietnam. Nothing illustrates this more than the decision to continue American funding of South Vietnam's national police and prison system.

At least $15 million are earmarked in the foreign assistance authorization request for these programs in the Agency for International Development budget as well as in the Department of Defense budget. And evidence suggests that additional funds are hidden elsewhere.

Mr. President, this is a shameful waste of our foreign aid funds and violates the spirit, if not the letter, of the cease-fire agreements. Apparently our Government's continued heavy support of South Vietnam's police and prison system is viewed as "legitimate development projects within the context of our continuing permissible assistance to the Government of South Vietnam." What is "permissible" to the Nixon administration in this regard is hardly palatable to the American people or to many of us in the Congress.

The time is long overdue for our country to end, once and for all, our direct involvement in the internal affairs of Indochina, and to end our master-client relationship in our aid program. I appeal to the President once again to terminate all American-sponsored public safety and police programs in South Vietnam, and to immediately withdraw all current funding and new money for such purposes.

Mr. President, following my earlier statement on the floor last June 4 concerning the administration's continued support of South Vietnamese police and prisons, I wrote to Secretary of State William P. Rogers to inquire about the future direction of American policy in this area. On August 2, the Department of State responded in a letter to me.

I would like to review some of the Department's principal points, and then submit for the RECORD the complete text of our correspondence.

Mr. President, the Department's reply made these points:

First. It acknowledged that "implementation of the cease-fire agreement has been inadequate" in fulfilling the provisions for the release of political prisoners.

Second. It indicated that the administration would continue to provide funds for the police and prison system, because "it is our view that these are legitimate development projects within the context of our continuing permissible assistance to the GVN."

Third. It stated that the total American expenditure for police and public safety related programs in South Vietnam, from 1963 through 1973, amounted to $193,631,000. However, additional sums have been provided in local currency through the American Aid Chapter of the GVN national budget.

Fourth. It stated that "there are political prisoners in South Vietnamese jails and incidents of abuse and mistreatment do occur." The Department believes, however, "these problems have been exaggerated. The issue is an important one of concern to us, and we will continue to urge that the GVN make greater efforts to improve its performance."

Fifth. It indicated that "in general, cases of abuse appear to have occurred in the process of, or just after, arrest, while detainees are still under police control or interrogation. We have not hesitated to point out to the appropriate authorities the necessity for humane treatment of all detainees."

Sixth. It called charges against the GVN regarding political prisoners a "misleading picture of the Thieu administration as—a brutal, oppressive and dictatorial one, systematically stamping out every vestige of political opposition. The fact that the functioning opposition in South Vietnam is presently ineffective is primarily due to the traditionally divisive nature of Vietnamese political groups and, more importantly, to the confusion and uncertainty felt by most South Vietnamese as they attempt to enter a new political phase."

Seventh. It stated that the United States has repeatedly made diplomatic representations to the GVN in behalf of the humane and just treatment of all civilians detained for political reasons. The Department has urged without success, for the South Vietnamese Government to "liberalize its policy on visits to its detention facilities."

Eighth. It indicated that the remaining programs of the former Public Safety Directorate have been "transferred to USAID and—placed in appropriate general programs."

Mr. President, I ask unanimous consent that the complete text of the Department of State's response to my letter of June 7, 1973, together with my letter, be printed in the RECORD.

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

TEXT OF LETTER TO SECRETARY OF STATE WILLIAM P. ROGERS BY SENATOR EDWARD M. KENNEDY, CHAIRMAN OF THE JUDICIARY SUBCOMMITTEE ON REFUGEES

JUNE 7, 1973.

HON. WILLIAM P. ROGERS,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: Earlier this week, on June 4, I spoke in the Senate on civilian detainees and political prisoners in Vietnam, an issue of concern to many in the Congress and to many other Americans. My comments were based, in the main, on the findings of the Subcommittee on Refugees' recent Study Mission to Indochina, and the Administration's presentation to the Congress on Indochina Post-War Reconstruction Assistance.

As you will note from the enclosed text of my statement, my comments were directed toward the number of detainees and prisoners, their condition and treatment, their status under the Agreement on Ending the War and Restoring the Peace in Vietnam, and our country's continuing support of the police and prison system of South Vietnam. Additionally, I offered four recommendations for action, involving American diplomatic representations over the issue of political prisoners, and the immediate termination of all American support of public safety oriented programs in South Vietnam. I strongly feel that the termination of these programs is not only in our national interest, but is also in keeping with the spirit, if not the letter of the ceasefire agreement.

As I suggested in my statement, I fully appreciate that there are no easy solutions to the people problems of Indochina, including the problem of civilian detainees and political prisoners in Vietnam. However, I share the view of many Americans that our government's record and position on this problem is less than adequate, especially today in the context of helping to heal the wounds of war.

In this connection, I would like to request the Department's latest assessment of the number of political prisoners, their condition and treatment, and their status under the ceasefire agreement. I would also like to request a full record of past and projected expenditures for public safety and related purposes, broken down by fiscal years and for all departments of the Executive Branch. And it would also be helpful to receive the Department's comments on the specific recommendations for action contained in my statement of June 4.

I am extremely hopeful, Mr. Secretary, that Congress and the American people can be fully assured of the Administration's concern over political prisoners in Vietnam, and that every effort is being made to encourage the amelioration and resolution of this difficult and sensitive problem.

Many thanks for your consideration, and I look forward to hearing from you soon.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees.

TEXT OF DEPARTMENT OF STATE'S RESPONSE OF AUGUST 2, 1973

DEAR MR. CHAIRMAN: I refer to my letter of June 22, in which I indicated that the De-

partment would compile the information necessary to answer your letter of June 7 which raised several questions concerning civilian detainees and political prisoners in South Viet-Nam, and solicited the Department's comments on the four specific recommendations for action you made in your June 4 presentation to the Senate concerning this matter. We have completed our research and will attempt to answer your questions; I apologize for the delay in our response.

First, you asked the Department's assessment of the number of political prisoners, their condition and treatment, and their status under the January 27 Agreement on Viet-Nam. The term "political prisoners" is subject to varying interpretations, which helps account in turn for the widely varying and often exaggerated estimates of their number. I assume that you employ the term, as we do, to describe those persons imprisoned because of nonviolent, noncommunist opposition to the present government of the Republic of Viet-Nam, and not to describe communist cadre or supporters, whose release is a specifically designated subject for negotiation between the two South Vietnamese parties in accordance with the January 27 Agreement. In view, however, of the complex, fluid nature of the problem and the difficulty that often arises in differentiating one category from another, it may be useful if I outline first the status of civilian communist detainees under the pertinent provisions of the January Agreement, and then comment separately on the matter of those noncommunist prisoners who are not covered under those specific provisions.

Article 8(c) of the January 27 Viet-Nam Agreement specifies that "the return of Vietnamese civilian personnel captured and detained in South Viet-Nam will be resolved by the two South Vietnamese parties" to that Agreement. Article 7(a) of the Protocol concerning the Return of Captured and Detained Vietnamese Civilian Personnel defines "Vietnamese civilian personnel" in the language employed in the 1954 Geneva Agreement, as follows: "The term 'civilian internees' is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities." We interpret this definition as applying to communist cadre, i.e., political cadre, saboteurs, terrorists, etc. Noncommunist civilian detainees, be they common criminals or "political prisoners" as we have above defined the term, generally do not come under the articles cited.

The January 27 Agreement and Protocol specify that the two South Vietnamese parties "will do their utmost to resolve this question", i.e., the return of "Vietnamese civilian personnel", "within ninety days after the cease-fire comes into effect." Representatives of the Government of the Republic of Viet-Nam (GVN) and of the Viet Cong, or "Provisional Revolutionary Government (PRG)" have been meeting in Paris and Saigon on this and the many other issues related to the implementation of the cease-fire agreement and the achievement of a political settlement. Although there has been some forward movement, progress has been predictably slow and intermittent. In recognition of the fact that implementation of the Agreement has been inadequate in this regard (as well as many others), the June 13 Joint Communique calls for scrupulous implementation of the Agreement and Protocol with regard to detained civilians of both sides. The communique states that all Vietnamese civilian personnel covered by Article 8(c) of the Agreement and Article 7(a) of the Protocol shall be returned "as soon as possible" and requires the two South Vietnamese parties to "do their utmost to accomplish this within forty-five days from the date of signature of this Joint Communique".

Pending resolution of the problem, Article 8(b) of the Protocol provides that all "Vietnamese civilian personnel captured and detained in South Viet-Nam shall be treated humanely at all times, and in accordance with international practice". It further proscribes all forms of torture and cruel treatment and provides that those detained be "given adequate food, clothing, shelter and the medical attention required for their state of health".

The issue is complicated and rendered even more difficult of resolution by the residue of decades of bitter warfare; both sides accuse the other of bad faith and of holding far larger numbers of prisoners than either acknowledges. The GVN lists 16,798 "civilian personnel" (i.e., government officials and cadre) and 51,823 additional civilians it claims have been kidnapped or captured by communist forces since 1954. (President Thieu brought the list with him when he visited the United States in April.) The first category would presumably come directly and specifically under Article 7 of the Protocol; the status of the second category is more in doubt, although an accounting would certainly be in order. In any case, when negotiations for the release of civilian detainees began, the PRG only listed 140 for release to the GVN. Subsequently, in response to repeated GVN requests, the PRG increased that total to 200, then 400 and later to 637, the total they currently use.

For its part, the GVN has listed a total of 5,081 civilian detainees for return to the PRG under the terms of Article 8(c). The PRG has charged that the GVN holds 200,000 "political prisoners" (its "estimates", in addition to further confusing the distinction between "political prisoners" and "civilian personnel" have in fact gone as high as 300,000) but has not to the best of our knowledge substantiated this in any way.

It appears that neither side has provided a complete list. The PRG's slowly ascending totals are patently unrealistic; the GVN total of 5,081 is also incomplete, but far less off the mark. (As Mr. Meyer of our Saigon Embassy wrote on April 3 to a staff member of your committee, the GVN has converted some communist detainees to common criminal status.) However, it is important to note in this connection that the GVN has been more forthcoming than the PRG in another regard in that it has offered to release any civilian detainees, in addition to the designated 5,081, the PRG names as belonging to its movement. The PRG insists that its 637 total is complete, and makes no further concession.

For the GVN and PRG to bridge the gap between their positions on this issue of the release of civilian detainees will be a difficult task of negotiation. The issue is one where both Vietnamese parties have responsibilities, and where reciprocity is clearly required.

Turning now to those non-communist civilian detainees whom we have defined as "political prisoners", it is our view that the thrust of the Agreement and attendant protocols, with their emphasis on reconciliation and a political solution, strongly implies the release of civilians held for political reasons by both sides, even though the specific provisions do not demand such action. The GVN is aware of our views on this subject; we have made them known on numerous occasions, before and after the signing of the Agreement, and will continue to do so. It should be noted that since the signing, the GVN has released over 7,000 prisoners of various kinds (including such "political prisoners" as Truong Dinh Dzu and some Buddhist oppositionists) as acts of amnesty and clemency. We expect further such releases.

There is a further point, however, that bears emphasis, concerning the categorization of civilian detainees. Leaving aside common criminals, it is extremely difficult for any outside entity such as the United States Government, to make a confident determination as to whether a particular civilian detainee should be considered to be in the Article 8(c) category or is detained for simple political dissent. Only the two South Vietnamese parties—the GVN and the Viet Cong—have the full information on the basis of which such a determination can be made.

This having been said, to the best of our knowledge, the number of non-communist civilians detained for political dissent, i.e., "political prisoners", is a small portion of the prison population. Our Embassy in Saigon in the letter mentioned above suggested that there may be between 500 and 1,000 detainees in this category. Although this estimate was based on the best information available to the Embassy at the time it was made, we are by no means certain it is accurate. We simply do not have the means to determine to our satisfaction, and yours, the precise number of political prisoners in South Vietnamese prisons.

With regard to the treatment of civilian detainees, both communists and non-communists, we have heard many allegations lately of widespread and systematic mistreatment of prisoners by the South Vietnamese Government, but we believe such allegations are unsubstantiated. As in any prison system, there are cases of abuse, but in our best judgment, based on years of first-hand observation by U.S. advisors to South Viet-Nam's Directorate of Corrections (all advisory assistance under this program has now been terminated) such cases are the exception in South Viet-Nam's greatly improved penal system, rather than a norm. In general, cases of abuse appear to have occurred in the process of, or just after, arrest, while detainees are still under police control or interrogation, and not in civilian prisons under the jurisdiction of the Directorate of Corrections. Any case of mistreatment of a detainee, wherever it occurs and whatever the category the detainee, of course, is a matter for concern and appropriate corrective action. We have not hesitated to point out to the appropriate authorities the necessity for humane treatment of all detainees.

You requested a "full record of past and projected expenditures for public safety and related purposes, broken down by fiscal years and for all departments of the Executive Branch."

With regard to AID, according to AID's financial records, the following amounts were obligated for the public safety program since FY 1963 (in thousands of U.S. dollars):

Fiscal year	Security assistance	Technical assistance
1963	3,326	----
1964	1,343	2,806
1965	12,141	----
1966	22,753	105
1967	7,033	8,752
1968	26,258	----
1969	19,647	----
1970	11,455	----
1971	9,464	----
1972	[1] 8,948	----
1973	[1] 5,817	----
Total	122,368	11,663

[1] Includes $411,000 in 1972 and $183,000 in 1973 for narcotics control taken from sources other than supporting assistance funds.

Our Public Safety program in Viet-Nam consisted of three projects: the National Police Support Project which assisted the Vietnamese National Police; the Corrections Centers Project which assisted the Directorate of Corrections in its operation or supervision of the prisons of Vietnam; and the Telecommunications Project which assisted the Combined Telecommunications Directorate to furnish communications support throughout Viet-Nam for 28 government civilian agencies, only one of which was the National Police.

There is some public confusion concerning

the requirements of the January 27 Viet-Nam Agreement and its related protocols with regard to our Public Safety Program. The Agreement requires only that advisors to the National Police leave the country within 60 days and that any equipment furnished the National Police in the future falling into the category of "armaments, munitions, and war materiel" be limited to replacement items on a one-for-one basis. There are no other restrictions on assistance to the National Police such as training outside of Viet-Nam, nor are there any restrictions upon the Corrections and Telecommunications Projects.

Since January 27, 1973, all AID advice to the National Police has ceased and all advisors to the National Police departed the country within the required 60 days or found employment with other U.S. agencies or private contractors operating within Viet-Nam. It is our understanding that none of these former USAID Public Safety Advisors is serving in an advisory capacity to the National Police. Equipment furnished to the police has been limited to replacements as required. It had been planned to terminate the Corrections Project on June 30, 1973. However, since the goals of this project had been largely attained, all advisory assistance under it was terminated on January 28, 1973. (In addition to the AID Dollar Assistance provided in FY 1973, AID is also providing 50 million piastres, approximately $100,000, through the American AID Chapter of the GVN's CY 1973 Budget to the Directorate of Corrections.) When the Civil Operations and Rural Development Support (CORDS) element of the Military Assistance Command was dissolved, and with it the Public Safety Directorate, the Telecommunications Project together with the residual logistic and participant training functions of Public Safety were transferred to USAID and were placed in appropriate general programs.

As shown in the Congressional Presentation of AID for FY 1974, funds in the amount of $1,316,000 are requested to continue certain activities previously a part of the Public Safety Program in Viet-Nam which are in keeping with the Cease-fire Agreement. These AID funds include $600,000 for training outside Viet-Nam of 200 police officers in computer systems management, $196,000 for training outside Viet-Nam of police officers in other aspects of police management and $520,000 for replacement equipment for the Combined Telecommunications Directorate.

Department of Defense obligations for the public safety program since FY 1967 were as follows (in millions of dollars):

Fiscal year:	*Amount*
1967	$4.1
1968	7.7
1969	11.4
1970	9.1
1971	7.3
1972	9.0
1973	11.0
Total	59.6

The Department of Defense has requested $1,343,000 in FY 1974 for Telecommunications equipment replacement and $7,519,000 for police equipment replacement.

You also requested the Department's comments on the four specific recommendations for action contained in your statement of June 4. First, you recommended termination of all American sponsored public safety oriented programs in South Viet-Nam, and immediate withdrawal of all current funding and new money requests for such purposes. I believe you would agree that the remaining programs we have for Viet-Nam, of the kind and in the amounts I have outlined above, do not violate the Agreement. You obviously feel that they are not in keeping with its spirit. It is our view that these are legitimate development projects within the context of our continuing permissible assistance to the GVN.

I would like to add a few more words on this emotionally charged subject which I realize is of great concern to many Americans. Quite frankly, I do not agree with what I gather to be the thrust of your June 4 statement to the effect that abuses within the GVN penal system, including the holding of political prisoners, are of such a nature and extent to justify measures such as you propose. There are political prisoners in South Vietnamese jails and incidents of abuse *and* mistreatment do occur. I believe, however, that the background information I have provided in this letter shows that these problems have been exaggerated and inflated in the current public debate. The issue is an important one of concern to us, and we will continue to argue that the GVN make greater efforts to improve its performance. Nonetheless, I wish to stress again it is our considered judgment that GVN failures in this area, the existence of which we acknowledge, are not sufficient to call for the termination of the projects I have outlined.

I would say further as a general point that the current debate on this issue creates a misleading picture of the Thieu administration; that it is a brutal, oppressive and dictatorial one, systematically stamping out every vestigate of political opposition. This is simply not accurate.

There is a great deal of political opposition activity in Viet-Nam, particularly for a country which has been so long at war. The charges of political opponents to the GVN are not without some substances. However, the fact that the functioning opposition in South Viet-Nam is presently ineffective is primarily due to the traditionally divisive nature of Vietnamese political groups and, more importantly, to the confusion and uncertainly felt by most South Vietnamese as they attempt to enter a new political phase while still fearful of conquest by the communists. These are the problems today for Vietnamese oppositionists, much more so than alleged GVN oppression.

In considering this whole problem, we must not lose sight of the threat against which the GVN has been trying to defend itself. Let it be recalled that the Viet Cong and their North Vietnamese supporters have not hesitated to resort to subversion of political institutions, sabotage and terrorist actions against civilian officials and the public in general, as well as outright military force to achieve their purposes. It is this range of extra-military activities to which the GVN has been forced to respond with an efficient police force and detention system and with some limitation on the full exercise of political freedom as we conceive of it in this country.

Second, you urged and we agree that the United States make diplomatic representations to the GVN in behalf of the humane and just treatment of all civilians detained for political reasons and for the release of political prisoners not covered by the Agreement. As I pointed out above, the United States has repeatedly stressed these points in the past, and will continue to do so. The fact that we believe significant improvement has been registered by the GVN in these areas does not mean we fail to recognize that much more must be done.

To "sort out" and "rectify the rolls" of GVN prisoner categories as you put it, we see as a matter to be negotiated between the South Vietnamese parties.

In the final analysis, they will have to work this out between themselves. We have indicated to both our desire that a solution be found to the civilian detainee problem as stipulated in the Agreement as a matter of high priority, but beyond such encouragement there is little we can do. This is a South Vietnamese matter, one which we probably ill understand and about which we would be ill equipped to enter into specific, detailed involvement. I indicated some of the complexities and pitfalls earlier in the letter.

With regard to your suggestion that the Thieu government invite an inspection of prison facilities under the auspices of the International Committee of the Red Cross, I wish to note that Article 9(b) of the Prisoner Protocol requires the two South Vietnamese parties to designate two or more national Red Cross societies to visit all places where detained civilians are held. The June 13 Joint Communique calls for immediate implementation of this Protocol provision, and the two South Vietnamese parties are at present attempting to work out modalities for arranging such visits by the Red Cross societies of Canada and Poland. Resolution of this issue is complicated by the insistence of the PRG that it does not have any detention facilities for the Red Cross societies to inspect. For our part, we hope that differences can be resolved so that the stipulation visits to the detention facilities of both sides can take place promptly. Our knowledge of the South Vietnamese government's prison system causes us to believe that inspection by an unbiased and qualified group would help correct the public record with regard to the inaccuracies and distortions presently widely accepted concerning that system. We have made this point frequently and strongly to the GVN, in urging that it liberalize its policy on visits to its detention facilities.

We completely concur in your third recommendation that the United States make diplomatic representations "to encourage and facilitate negotiations between the Thieu government and the PRG for the repatriation and return of those political prisoners on both sides covered by the Agreement." (We would not, however, define those prisoners to be exchanged as "political prisoners" but would rather call them "Vietnamese civilian personnel" as stated in the Agreement.) Both the parties concerned in fact are already aware of our desire that they promptly implement the pertinent provisions. We are encouraged by the new series of releases of Civilian detainers which began on July 23 and have, despite difficulties, already resulted in the exchange of approximately 80^ persons.

Fourth, you recommended that in discussions concerning revisions of the 1949 Geneva Conventions "the United States should actively encourage and support reasonable initiatives to strengthen and better facilitate the protection of civilian detainees in areas of conflict and war." The United States has welcomed the current initiative of the International Conference of the Red Cross to re-examine and revise the laws of war. The United States participated in an ICRC-sponsored conference in 1972 which considered ways in which the international humanitarian law applicable in armed conflict can be further developed. At this conference preliminary drafts were discussed with a view to advising the ICRC in its efforts. The ICRC intends to produce drafts (which) will probably take the form of two protocols to the Geneva Conventions of 1949 dealing with international and non-international armed conflicts, respectively) to serve as the basis for negotiations at a 1974 diplomatic conference in Geneva. The United States regards this forthcoming conference as a major step in the process of bringing the law up to date, and we shall participate in it fully and enthusiastically. We hope that it will result in increased protection for persons detained in both international and non-international armed conflicts. In view of your interest in this subject I am enclosing a copy of a recent address by the Department's legal Adviser, George H. Aldrich, entitled "Human Rights in Armed Conflict: Development of the Law". Mr. Aldrich gave the address at an April 13 meeting of the American Society of International Law. His remarks reflect current Department thinking on this subject and were published in the June 18 *Department of State Bulletin.*

I appreciate this opportunity to review with you the Department's views concerning what you aptly term a "difficult and sensitive problem". I hope that I have been able to convey to you our genuine concern that the problem of detainees in Viet-Nam, of whatever category and by whichever side they are held, be resolved, together with the other issues which have separated the warring factions in South Viet-Nam for so many painful years. As a signatory to the Agreement, we will continue to do everything we reasonably and practicably can to encourage and stimulate compliance with the Agreement. At the same time, we must realize our limitations. The Agreement provides a context for the mutually suspicious South Vietnamese parties to solve their political problems, not immediately but over time. Patience is required; what we can best do is to continue to assist in maintaining the framework of the Agreement, and encourage them to settle their differences within this framework.

On the matter of "political prisoners" not specifically covered under the Agreement, we will continue to press the GVN to liberalize its policy. We think there is certainly room for improvement, but we also believe that here, as in other areas, quick judgments with regard to complex Vietnamese issues should be avoided.

I hope this is useful to you. Please let me know if I may be of further assistance.

Sincerely,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

USED CARS

Mr. HARTKE. Mr. President, on May 23d of this year, I introduced the Used Car Warranty Act (S. 1881). This bill is designed to provide purchasers of used cars with the basic information they need when buying an automobile.

I know that there are many reputable used car dealers throughout the Nation—dealers who take pride in the cars they sell and back up their pride with meaningful guarantees. Yet it is all too clear that there are far too many disreputable dealers who are content to lure people onto their lots and then sell them anything which can be driven off the lot.

Mr. President, this is not only a question of consumer fraud; it is also a question of consumer safety. There is a direct relationship between the age of a car and its accident proneness. Owners of older vehicles must take special care to assure that steering systems, braking systems and the like remain in proper working order for time takes its toll on these vital parts. Far too many of the cars being sold off used car lots contain serious safety defects.

Mr. President, recently a reporter for Chicago Today spent 11 days posing as a used car salesman. His story highlights the manner in which unscrupulous used car dealers take advantage of an unsuspecting public. I ask unanimous consent that the first two parts of a series of articles written by reporter Howard S. Marks be printed in the RECORD.

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

HOW SHADY USED CAR DEALERS PREY ON THE DESPERATE

(By Howard S. Marks)

Jesse Johnson was happily looking forward to Christmas in Mississippi as he sat behind the wheel of his newly purchased 1968 Buick.

Cruising along at 70 m.p.h. thru western Kentucky en route from Chicago, he thought he was safe.

He had purchased the 3-year-old Buick in 1971 for $3,300 from a large dealership in Chicago that sells hundreds of cars monthly.

Suddenly, the cars in front of him stopped and Johnson slammed on his brakes, fully expecting to stop. He didn't.

He veered into a ditch, rather than smash into the trailer in front.

Johnson was lucky. The car was destroyed, but he escaped with bruises and cuts.

Jesse Johnson [not his real name] is among thousands of Chicagoans who each year buy low-quality cars at high prices because they can't get financing. Their credit records are too bad.

They turn to the dozens of lots that line Western and Cicero Avenues in Chicago that promise flashy cars at low prices for people with histories of bad credit, judgments, and wage garnishments.

These are the places that couldn't care less about the customers and whose questionable practices give a bad image to the many reputable used-car lots that do exist in the city.

Some of the customers are illiterate. They carry around stamps and rubber pads, so they can stamp their names instead of signing an X. Others can't even remember when they started their last job.

Many of them lie about their bleak financial pasts.

They are desperate for a car for a variety of reasons ranging from contempt for the Chicago Transit Authority to the need to reach a job in Lake County, Ind.

Car Credit Center Corp., 7600 S. Western Av., and 5670 S. Western Av., serves those desperate people.

To determine just how Car Credit operates, I worked as a used car salesman for the company for 11 days in mid-July.

I chose Car Credit because of its reputation—or lack of one.

The Better Business Bureau told us scores of complaints has been filed against Car Credit.

Altho the files of the bureau remain closed to the press, employes at Car Credit provided numerous examples of defective autos that were returned to the lot.

One involved a woman driving a 1967 Chevrolet costing $1,195 that went out of control on the Dan Ryan Expressway in June. Her brakes failed, and she avoided a nasty rear end crash only by heading for the shoulder.

The second involved the failure of the steering mechanism on a 1967 Chrysler after the ball bearings slipped. The driver somehow managed to stop the car.

Here are just a few of the practices I discovered while working in and around the Car Credit lot:

The cars are priced at a full 100 per cent markup before financing charges are added. The financing charges range up to 30 per cent annually.

Many of the cars won't even start on the lot. Several came close to catching fire. Coke cans are used to patch up exhaust pipes. Tuneups take two minutes.

Advertised specials are known as "bulls" because they are so smashed up that very few customers would want them. They are used as "bait" to get people down to the lot to buy more expensive cars.

A 30-day "guarantee" is not what it's cracked up to be—the customer winds up footing most of the repair bills.

Salesmen berate the car they're selling as "junks" and four-letter expletives—when there are no customers around. The customers themselves are "bad, extrabad, and superbad," one salesman said.

The salesmen themselves have been stuck with defective used cars they get as loaners.

Salesmen admit that buying a car at Car Credit is similar to Russian roulette. "Some people actually get a good car and return, while others really get their fingers burned."

This isn't the first time that the lot at 7600 S. Western Av. has been under investigation and exposed.

Chicago Today columnist Jack Mabley wrote a series of articles about disreputable practices on the lot in 1962 when it was known as Tim Kelly Inc. It then was owned by Bill Bass, brother of Eddie Bass, who the Secretary of State's office lists as the chief officer of Car Credit.

In 1964, Mabley discovered the lot operating again under the name of Friendly Bob Inc. After a second series exposing shoddy merchandise and high prices, the Secretary of State's office revoked Friendly Bob's license and ordered it out of business.

However, bad publicity has a way of disappearing once the "heat is off!" The lot long since has reopened under a third name.

During my 11 days at Car Credit I worked under an assumed name and address and successfully avoided detection—altho one salesman thought I might be an FBI agent.

I managed to sell five cars [two for half-commission] and earned $140 before taxes.

After my experiences at Car Credit I know there probably is no greater challenge in life than selling a car with snow tires in 90 degree heat or without windshield wipers on a rainy day.

I could do neither and thus was only a used-car salesman for less than a fortnight.

But I kept a diary of each days' events and some of the things I recorded in that diary would shock even the most skeptical.

OUR USED CAR "SALESMAN" BEGINS

(By Howard S. Marks)

Unscrupulous used car dealers are highly skilled in the art of prying the last dollar from those who can least afford it—the unwary and the bad credit risk. To get a first-hand look at how these dealers operate, reporter Howard S. Marks worked as an undercover used car salesman for 11 days at one of these lots and kept a diary of each day's events. In this second article of a series, Marks tells how he learned the "tricks of the trade" during his first day on the lot.

Thursday, July 5—The orange flags and newly washed row of sparkling late-model cars first caught my eye as I parked on Western Avenue and walked to my first day as a used car salesman at the Car Credit Corp., 7600 S. Western Av.

I was more than a little apprehensive—mostly over my role as an undercover investigator, but also because of the very real challenge of selling a used car.

It's an old adage that if you can hack it as a used car salesman you can make a fortune anyplace else. One thing that stuck in my mind when I was hired was the promise that I could make up to $500 a week in commissions.

I was told to report to work in a sports shirt and slacks. "We don't dress up around here," one of the salesmen said.

I showed up promptly at 8:55 a.m., but had to wait until 10:45 a.m. to be briefed by Frank, an assistant manager. Frank [not his real name] gets along famously with the salesmen and customers because he's a fast talker and keeps 'em laughing.

First, Frank explained why hundreds of people are lured to Car Credit each week by the promotion of low priced specials.

Specials are known to the salesmen as "bulls"—low priced, all right, but usually hunks of metal that barely run. After the wife sees them, it's easier to sell the customer a more expensive car.

"We make them as ugly as hell, but a person would have to be crazy to buy one of these cars," Frank said.

Yet, so desperate are the customers that even these "bulls" will disappear.

"The object is to get them on the lot,"

said one salesman. "Once they get here tell them the car has been sold just before they arrived and show them something else."

This happened during my second day when dozens of people were told over the phone that the advertised '68 Corvette for $1,695 was still on the lot when actually it was sold the day before.

Second, Frank explained the all-important credit application. All cars are financed by the Overland Bond and Investment Corp., 4701 W. Fullerton Av., owned by Car Credit. All deals are approved by Bob White, chief of Overland and a director of Car Credit.

Frank told me that the customers "lie like hell" and that I should be careful in asking questions and check drivers' licenses and other positive identification cards.

Most important, he told me that in the box known as race I should write one x for whites, a double xx for blacks, and triple xxx for "Spanish or Puerto Rican."

"Remember," he repeated at least four times, the whole idea is to get a lot [of money] to get a little [a low priced car]."

Frank then took me on the grand tour of the asphalt paved lot explaining the "secret code" for pricing. Each car has a price code number painted on the windshield.

For instance, 191168 would be a 1968 auto priced at $1,095. The first two digits and the last two digits refer to the year of the car and the middle two digits are the key to the price, in this case 11 representing a price of 1,100 [always less $5 as a sales gimmick].

Normally there is a 100 per cent markup on the cars. The price paid for the $1,100 car at auction [usually in Grand Rapids, Mich.] is roughly half the retail price [or $550 in this case.]

On all credit deals, a minimum of $500 is added to the wholesale price. This gives Car Credit extra protection on lower priced cars.

If a person pays cash, of course, he gets a better deal. A minimum of $350 is added to the wholesale price. But cash deals are frowned upon.

Trade-ins and repossessed cars are sold for $200 above cost. Some of these cars have the letter G between the year it was built. It stands for Gore line cars, or a car which has no value, but must be sold for at least $195, if the salesman is to get full commission.

My commission was $35 per car but most of the salesmen were earning $40 to $45 for each car. [There is no bonus paid salesmen as an incentive to hypo the price]. Each salesman also get a loaner.

Frank said to inflate the price by $200 if the person has a trade-in.

"Most people think their cars are worth a lot more than they really are," said Frank. "You can make them think they're getting a good trade-in deal by adding the $200 on to the real price we are willing to pay."

Frank cautioned me against answering technical questions about the car.

"The only one who will ask are young kids. Just open the hood and read whatever the printing says on the motor or the carburetor."

"Tell people that the car went through a systematic check at our diagnostic center," Frank said, pointing to the Enco station garage at 77th Street and Western Avenue, owned by Car Credit. "There is no diagnostic center," he confided with a grin.

Near the end of the day, one salesman turned to me and said selling cars at Car Credit was easier than selling new cars "because you don't have to know anything about junk."

Friday, July 6—We got some real action today when Chicago police were called to Car Credit.

Two cops had to settle a quarrel over four tires and a stereo recorder missing from a repossessed auto.

The former owner claimed that the belongings were in the car when it was brought back to Car Credit the previous Sunday night. He was really burning with rage.

But only after one of the porters [who start and clean cars] confirmed the customer's statements, did the police agree to fill out a theft report.

After the porter volunteered the information, he was pulled aside by a salesman and told "to mind his own business."

I was later told that the customer was given a check for the missing items.

I learned during my 11 days that the front row of late model cars is washed daily, but not the cars in the back rows. The interiors of the back row cars are littered with cigarette butts, traffic tickets, and assorted junk.

I learned that very few of the front row cars are sold.

Ralph [not his real name], one of the more honest salesmen, conceded that "I'm ashamed to take people back into the fourth row." The fourth and fifth rows along the dirt alley are where the bulls and gore cars [junks] are kept.

Another salesman said "the rats [referring to the customers] know exactly where to go, which are the back rows."

I later took a Chicago Transit Authority bus driver on a test drive in a 67 Ford station wagon, which was selling for $995.

When I couldn't operate the gas pedal, the driver told me "to drive it like a CTA bus." Never having driven a CTA bus I still couldn't get the car to move any faster than 30 m. p. h.

The muffler kept scraping the rear tire during the test ride, but I guess he never heard it. As a bus driver, he must have been used to the noise.

He still wanted to buy the car, but had to be turned down on credit because the savings bonds he wanted to use as payment turned out to be nonnegotiable.

I couldn't understand why he wanted the car—it looked like a wreck and I'm sure it had never been cleaned while it was on the lot.

In fact, the filthy condition of the backline cars appears to be a difficult problem for the beginning salesman.

Management does have a man who paints black tires with white lines. This is supposed to make the customers think the tires are factory whitewalls.

SOVIET UNION AND HUMAN RIGHTS

Mr. KENNEDY. Mr. President, events which have occurred recently in the Soviet Union raise serious questions for all who are concerned about human rights.

Only a few days ago, Andrei Sakharov, distinguished Soviet physicist, told reporters that he had been warned against continued meetings with western reporters and urged that the process of detente be accompanied by continued pressure on the Soviet Union for greater respect for human rights.

Since then, both Sakharov and Alexander Solzhenitsyn have been named in ongoing trials against other Soviet dissidents, accused essentially in involvement in the distribution of underground newsletters. The clear threats against these two distinguished Soviet intellectuals for their outspoken defense of human rights are disturbing indications of a regression in the process of liberalization within the Soviet Union.

The trials of two other Soviet dissidents, with their public memorized statements of guilt, is all too reminiscent of an earlier era.

I ask unanimous consent that articles discussing the recent attacks on intellectual freedom in the Soviet Union that can only be described as persecution and oppression of criticism be printed in the RECORD.

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

[From the New York Times, Sept. 9, 1973]

FIRST, HUMAN DÉTENTE

(By HENRY M. JACKSON)

WASHINGTON.—Since the Moscow summit of May 1972, it has become fashionable to contrast the "crudity" and "bluntness" of earlier Soviet regimes with the "subtlety" and "sophistication" of Mr. Brezhnev and his associates. But there is nothing subtle about the latest wave of show trials, staged confessions and harassment in the Soviet Union. It is evident that the supposed "relaxation of tensions" in international affairs is not yet accompanied by a corresponding relaxation of Soviet internal controls.

In 1937, Thomas Mann, then in exile in Switzerland, was informed by the University of Bonn that "the faculty finds itself obliged to strike your name off its roll of honorary doctors."

In his written reply, Mann asked the Nazi Government he had fled:

"Why isolation, world hostility, lawlessness, intellectual interdict, cultural darkness, and every other evil? Why not rather Germany's voluntary return to the European system, her reconciliation with Europe, with all the inward accompaniments of freedom, justice, well-being and human decency, and a jubilant welcome from the rest of the world? Why not? Only because a regime which in word and deed denies the rights of man, which wants above all else to remain in power, would stultify itself and be abolished if, since it cannot make war, it actually made peace."

In 1969, Aleksandr Solzhenitsyn wrote to the Secretariat of the Soviet Writers' Union after being informed that it had expelled him:

"Your clumsy articles fall apart; your vacant minds stir feebly—but you have no arguments. What would you do without enemies'? You could not live without 'enemies'; hatred, a hatred no better than racial hatred, has become your sterile atmosphere. But in this way a sense of our single, common humanity is lost and its doom is accelerated. Should the Antarctic ice melt tomorrow, we would all become a sea of drowning humanity, and into whose heads would you then be drilling your concepts of 'class struggle'?"

The message of these two great writers is the same: A regime that denies the rights of man can never be reconciled to membership in the community of civilized nations.

The question today is whether recent East-West developments have in fact increased the chances the Soviet Union will decide to become a member of the community of civilized nations. I am bound to say that I share the apprehensions of those who remain doubtful. But this much is certain: How we design and implement the emerging policy of détente, the weight we assign to human rights in the development of relations with the Communist nations, and the depth of our own commitment to individual liberty will prove decisive.

This is the point that Andrei Sakharov communicated to us during his brave and outspoken press interview last month. "Détente," Sakharov said, "has to take place with simultaneous liquidation of isolation." Détente without democratization, would be "very dangerous . . . that would be cultivation and encouragement of closed countries, where everything that happens goes unseen by foreign eyes behind a mask

that hides its real face. No one should dream of having such a neighbor, and especially if this neighbor is armed to the teeth."

Thus, without an increasing measure of individual liberty in the Communist world there can be no genuine détente, there can be no real movement toward a more peaceful world. If we permit form to substitute for substance, if we are content only with "atmospherics," we will fail to keep the peace.

Of all the human rights contained in the universal declaration of the United Nations, none is more fundamental than that in Article 13—the right to free emigration. And we assess the developing détente, a basic measure of progress will be its impact on the free movement of people. The importance of free emigration stems from the fact that whatever other liberties may be denied—speech, press, religion, employment—any and all of these can be restored by emigration to free countries of the West. Of human rights, free emigration is first among equals. Moreover, emigration has a special international character that necessarily places it in the context of international relations—for the state that wishes to receive emigrants has at least as much of a stake in free emigration as the state from which they come.

Significantly, the economy of the Soviet Union is in desperate straits, and we have been asked to extend to Russia the benefits of our markets on a most-favored-nation basis, of our capital at preferential rates, and of our superlative technology. There are those who argue that we must make these trade concessions in the interest of promoting détente but that we ought not to attach conditions that would, at the same time, promote human rights in the Soviet Union. This is the argument of the Kremlin. It is also, I am pleased to say, an argument that we in the Congress have clearly rejected. The overwhelming support for my East-West Trade and Freedom of Emigration amendment—77 cosponsors in the Senate and over 280 in the House—to make these benefits conditional on free emigration is, in my view, not only the best hope for the survival and freedom of many brave people, it is a sound and proper way to approach the potential détente.

Those who insist that the pace and development of détente should reflect progress in the area of human rights are often accused of opposition to détente itself. Nothing could be further from the truth. The argument is not between the proponents and detractors of détente, but between those who recognize that a genuine era of international accommodation must be based on progress toward individual liberty and those who choose to pretend otherwise.

[From the New York Times, Sept. 9, 1973]

TERROR IN MOSCOW

Kremlin terror tactics have almost extinguished the visible Soviet dissident movement, but not quite. That became evident yesterday when three Soviet citizens came publicly to the defense of Academician Andrei D. Sakharov and suggested him—very appropriately—for the Nobel Peace Prize.

The bravery of this trio—mathematician Igor R. Shafarevich and writers Vladimir Y. Maksimov and Aleksandr A. Galich—is underscored by the fact that the only other prominent Russian willing to speak out against the current Kremlin campaign of intimidation has been Nobel Prize winner Aleksandr Solzhenitsyn.

Until yesterday the Soviet press was full of statements denouncing Academician Sakharov, many of them signed by outstanding Soviet scientists, writers, musicians and other intellectuals of whom the world had a right to expect more decency. The intensity of Kremlin pressure has been so enormous that even men of such global renown as Academician Pyotr Kapitsa, the physicist, have felt it impossible to do more than keep silent. They can only hope that the world will realize the meaning of the absence of their signatures from the shameful lists.

The ruthlessness of the drive to stamp out dissent is epitomized in Mr. Solzhenitsyn's revelation that a Leningrad woman hanged herself after being forced by five days of continuous secret police questioning to reveal the whereabouts of a major underground Solzhenitsyn manuscript. Nevertheless, the Kremlin is clearly worried about negative Western reaction to its barbarous return to the Stalinism of the nineteen-thirties.

That fear was made plain when the Soviet Government suddenly held a press conference at which the freshly convicted former dissidents, Pyotr I. Yakir and Viktor A. Krasin, were called upon to re-confess their "crimes" in public. Their first confessions in the courtroom were apparently so poorly rehearsed that the Kremlin dared not let foreigners view the trial. Unfortunately for the Kremlin, the parallels between the Yakir-Krasin frame-up and the caricatures of judicial process in the purge trials of the thirties are too close to allow this latest example any credibility.

A wave of revulsion against the Moscow terror has swept much of the civilized world. In France, for example, the French Communist party has been hurt by Moscow's primitive behavior and is striving frantically to minimize the damage it suffers. In the United States, by contrast, the response in official quarters has been peculiarly ostrich-like. Thus, at the height of the program, the Secretary of Health, Education and Welfare has visited Moscow, where he last week held a news conference with the Soviet Health Minister. In addition, the Administration has made plain that its efforts to expand Soviet-American trade are going ahead full steam.

Secretary of State-designate Kissinger has disclosed that he was "very moved" by the Sakharov statement urging that the United States go slow on détente until the Soviet Union showed some sign of democratization. However, Mr. Kissinger insists in effect, that the United States must ignore everything Sakharov said and go right ahead building up Moscow's economic resources.

Some may feel that Watergate has so undermined President Nixon's moral status that he is in no position to criticize anybody else. Yet, by his silence on Moscow's excesses, the President is stumbling into another and even more serious trap.

In last week's news conference Mr. Nixon pleaded against any cut in the military budget lest this nation be deprived of bargaining leverage at SALT II. But his present policy of expanding Soviet trade, making advanced American technology available to Moscow and encouraging American businessmen to plan multi-billion dollar investments there are all designed to increase Soviet strength—military as well as economic.

And as Academician Sakharov has pointed out, helping a completely regimented Soviet Union become stronger could ultimately be the road to American suicide. On its side, the Kremlin does not interpret détente as requiring ideological disarmament. Why is the White House acting as though détente requires it to approve of every Moscow horror?

[From the Washington Post, Sept. 9, 1973]

BRANDT HITS SOVIETS ON DISSIDENTS

(By John M. Goshko)

BONN.—Chancellor Willy Brandt's Social Democratic Party issued a strongly worded protest against the "persecution" and "oppression" of dissident intellectuals in the Soviet Union.

The formal statement by the party's governing board was prompted by the Soviet Union's intensified crackdown on such domestic critics as Andrei Sakharov, the physicist, and Nobel-prize-winning novelist Alexander Solzhenitsyn. During recent days, Sakharov, in particular, has been the target of heavy denunciation from the government-controlled Soviet press.

The statement said: "The persecution and oppression that has been directed against critical scientists and writers in the Soviet Union has caused great concern among the German Social Democrats."

It added that such events as the recent trial of two other dissidents, Pyotr Yakir and Victor Krasin, were causing "great disquiet, particularly to those among the German people who strongly desire continuing normalization and good neighborly relations."

This declaration came a day after Austrian Chancellor Bruno Kreisky, who is also a Social Democrat, and a close friend of Brandt's, publicly defended Sakharov as a representative of those scientists "who are today leading the fight for freedom, tolerance and equality."

Today's followup by the West German Social Democrats reflected the increasingly angry comment being heard in press and intellectual circles here about the Soviet anti-dissident campaign.

Repeatedly, it is being noted here that the Soviet actions run directly counter to the goals that the West has proclaimed for the second stage of the Europen security conference, soon to get under way in Geneva. Western participants in the 35-nation conference have been insisting that it must provide for greater human contacts and freedoms throughout Europe.

During recent days, some of Brandt's political opponents have charged him with unwillingness to condemn the Soviet actions because of fears for his increasingly friendly relations with Soviet Communist Party chief Leonid Brezhnev. Today's statement by the Social Democratic leadership was intended, in part, to counter these accusations.

The sensitivity that the Soviet actions are causing here was underscored yesterday when German author Guenter Grass announced that he was putting off plans to visit the Soviet Union.

Grass, who is closely identified politically with Brandt, said that he had been asked by the West German ambassador in Moscow, Ulrich Sahm, to postpone his trip because of the atmosphere that the anti-dissident campaign has created in the Soviet Union.

[From the New York Times, June 23, 1972]

SOVIET PHYSICIST PROPOSES BILL OF RIGHTS AND A REDIRECTION OF ECONOMIC POLICIES

Moscow.—Andrei A. Sakharov, father of the Soviet hydrogen bomb and an outspoken critic of the Soviet treatment of dissidents, has proposed a bill of rights for the Soviet Union and urged a major redirection of Soviet economic and foreign policies.

The nuclear physicist's sweeping reform program is designed to democratize and liberalize Soviet society, which he asserts is threatened from inside by militarization of the economy and resurgence of Stalinist practices.

The paramount goal of the program, Mr. Sakharov said, is to protect human rights in the Soviet Union.

"Our society is infected with apathy, hypocrisy, narrow-minded egotism and hidden cruelty," he declared. "With hurt and alarm I am forced to note, in the wake of a largely illusory liberalism, the growth of restrictions on ideological freedom or persecution for political and ideological reasons."

SENT TO BREZHNEV IN 1971

The reform program, which he made available to some Western newsmen, consists of two signed documents: a "memorandum" dated March 5, 1971, and an "afterword" dated June, 1972.

Mr. Sakharov said he had sent the memorandum last year to the Soviet Communist party chief, Leonid I. Brezhnev. He wrote in the afterword, however: "It has gone unan-

swered. I do not consider it my right further to postpone its publication."

One of the world's leading nuclear scientists, Mr. Sakharov in the mid-sixties warned of the criminal character of a possible thermonuclear war and in 1968 attracted widespread attention with a privately circulated essay asserting that the United States and the Soviet Union had no choice but to cooperate on ending the immediate threat of a nuclear holocaust and join to solve world problems.

He was dismissed from his post as chief consultant to the State Committee for Atomic Energy soon after the essay appeared in the West. It has never been published in the Soviet Union.

A FOUNDER OF RIGHTS GROUP

In his new memorandum, Mr. Sakharov, who is cofounder of the unofficial Soviet Committee on Human Rights, contended that "the single true guarantee of human values, in the chaos of uncontrollable change and tragic shocks, is the freedom of convictions of man."

Soviet society, Mr. Sakharov wrote, "does not require a foreign policy whose purpose is external political stabilization or the widening of zones of influence or export of its ideas."

"Messianism, delusions about the uniqueness and exclusive worth of its path and the negation of the worth of the paths of others are alien to society," he said. "Organically alien are dogmatism, adventurism and aggressiveness."

Mr. Sakharov condemned the Kremlin policy that permits military expenditures to take what he estimates is 40 per cent of the national income.

He declared, "Only a concentration of resources on internal problems will make it possible to overcome difficulties in the areas of the economy and the welfare of the population."

* * * * *

"has as its chief goal the protection and insurance of the basic rights of its citizens. The defense of human rights is more important than other goals."

Mr. Sakharov's program included a detailed analysis of specific reforms that included these:

General amnesty for all political prisoners, including those sentenced on religious grounds, those detained for trying to leave the Soviet Union and those retired for escaping from labor camps.

An end to closed trials and review of all sentences made "in violation of the right to know."

New laws and clarification of current regulations under which political dissenters are held in mental hospitals.

The drafting of a new press law that would be put to the people for national discussion on the basis of "the right to know."

An end to the jamming of foreign radio broadcasts.

Liberal access to foreign literature.

Open borders for international travel and emigration.

Abolition of the death penalty.

A watchdog committee for those arrested, to protect them against physical methods of pressure, such as starvation and beating.

An increase in the fight against alcoholism.

"Drunkenness has acquired the dimensions of a national calamity," Mr. Sakharov wrote. "It is one of the symptoms of a moral degradation of society which is more and more sinking into a condition of chronic alcoholic poisoning."

Mr. Sakharov bitterly denounced the "open and secret privileges" of the Government, party and cultural elite, who "are deeply indifferent to violations of human rights." He also suggested that salaries of officials be made public.

ASKS RECALL PROCEDURE

The 51-year-old physicist proposed that single-slate elections be abolished, that provisions be made for the popular selection of Government and party leaders and the "genuine possibility of recall of officials, at all levels, in cases of unsuitability."

Mr. Sakharov's emphasis on the law reflects his role as the principal spokesman for Russia's dissident democratic movement.

The movement contends that there is nothing wrong with Soviet laws as they exist on the books, but that the Government has chosen to ignore or distort law to further personal ambitions and protect the privileges of the ruling class.

For democratization of Soviet society, Mr. Sakharov wrote, Soviet foreign policy must not detract from domestic progress.

"The main problem of foreign policy is relations with China," he declared.

He proposed that the Soviet Government offer "the alternative of economic, technical and cultural aid at the same time showing particular concern for insuring the security of our country."

[From the New York Times, July 5, 1973]

SOVIET SYSTEM DENOUNCED BY SAKHAROV

STOCKHOLM.—Andrei D. Sakharov, father of the Soviet hydrogen bomb, has issued an indictment of Soviet society in an interview published in a Swedish newspaper.

The 52-year-old nuclear physicist attacked what he described as a system that perpetuates criminality and privilege, and he called for an end to the single-party system and an ideology that is "antidemocratic in its essence."

Mr. Sakharov, a member of the prestigious Soviet Academy of Sciences, first delivered his outspoken attack in a recent Swedish television program that was filmed in Moscow. The uncut text of this interview was published for the first time this week in the influential newspaper Dagens Nyheter.

Mr. Sakharov said: "The Soviet Union has the same sort of problems as the capitalist world: criminality and estrangement. The difference is that our society is an extreme case, with maximum unfreedom, maximum ideological rigidness, and—and this is most typical—a society with maximum pretensions about being best, although it certainly isn't that."

STATE CAPITALISM

He said that Russian socialism was nothing more than empty words and propaganda. "Realistically speaking, the Russian state represents an unprecedented concentration of economic and political power," he said. "But it is state capitalism, in which the state completely dominates economic life."

"The visa system secures divisions within our society. Territorial differences and injustices exist between different parts of the country. Moscow and other large cities are privileged when it comes to consumer goods, comforts, everyday life, cultural activity and so on."

Mr. Sakharov, a member of a dissident group called the Committee for Human Rights, urged an end to the Communist party's dominance, and reorganization of economic life that would permit more individual initiative.

SEEKS MULTIPARTY SYSTEM

He urged a multiparty system with large numbers of candidates and said that the drab uniformity of the press must be altered.

The physicist did not depict the Soviet Union as a class society but he said that Communist party functionaries had received advantages at the expense of the working class.

"They have huge emoluments," he charged. He pointed to the special sanatorium system restricted to party members and hospital care.

He said: "People from the West often say, your society has many drawbacks but at least you have free hospital care." But it is obvious that it is not any more free than in Western countries and is often more expensive."

The dissident scientist spoke about restrictions on travel both to foreign countries and within the Soviet Union itself. He said that the antidemocratic nature of Soviet Marxism resulted in "isolation from the outside world, the absence of the right to travel beyond the borders and return."

Above all, he said, travel restrictions represent an enormous tragedy "for all those people who want to leave the country for personal or a variety of nationalist reasons."

He said he did not fear for his personal safety. "What I am most afraid of is a form of pressure which in the first instance would not involve me personally but my family, and my wife's family and relations," he said. "That is the most terrible type of pressure, and it is already at hand."

Mr. Sakharov recently was questioned by the secret police, Dagens Nyheter said.

[From the New York Times, Aug. 18, 1972]

THE SAKHAROV MEMORANDUM

(By Andrei D. Sakharov)

(Andrei D. Sakharov, Soviet Academician and a member of the Committee of the Rights of Man, wrote this "Memorandum" in March, 1971, to Leonid I. Brezhnev. It is presented here in excerpted form.)

I consider it imperative to request that the following suggestions be considered by the competent authorities.

In my view, the time was ripe long ago for dealing with the question of a general amnesty to political prisoners; including persons convicted by reason of their religion, persons confined to psychiatric institutions, person convicted of attempting to cross the border, political prisoners given additional sentences for attempting to escape from a camp, or of spreading propaganda in a camp. It is essential to take steps to insure extensive, factual publicity of the proceedings in all trials, especially those of a political nature.

I consider psychiatric punishment for reasons of a political, ideological or religious nature intolerable. It is essential to pass a law defending the rights of persons subjected to forced psychiatric hospitalization; also, to adopt resolutions and the necessary legislative refinements for the defense of the rights of persons presumed to be mentally disturbed in connection with prosecutions on political charges.

Concerning open public disclosure, free exchange of information and freedom of conviction, it is essential that a draft law concerning the press and other means of mass communication be submitted for consideration by the general public.

Concerning nationality problems and the problem of departure from our country, it is essential to pass resolutions and laws fully restoring the rights of the peoples resettled under Stalin and to pass laws ensuring the free and unimpeded exercise by citizens of their right to leave the country and to return to it freely.

Concerning international problems, it is essential to take the initiative and announce (or confirm—unilaterally, to start with) our refusal to be the first to employ weapons of mass destruction (nuclear, chemical, bacteriological or incendiary). It is essential to permit inspection teams on our territory for effective control of disarmament.

It is essential to alter our political position in the Middle East and in Vietnam, vigorously striving—through the United Nations and diplomatic channels—for the earliest possible peaceful settlement under conditions of a compromise.

It is essential to work out a clear and consistent program for further democratization and liberalization and to take a number of steps which are top priority and not to be postponed. This must be done in the interest of economic and technological progress; in the interest of gradually overcoming our backwardness in comparison with the advanced capitalist countries and our isolation from them; in the interest of the well-being of wide sections of the population; in the interest of the internal stability and the external security of our country. The development of our country is proceeding under conditions of considerable difficulties in our relations with China. We are faced with serious internal problems in the areas of economics and the well-being of the population, economic and technological progress, culture and ideology.

The following problems should be noted: aggravation of the nationality problem; complications in relations between the party-government apparatus and the intelligentsia, and in their relations with the basic mass of workers who find themselves in a relatively poorer position as far as living standards and economic situation go and in relation to job promotion and cultural growth, and who experience in a number of cases a feeling of disenchantment with "big talk" and the privileged group of "bosses," a group which for the most part often includes the intelligentsia in the eyes of the more backward strata of workers because of their traditional prejudices.

The state sets as its fundamental goal the protection and the guarantee of the basic rights of its citizens. The defense of the rights of man is the highest of all goals. All acts of governmental institutions are wholly based on laws which are stable and known to the citizenry. Observance of the laws is obligatory for all citizens, institutions and organizations.

Open publicity facilitates public control of the legality, equity and effectiveness of the system as a whole, favors the scientific democratic character of the administrative system, and contributes to the progress, well-being and security of the country.

The nation's basic energy is directed toward harmonious internal development with effective utilization of labor and natural resources. This is the foundation of its strength and prosperity.

Messianism is foreign to this society, as are delusions about the uniqueness and exclusive virtues of its own system and the negation of the system of others.

The basic problem in foreign policy is that of relations with China. While offering the Chinese people the option of economic, technical and cultural aid, fraternal cooperation and joint movement along the democratic path—always keeping open the possibility for the development of relations in that direction—it is essential at the same time to show special concern for insuring the security of our country, to avoid all other possible foreign and domestic entanglemnets, and to carry out our own plans for the development of Siberia, taking the above-mentioned factor into account.

It is essential to strive for nonintervention in the internal affairs of other Socialist states and for mutual economic assistance.

It is essential to take the initiative in creating (within the framework of the U.N.?) a new international consultative agency—an international council of experts on problems of peace, disarmament, economic aid to needy countries, on the defense of the rights of man, and on the protection of the natural environment—staffed by highly qualified and disinterested persons.

In the area of personnel cadres and administration, it is essential to make decisions requiring greater public disclosure on the work of governmental agencies at all levels, within the limits allowed by the national interest. Matters of special importance include review of the tradition of dealing with problems of personnel policy behind closed doors; extension of open and effective public verification of the selection of cadres and extension of the electivity and actual removal from office in cases of incompetence of managers at all levels. I also have in mind the usual demand in democratic programs for the elimination of the system of elections where the number of candidates does not exceed the number of posts, i.e., the elimination of "elections without choice."

Measures should be taken to facilitate an expansion of agricultural production on the personal plots of kolkhoz farmers, workers on sovkhozes, and individual peasants; revision of the tax policy, expansion of the tracts of land in this sector, revision of the system for provision to this sector of modern and specially designed agricultural equipment and fertilizers.

Finally, we should expand the possibilities and advantages for private initiative in the sphere of services, health care, retail trade and education.

The question of the gradual abolition of the passport system must be examined, since it is a great hindrance to the development of the country's productive forces and a violation of the rights of citizens—especially the inhabitants of rural areas.

In the sphere of information exchange, culture, science, and freedom of convictions, it is esential to encourage freedom of convictions, the spirit of inquiry, and concern for effectiveness. It is essential to discontinue the jamming of foreign radio transmissions, expand imports of foreign literature, join the international system for protecting authors' copyrights, and facilitate international tourism—in order to overcome the isolation which is ruinous to our development.

It is essential to make decisions ensuring the actual separation of church from state, and actual (*i.e.*, guaranteed juridically, materially, and administratively) freedom of conscience and worship.

It is essential to take another look at those aspects of the relations between the governmental-party apparatus and art, literature, the theater, and educational agencies, which act to the detriment of the development of culture in our country.

In the social sphere, it is essential to examine the question of the feasibility of abolishing capital punishment.

It is essential to consider the feasibility of establishing a public watchdog agency which would have the goal of ruling out the possibility of the use of physical force (beating, exposure to hunger and cold) on persons detained, arrested, under investigation, or convicted.

There must be radical improvement in the quality of education.

More extensive measures must be taken in combating alcoholism.

It is essential to step up measures in the fight against noise and the poisoning of the air and water, in the fight against erosion, the salination of the soil, and its poisoning by chemicals.

Concerning reform of the system of health care we must: expand the network of polyclinics and hospitals requiring payment of fees; increase the role of physicians, registered nurses, and practical nurses in private practice; increase the wages of medical workers at all levels; reform the pharmaceutical industry; increase the general availability of modern medication and remedies; introduction of closed-circuit X-ray television installations.

In the sphere of law it is essential to eliminate overt and covert forms of discrimination for one's convictions and for characteristics of nationality.

It is essential to consider the question of the ratification, by the Supreme Soviet U.S.S.R., of the Covenant on Human Rights adopted by the 21st Session of the U.N. General Assembly, and of adhering to the optional protocol to that declaration.

In the sphere of relations with national republics, our country has proclaimed the right of nations to self-determination, up to and including secession.

The right of the union republics to secede is proclaimed by the Constitution of the U.S.S.R. In fact, the mere discussion of such questions often provokes prosecution. In my opinion, a judicial analysis of the problem and the passing of a law guaranteeing the right to secede would have great domestic and international significance as a confirmation of the anti-imperialist and antichauvinist nature of our policy. It seems quite plain that none of the secessionist tendencies in any republic of the U.S.S.R. has a mass character and that they will undoubtedly weaken in time, as a result of the further democratization of the U.S.S.R. On the other hand, it is quite certain that any republic which, for whatever reasons, secedes from the U.S.S.R. by peaceful constitutional means will fully preserve its ties with the socialist commonwealth of nations.

In such a case, the economic interests and defense capacity of the socialist camp would not suffer, since the cooperation of socialist nations is of a very complete and all-embracing character and will undoubtedly be intensified even further under conditions of mutual nonintervention by the socialist states in each others internal affairs. For these reasons, consideration of this question does not strike me as hazardous.

If, at one point or another, the presentation of this memorandum is unnecessarily categorical in character, it is because of the demands of brevity.

The problems facing our country are intimately related to certain aspects of the worldwide crisis of the 20th century: the crisis in international security, the loss of stability in social development, the ideological dead-end and disenchantment with the ideals of the recent past, nationalism, the danger of dehumanization. By virtue of our country's special position in the world, a constructive solution of our problems—a solution at once cautious, flexible, and decisive—would be of great significance for all mankind.

Signature, A. SAKHAROV.

MARCH 5, 1971.

This "memorandum" was sent to the General Secretary of the Central Committee of the Communist Party on March 5, 1971. It has remained unanswered. I do not consider it my right to postpone its publication. This postscript is written in June 1972.

As before I cannot help but value the great salutary changes (social, cultural, economic), which have taken place in our country over the last fifty years, taking into account, however, the fact that similar changes have taken place in many countries, and that they reflect a development of worldwide progress.

Our society is infected with apathy, hypocrisy, narrow-minded egotism, hidden cruelty. The majority of the representatives of its highest stratum—the party and government administrative appartus, the most successful strata of the intelligentsia—hang on tenaciously to their open and secret privileges and are deeply indifferent to violations of human rights, to the interests of progress, to the security of future mankind. Others, in the depths of their souls, are concerned, but cannot allow themselves the slightest free thinking and are doomed to tortuous conflict within themselves.

For the spiritual recovery of the country those conditions must be eliminated which push people toward hypocrisy and accommodation, which create in them a feeling of helplessness, dissatisfaction and disenchantment. Complete ideological freedom is essential, a complete end to all forms of persecution for convictions.

With hurt and alarm I am forced to note, in the wake of illusory liberalism, the growth of restrictions on ideological freedom, of striving to suppress information not controlled by the government, of persecution for political and ideological reasons, of an intentional exacerbation of national problems.

The wave of political arrests in the first months of 1972 are particularly alarming. In the Ukraine numerous arrests took place. Arrests took place as well in Moscow, in Leningrad and in other regions of the country. Public attention in those months was drawn to the trials of Bukovsky in Moscow, Strokatova in Odessa, and others.

The use of psychiatry for political purposes is extraordinarily dangerous in its consequences for society and completely intolerable. Numerous protests and statements on this question are known.

The persecution and destruction of religion has been conducted with persistence and cruelty over the course of decades—doubtless one of the most serious in its consequences for the violations of human rights in our country.

I write this postscript soon after the signing of important agreements on the limitation of ABM and strategic rockets. One wants to believe in a feeling of responsibility before mankind on the part of the political rulers and officials of the military-industrial complexes of the United States and the U.S.S.R. One wants to believe that these agreements have not only a symbolic meaning, but will also lead to a real lessening in the arms race and to further steps which will soften the political climate in a world worn out with suffering.

In conclusion I think it essential to stress the importance which I attach to the proposal on organization of an international consultative organ of the international council of experts with the right to make recommendations whose consideration would be obligatory for the national governments. I consider that proposal to be realistic, on condition that it receive the broad international support which I am requesting.

I appeal not only to Soviet, but also to foreign readers, hoping for their active help in the struggle for human rights. I hope also that my voice from "inside" the socialist world will in some measure improve comprehension of the historical experience of the last few decades.

[From the Washington Post, Aug. 19, 1973]

SOVIETS WARN SAKHAROV

Moscow.—The Physicist known as the father of the Soviet hydrogen bomb says a Soviet legal official has accused him of giving out information of interest to foreign intelligence services.

Andrei D. Sakharov, a critic of Soviet civil rights policies, told of the warning yesterday in a written account of a meeting he had Thursday with M. P. Malyarov, deputy general procurator, a post similar to prosecutor. The account was made available to some Western newsmen.

Sakharov, 52, said he was reminded that he had worked in secret areas "of special importance" and had agreed not to meet foreigners.

"But you meet foreigners and give them information which is of interest to foreign intelligence services. I ask you to consider all the seriousness of this warning and draw your own conclusions," the account quoted Malyarov as saying.

The physicist, a founder of the Soviet Committee for Human Rights, denied any contact with secret work for five years and said his conversations with foreigners, many of them journalists, had nothing to do with state, military or technological secrets.

[From the New York Times, Aug. 20, 1973]

SAKHAROV IS TOLD TO END CRITICISM

Moscow.—Forty members of the prestigious Soviet Academy of Sciences today called on Andrei D. Sakharov, the physicist, to cease his public criticism of the Kremlin's domestic and foreign policies.

An open letter, made public by the Government press agency, Tass, charged that Mr. Sakharov was siding with "the most reactionary imperialist circles" opposed to the Soviet approach to a relaxation of tension.

"We resolutely condemn his activity, which defames the honor and dignity of Soviet scientists, and hope that Academician Sakharov will carefully weigh his actions," the letter said.

The 40 scientists, out of a total of about 250 full members of the Academy, thus joined in an official campaign against the outspoken critic of Soviet society, set off by Mr. Sarkharov's recent meeting with Western newsmen.

The meeting, in which he denounced any East-West reconciliation that ignores the need for democratic reforms in the Soviet Union, had been held in direct definance of official warnings to Mr. Sakharov to stop seeing foreigners and making critical statements.

The Soviet authorities are apparently still considering what steps they can effectively take to silence the physicist. His standing in Soviet society has been far greater than that of any other dissident, both because of his membership in the Academy and his contributions to development of the Soviet hydrogen bomb.

[On Aug. 15, Mr. Sakharov was summoned to see a Soviet prosecutor about his dissident activity. The text of their conversation, as reconstructed by Mr. Sakharov, appears on the Op-Ed Page.]

So far the controlled Soviet press has reacted to Mr. Sakharov's latest statement on world affairs by reprinting critical articles from foreign Communist newspapers. This technique is often used as a stopgap measure while other official steps are being weighed.

The 40 signatures of top scientists critical of Mr. Sakharov were collected on relatively short notice and may not fully reflect sentiment within the Academy.

Historically, Academy members, who have the power to elect new members or expel one of their number have been eager to avoid political expulsions for fear of setting a precedent that could be turned against them.

[From the Washington Post, Aug. 22, 1973]

SOVIET H-BOMB PHYSICIST WARNS WEST ON DÉTENTE

(By Robert G. Kaiser)

Moscow.—Andrei D. Sakharov, the Soviet physicist who helped create a hydrogen bomb and later took up the cause of civil rights in Soviet society, today warned Western nations against detente on Soviet terms.

Speaking in his own bedroom to 11 Western journalists, Sakharov said detente would turn out to be "very dangerous" if it was not accompanied by some democratization of Soviet life and some reduction of Soviet isolation from the outside world.

He expressed satisfaction that many Western politicians "understand that rapprochement has to take place with a simultaneous liquidation of [Soviet] isolation." He said it was important for the U.S. Congress to pass the Jackson amendment—which would deny trade benefits to the Soviet Union as long as it restricted the emigration of Soviet citizens—both for its own sake and as a symbol.

The amendment should symbolize "the fact that rapprochement with the USSR must include some kind of control on this country, so it cannot become a threat to its neighbors," Sakharov said. An isolated Soviet Union able to pursue its aims secretly and "which hides its real face," could become a menace, he added.

The 52-year-old scientist made these comments at one of the most unusual press conferences ever held in Moscow. Sakharov called the meeting ostensibly to add a few comments to his report on an encounter last week with a senior Soviet legal official, who warned him against continuing his contacts with foreigners. Sakharov's report of that meeting reached Western journalists Saturday.

Merely by inviting correspondents to his apartment—something few Soviet citizens would dream of doing—Sakharov indicated apparent disdain for the warning which M.P. Malyarov, deputy prosecutor of the Soviet Union, gave him last week.

Sakharov said he did not recognize the "institution of warnings" as practiced by the KGB (Committee for State Security.)

Sakharov sat in a low chair in his bedroom, hands clasped in his lap, and talked calmly for about 90 minutes with his visitors, who sat around him in a ring. He occasionally put on a pair of glasses, one of whose lenses was cracked, and occassionally coughed into a white handkerchief.

Because of his role as principal contributor to the Soviet hydrogen bomb (which earned him a place in the prestigious Academy of Sciences at the unheard-of age of 32), Sakharov's friends and other intellectuals have regarded him as virtually immune from serious reprisals. But Sakharov has become increasingly more outspoken, and the authorities' warnings have become increasingly ominous.

Discussing dissident intellectuals at today's press conference, Sakharov observed that "the ranks are getting thinner and thinner because of much stronger reprisals in the last two years. It's a great injustice and personal tragedy for a great many people."

He could never think of the tiny band of dissidents as "a movement," Sakharov said. And he was sure that if you looked down on them "from above" (i.e., from a position of power), "I also think you would see no movement."

"The authorities shouldn't have any reason for disquiet, and even less for repression," he said. "Any grounds for disquiet exist only inside themselves." He also said that those in power have "a separate way of thinking—they probably can't react any differently."

Speaking of his own activities as a member of the tiny Moscow Human Rights Committee, Sakharov said he wanted it understood that they were always "loyal to the law" and had no political character.

Discussing his personal situation, Sakharov said he had no material difficulties. He lives in a three-room apartment with his wife and her family by a previous marriage. His income is 750 rubles (more than $1,000) a month, derived from membership in the Academy of Sciences and his position as an associate in a research institute, though he says he is doing very little work these days. This is a high salary by Soviet standards.

But, Sakharov said, pressures have been put on him indirectly. His wife's 23-year-old daughter was expelled from university in her final year, and the daughter's husband lost his job. His wife's 17-year-old son was denied a place in college this year and was told he was "marked."

Son, daughter and the daughter's husband have all been offered scholarships at the Massachusetts Institute of Technology, Sakharov said, but their applications for visas to go to the United States, filed five months ago, have never been answered.

Sakharov revealed at the press conference

that he contributed his life savings of about 139,000 rubles (about $200,000, a staggering amount for a Soviet citizen to accumulate) to the Soviet Red Cross in 1969, but that he now regretted this move. He did not explain why.

He said there might be more pressures against his family and friends, "and of course, something might be done to me personally, but you can't make any predictions."

[From the Washington Post, Aug. 25, 1973]

SOVIETS INDIRECTLY CRITICIZE SAKHAROV

Moscow.—Tass, the Soviet news agency, today indirectly criticized nuclear physicist Andrei Sakharov, by printing an article from a French Communist paper accusing him of "holding back the process of detente."

It was the first reference in the Soviet media of criticism of the Soviet Union made Tuesday by the eminent scientist.

Sakharov, who helped develop the Soviet hydrogen bomb and is also a member of a small civil rights movement in Moscow, called Western newsmen to his home Tuesday, although he has been officially warned to curb his contacts with foreigners. He conducted the unusual news conference in his bedroom.

He spoke out against what he called the anti-democratic nature of the Soviet system, and said that detente between the West and the Soviet Union could be "dangerous" in such circumstances.

Tass carried the text of an article written by Yves Moreau which appeared in the French Communist Party newspaper L'Humanite. In it, Moreau said Sakharov and other dissidents "come out not only against detente, but also appeal to the reactionary forces of the Western countries for help."

The sole quotation from the press conference was Sakharov's statement that "Western countries risk being faced by a Soviet Union, armed to the teeth, that represents a danger to its neighbors if they accept peaceful coexistence on the Kremlin's terms."

[From the New York Times, July 13, 1973]

SOVIET ACCUSES SAKHAROV OF SLANDERING THE NATION

(By Theodore Shabad)

Moscow.—The Soviet press agency Tass today accused Andrei D. Sakharov, the physicist and civil-rights advocate, of having slandered the Soviet way of life in an interview with Swedish television.

An article distributed by the press agency appeared to be part of a quickening official campaign against Mr. Sakharov, one of the most outspoken domestic critics of the Soviet system.

In the Swedish interview he called for the ending of one-party rule and said that the system perpetuated criminality and privilege, that the state-controlled economy stifled initiative and that ideological rigidity produced a drab cultural life.

The Tass article, one of the strongest personal attacks on Mr. Sakharov, accused him of taking up "questions on which he is utterly ignorant" and of "groveling before the capitalist system."

Since a crackdown on the once-vigorous dissident movement, Mr. Sakharov has probably been the most active champion of civil rights in the Soviet Union. He issues frequent statements to Western newsmen on what he considers injustices, such as the alleged use of mental institutions to detain foes of the system.

Long presumed safe from attack because of his scientific reputation as a member of the Soviet Academy, the 52-year-old physicist has come under increasing criticism this year.

The Tass article, written by Yuri Kornilov, a political commentator, took issue with Mr. Sakharov's statement that Soviet citizens had no right to travel freely and had been effectively isolated from the world.

The writer said five million foreigners had entered the Soviet Union over the last three years and "almost as many Soviet citizens traveled abroad." Foreign tourists are restricted to carefully controlled routes; Russians travel abroad mainly in guided groups and after exhaustive loyalty checks.

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The article, which appeared to have been written mainly for foreign consumption, also rebutted Mr. Sakharov's contention that the levels of Soviet education and medical care were free and education received "tremendous attention." Just last week the authorities announced a seven-year program to upgrade backward rural schools.

The rebuttal, conceding that "there are shortcomings in Soviet life and there are outstanding problems," said: "Soviet people regard criticism of these shortcomings, even the sharpest criticism, as useful and necessary because it helps us move ahead." It added that Mr. Sakharov's comments had "nothing in common with that kind of criticism."

Pressure on the physicist became apparent last March when he was summoned for the first time by the secret police and lectured about his civil-rights activities. In early May the authorities were reported to have increased the pressure by delivering a letter to the physicist, purportedly from a jailed dissident, saying that his statements played into the hands of Western propagandists.

The letter was attributed to Pyotr I. Yakir, who was arrested in June, 1972, and has been under interrogation since. He is said to have supplied information to the authorities on other dissidents but is expected to be tried on charges of anti-Soviet propaganda.

[From the New York Times, Aug. 26, 1973]

THE SOVIET UNION—SAKHAROV: A WARNING DEFIED

(By Theodore Shabad)

Moscow.—The lines of confrontation were sharply drawn last week between the Kremlin and one of its most prominent domestic critics, Andrei Sakharov, the 52-year-old physicist and reputed "father of the Soviet hydrogen bomb."

Within the Soviet Union's small dissident movement, Mr. Sakharov has posed a very special problem for the Government. His high standing as a scientist makes it difficult for the Soviet authorities to shut him up. And the fundamental nature of his criticism of Soviet society, which he has not hesitated to label as repressive and undemocratic, makes it difficult for them to tolerate his statements.

In recent months an official campaign of pressure has been gradually building up against the physicist. Mr. Sakharov remained undaunted. On Aug. 16 he was summoned to the Prosecutor-General's Office, the equivalent of the Department of Justice in Washington, and warned against meeting with Western newsmen and making what were described as anti-Soviet statements for publication abroad.

It was evidently meant to be a "serious warning." The physicist was told to "draw his own conclusions." And yet, in what seemed like deliberate defiance, he called Western newsmen in his apartment last Tuesday to discuss his personal plight and to express concern about what the present trend toward an East-West rapprochement could mean if not accompanied by democratic reforms within the Soviet Union.

Large-scale technological aid, he suggested, could free additional Soviet resources for increasing the regime's military power, and "the world would become helpless before this uncontrollable bureaucratic machines." He urged Western countries to make liberalization within the Soviet Union a condition of their economic agreements.

Mr. Sakharov's interview with the Proseutor included an exchange of opinions on Watergate. As recounted by the physicist, it went something like this:

Prosecutor: You seem to like the American way of life, but they permit unrestricted sale of guns, they murder their Presidents and now they've got this demagogic fraud with the Watergate case. Sweden too is proud of her freedom, but they have pornographic pictures on every street.

Sakharov: I am not familiar with either the American or the Swedish way of life. They probably have their own problems and I would not want to idealize them. But you mentioned the Watergate case. To me, it is a good illustration of American democracy.

Prosecutor: It is all calculated to be just a show. All Nixon has to do is show a little firmness and the whole thing will come to nothing. That's their democracy for you, nothing but fraud.

Mr. Sakharov, who was carefully shielded from public view while engaged in nuclear weapons research for 20 years, came to world attention in 1968 with publication in the West of his underground manuscript, "Progress, Coexistence and Intellectual Freedom."

Starting with the premise that the division of mankind into two hostile political systems threatened it with destruction, Mr. Sakharov argued for gradual convergence, with capitalism moving toward socialism and the Communist system being liberalized. He saw such convergence as the only basis on which the world could come to grips with such global problems as environmental pollution, hunger and overpopulation. As soon as he was thus thrust into the limelight, he was dismissed from his research job, although he retained the prestigious title of Academician and remained nominally on the staff of the Lebedev Institute of Physics in Moscow.

Mr. Sakharov, a baldish, slightly bowed man, has done little work in physics in recent years. He has devoted himself increasingly to the struggle for civil rights and the strict implementation of Soviet law, both on his own behalf and as a member of a self-styled Human Rights Committee he helped establish. That makes him the closest thing to a watchdog on human rights in this country. He tries to keep abreast of official proceedings against dissenters, and is ready to jump in with protests when he discovers an injustice or a violation of due process.

Mr. Sakharov's basic charge against Soviet society is one of excessive secrecy in public affairs and insufficiently democratic and humane implementation of the law. In a particularly outspoken recent interview with the Swedish radio, Mr. Sakharov denounced the ideology of the Soviet Communist party as "antidemocratic in its essence" and called for an end to one-party rule. He described Soviet society as having "maximum lack of freedom, maximum ideological rigidity and, at the same time, maximum pretensions to being the best society."

There is little doubt that the authorities are angry with him, especially since he has now defied an official warning against meeting with foreign newsmen. But the Government may not find it easy to take drastic action. Mr. Sakharov is a man of great scientific prestige, with an international reputation, who has made invaluable contributions to Soviet nuclear power. Any legal proceedings against him are likely to arouse a storm of protest, especially abroad, at the very time when Moscow is courting the West to attract both advanced technology and investment capital.

[From the New York Times, Aug. 29, 1973]

THE SAKHAROV DIALOGUE

(The following is the text of a dialogue between Andrei D. Sakharov, the Soviet dissident physicist and civil rights advocate, and Mikhail P. Malyarov, First Deputy Prosecutor General of the Soviet Union, whose post as the nation's second-ranking law enforcement official corresponds roughly to that

of the Deputy Attorney General in the United States. The dialogue was reconstructed by Mr. Sakharov from memory and was made available to Western newsmen. The translation is by the Moscow bureau of The New York Times. Mr. Sakharov's text follows:)

Moscow.—On Aug. 15, I received a telephone call from the Deputy Prosecutor General and was asked to come to see him. He did not say what it was about, asserting simply that it would be a man-to-man talk. I arrived at the Prosecutor's office on Aug 16 at noon and was met at the gate by an employe who took me into the building, another then accompanied me to an office, where I was received by M. P. Malyarov, the Deputy Prosector General, and another man who introduced himself only as Malyarov's assistant. He took notes and participated in the conversation.

Below I have reproduced the seventy-minute conversation from memory, and the reconstruction may therefore contain some paraphrases, minor unintentional abridgments and inversions in sequence.

MALYAROV. This conversation is intended to be in the nature of a warning and not all my statements will be supported by detail proof, but you can believe me that we have such proof. Please listen to me attentively and try not to interrupt.

SAKHAROV. I am listening.

MALYAROV. When you began a few years ago to engage in what you call public activity, we could not possibly ignore it and we paid close attention. We assumed that you would express your opinions as a Soviet citizen about certain shortcomings and errors, as you see them, without attacking the Soviet social and political system as such. To be sure, even then your statements were being published in the anti-Soviet press abroad and they caused noticeable harm to our country. Lately your activity and statements have assumed an even more harmful and openly anti-Soviet character and cannot be overlooked by the Prosecutor's office, which is charged with enforcing the law and protecting the interests of society. You are seeing foreigners and giving them material for anti-Soviet publications. That applies in particular to your interview with the Swedish Radio, In that interview you denounced the Socialist system in our country, calling it a system of maximum nonfreedom, a system that is undemocratic, closed, deprived of economic initiative, and falling to pieces.

SAKHAROV.—I did not say "falling to pieces."

MALYAROV.—You keep meeting with reactionary newsmen, like the Swedish Radio correspondent Stenholm, and give them interviews that are then used for subversive propaganda and are printed by Possev, the publication of the N.T.S. [A Russian emigré organization with headquarters in Frankfurt, West Germany.] You must be aware that the N.T.S. program calls for overthrow of the Soviet regime. Possev publishes more of your writings than anyone else, and in your interview you adopted in effect the same anti-Soviet subversive position.

SAKHAROV.—I am not familiar with the N.T.S. program. If it does indeed include such a plank, it would be fundamentally opposed to my views, as stated, for example, in the interview with the Swedish Radio. There I spoke about the desirability of gradual change, about democratization within the framework of the present system. Of course, I am also referring to what I consider serious faults in the system and do not conceal my pessimism (with regard to possible changes in the near future). As for those publications, I never handed over any material for the N.T.S. or for Possev, and my writings have appeared in many foreign mass media besides Possev. For example, in Der Spiegel [West German newsmagazine], which the Soviet press has regarded as rather progressive so far.

MALYAROV'S ASSISTANT.—But you never protested publication in Possev. We found that most of your writings appeared in Possev, Grani [another publication of the Possev publisher] and in the White Guards newspaper Russkaya Mysl [of Paris].

SAKHAROV.—I would be very glad to have my writings published in the Soviet press. For example, if, in addition to [Yuri] Kornilov's critical article, Literaturnaya Gazeta [Soviet weekly] had also published my interview [with the Swedish Radio]. In that case, Kornilov would not have been able to distort the interview. But that is obviously out of the question. I consider openness of publication of great importance. I consider the content of publications far more important than the place of publication.

MALYAROV'S ASSISTANT.—Even if they appear in anti-Soviet publications for anti-Soviet purposes, as in Possev?

SAKHAROV.—I consider Possev's publishing activities highly useful. I am grateful to that publisher. I reserve the right not to identify Possev with the N.T.S. and not to approve of N.T.S. activities that may be viewed as even familiar, or to condemn those aspects of N.T.S. activities that may be viewed as provocative (like sending Sokolov as a witness to the Galanskov-Ginzburg trial, which did have such consequences). [The reference is to Nicolas Brocks-Sokolov, an N.T.S. courier, who was arrested on arriving in the Soviet Union and testified for the prosecution in the 1968 trial of two dissidents.]

MALYAROV'S ASSISTANT.—We are not talking about that now, that was a long time ago.

SAKHAROV. To go back, you called Stenholm [of the Swedish radio] a reactionary journalist. That is unfair. He is a Social Democrat, he is far more of a Socialist or Communist than I am, for example.

MALYAROV'S ASSISTANT.—The Social Democrats were the ones who murdered Rosa Luxemburg [German Communist, in 1919]. As for that "Communist" of yours, he evidently inserted into your interview that our system was "falling to pieces," if indeed you did not say it.

SAKHAROV. I am convinced that Stenholm quoted me correctly.

MALYAROV. Let me go on. Please listen closely. By nature of your previous work, you had access to state secrets of particular importance. You signed a commitment not to divulge state secrets and not to meet with foreigners. But you do meet with foreigners and you are giving them information that may be of interest to foreign intelligence agencies. I am asking you to consider this a serious warning and to draw your conclusions.

SAKHAROV. What sort of information are you talking about? What do you have in mind, specifically?

MALYAROV. I told you that our meeting was meant to be a warning. We have the information, but we will not go into details now.

SAKHAROV. I insist that I have never divulged any military or military-technical secrets that I may have known by nature of my work from 1948 to 1968. And I never intend to do so. I also want to call your attention to the fact that I have been out of secret work for the last five years.

MALYAROV. But you still have your head on your shoulders, and your pledge not to meet with foreigners is still in effect. You are beginning to be used not only by anti-Soviet forces hostile to our country, but also by foreign intelligence.

SAKHAROV. As for meetings with foreigners, I know many people who used to be in my position and who now meet freely with foreign scholars and ordinary citizens. I do meet with some foreign journalists, but those meetings have no bearing whatever on any state, military, or military-technical secrets.

MALYAROV'S ASSISTANT. Those meetings are of benefit to our enemies.

MALYAROV. We have now warned you. It is up to you to draw your conclusions.

SAKHAROV. I repeat. I would prefer to be published in the Soviet press and to deal with Soviet institutions. But I see nothing illegal in meeting with foreign journalists.

MALYAROV'S ASSISTANT. But you are still a Soviet citizen. Your qualification shows your real attitude toward our system.

SAKHAROV. Soviet institutions ignore my letters and other forms of communication. If we just take the Prosecutor's office, I remember that in May, 1970 (I think it was May 17), several persons, including myself, addressed a complaint to comrade [Roman A.] Rudenko, the Prosecutor General, in the case of [Maj. Gen. Pyotr G.] Grigorenko [a dissident committed to a psychiatric hospital in 1969]. There were many gross violations of the law in that case. There has been no reply to that complaint to this day. Many times I did not even receive confirmation of the delivery of my letters. The late Academician Petrovsky, who was a member of the Presidium of the Supreme Soviet of the U.S.S.R. [Ivan G. Petrovsky, rector of Moscow University, died this year] promised to look into the case of the psychiatrist Semyon Gluzman, sentenced in Kiev in 1972 in a trial fraught with violations of the law. That was the only time anyone promised to look into a case for me. But Petrovsky is now dead. And how about the Amalrik case? [Andrei A. Amalrik, dissident author]. He was unjustly sentenced to three years, he lost his health, suffered from meningitis, and now he has been sentenced in a labor-camp court to another three years. It is an absolute disgrace. He was in fact sentenced once again for his convictions, which he has refused to recant and does not force on anyone. And a labor-camp court! What kind of public proceeding, what kind of justice is that?

MALYAROV. That Amalrik is a half-educated student. He contributed nothing to the state. He was a parasite. And Böll [Heinrich Böll, West German author] writes about him as if he were an outstanding historian. Is that the kind of information Böll has?

SAKHAROV. Böll and many others demonstrate a great deal of interest in Amalrik's fate. A labor-camp court is in fact a closed court.

MALYAROV. I suppose you would have brought him to Moscow for trial?

SAKHAROV. In view of the wide public interest, that would have made sense. If I had known that I could attend Amalrik's trial, I would have done so.

MALYAROV. Amalrik caused a great deal of harm to our society. In one of his books he tried to show that Soviet society would not survive until 1984, and in so doing he called for violent action. Any society has the right to defend itself. Amalrik violated the law, and he must take the punishment. In camp he again violated the law. You know the law, I don't have to tell you what it is. Abroad they wrote that Amalrik was deprived of a lawyer. That is a lie. Shveisky [Vladimir Shveisky, Amalrik's lawyer] attended the trial, and you know that.

MALYAROV'S ASSISTANT. In contrast to that dropout, you did make contributions to society.

MALYAROV .Who gave you the right to doubt our system of justice? You did not attend the trial. You base yourself on rumors, and they are often wrong.

SAKHAROV. When proceedings are not public, when political trials are consistently held under conditions allowing for violations, there are grounds for doubting the fairness of the court. I consider it undemocratic to prosecute under Articles 190–1 [On circulat-

ing false information defaming the Soviet State] and 70 [On anti-Soviet agitation and propaganda]. All the cases with which I am familiar confirm this. Take the recent case of Leonid Plyushch [a Kiev mathematician]. In that case, the court accepted the most grievous of three contradictory psychiatric findings without checking any of them. Although the court reduced the sentence, it was restored upon protest by the prosecution. Plyushch is being kept in a special [psychiatric] hospital, and his wife has not seen him for more than a year and a half.

MALYAROV. You keep dealing in legal questions, but you don't seem to know them very well. The court has the power to determine the form of compulsory treatment regardless of the findings of an expert commission.

SAKHAROV. I am unfortunately all too familiar with that. And therefore, even when the expert commission recommends an ordinary hospital, there are grounds for fearing the worst. You say that I always rely on rumor. That is not so. I try to get reliable information. But it is becoming increasingly difficult in this country to know what is going on. There is no publication with complete and precise information about violations [of due process].

MALYAROV'S ASSISTANT. You mean the Chronicle [The Chronicle of Current Events, an underground publication that has not appeared since October, 1972]?

SAKHAROV. Of course.

MALYAROV'S ASSISTANT. You will soon be hearing about the Chronicle. You know what I mean. But now we are talking about more important matters.

MALYAROV. You don't seem to like the fact that our [Criminal] Code contains Article 190–1 and 70. But there they are. The state has the right to defend itself. You must know what you are doing. I am not going to try to convince you. I know that would be useless. But you must understand what is involved here. And who is supporting you, anyway, who needs you? Yakir, whom you know well, was written about constantly in the anti-Soviet press abroad as long as he provided it with propaganda. As soon as he changed his views, he was forgotten. [Pyotr Yakir was arrested in June, 1972, and is now being tried.]

SAKHAROV. To say that I know him well is not correct. I hardly know him. But I do know that there is great interest in his case. Everyone is wondering when the trial will begin. Do you know?

MALYAROV'S ASSISTANT. No. When the trial starts, you will probably know about it yourself.

MALYAROV. Your friend Chalidze [Valery Chalidze, now living in the United States] was quite famous in the West as long as he came out with anti-Soviet statements, and when he stopped, he was also soon forgotten. Anti-Soviet circles need people like [Julius] Telesin, [Vladimir] Telnikov [dissidents living in Great Britain] and Volpin [Alexander Yesenin-Volpin], who keep slandering their former homeland.

SAKHAROV. I don't think that Chalidze ever engaged in anti-Soviet activity. The same goes for the others. You mentioned Volpin. As far as I know he is busy with mathematics in Boston.

MALYAROV. That may be, but we also have reliable information about his anti-Soviet activity.

SAKHAROV. You say that no one is supporting me. Last year I took part in two collective appeals, for amnesty and for abolition of the death penalty. Each of these appeals was signed by more than fifty persons.

MALYAROV. Only asking that the matter be considered?

SAKHAROV. Yes. And we were quite distressed when the law on amnesty turned out to be a very limited one, and the death penalty was not abolished.

MALYAROV. You did not seriously expect a change in the law just because you wanted it. This is not the time to abolish the death penalty. Murderers and rapists who commit serious crimes cannot go unpunished. [The death penalty also applies to serious crimes against the state, such as treason and espionage.]

SAKHAROV. I am talking about abolishing the very institution of the death penalty. Many thoughtful people are of the view that this institution has no place in a humane society and that it is amoral. We have serious crime despite the existence of the death penalty. The death penalty does not help make society more humane. I heard that abolition of the death penalty has been under discussion in Soviet legal circles.

MALYAROV. No. One jurist raised the question, but he found no support. The time is not ripe.

SAKHAROV. The issue is now being debated throughout the world. Many countries have abolished the death penalty. Why should we be different?

MALYAROV. They abolished it in the United States, but now they are forced to restore it. You've been reading about the crimes that have occurred there. Nothing like that happens here. You seem to like the American way of life, even though they permit the unrestricted sale of guns, they murder their Presidents, and now they've got this demagogic fraud of the Watergate case. Sweden, too, is proud of her freedom, and there they have pornographic pictures on every street. I saw them myself. Don't tell me you are for pornography, for that kind of freedom?

SAKHAROV. I am not familiar with either the American or the Swedish way of life. They probably have their own problems and I would not idealize them. But you mentioned the Watergate case. To me, it is a good illustration of American democracy.

MALYAROV. It is calculated to be just a show. All Nixon has to do is show a little firmness, and the whole thing will come to nothing. That's their democracy for you, nothing but fraud. I think we better end this conversation. There was one more thing. You seem to have a high opinion of Belinkov [Arkady V. Belinkov, a Soviet writer, who defected to the West in 1968 and died two years later]. You know that name, don't you?

SAKHAROV. I consider Belinkov an outstanding writer on public affairs. I particularly appreciated his letter to the Pen Club in 1968 [protesting curbs on intellectual freedom in the Soviet Union].

MALYAROV. Are you aware that Belinkov was once arrested and imprisoned for having distributed leaflets calling for the killing of Communists?

SAKHAROV. I don't know anything about that. That probably happened a long time ago under Stalin. How can you take that seriously? At that time anyone could be arrested as a terrorist.

MALYAROV. No. Belinkov was imprisoned twice, the second time not so long ago. And how about your Daniel [Yuli M. Daniel, dissident writer, who served five years at hard labor, 1966–1970]? Didn't he call openly for the murder of leaders of the party and Government in his story "Day of Open Murders"? And Amalrik, is he any better? You better think about it.

SAKHAROV. "Day of Open Murders" is a work of fiction, an allegory, directed in spirit against the terror of the Stalin years which was still very fresh at that time, in 1956. Daniel made that quite clear in his trial. As for [Amalrik's] "Will the U.S.S.R. Survive Until 1984?" that, too, is an allegory. You know that the date stems from Orwell's story.

MALYAROV. We better stop. I just want you to give serious thought to my warning. Any state has the right to defend itself. There are appropriate articles in the Criminal Code, and no one will be permitted to violate them.

SAKHAROV. I have been listening closely and I will certainly bear in mind every word you said. But I cannot agree that I have been violating the law. In particular, I cannot agree with your statement that my meetings with foreign correspondents are illegal or that they endanger state secrets. Good-by.

MALYAROV. Good-by.

[From the Washington Post, Aug. 31, 1973]

SAKHAROV, SOLZHENITSYN NAMED IN SOVIET TRIAL

(By Robert G. Kaiser)

MOSCOW.—Novelist Alexander I. Solzhenitsyn and physicist Andrei D. Sakharov were implicated today during testimony in the political trial of two dissidents who have acknowledged "subversive activities" against the Soviet system.

The trial itself received unprecedented publicity in tonight's edition of Izvestia, the government newspaper. Izvestia also printed four articles attacking Sakharov and Solzhenitsyn for their recent public statements.

All this contributed to an unusual propaganda offensive to counter Solzhenitsyn, Sakharov and other critics of the regime whose views have received wide publicity in the West in recent days.

The trial testimony implicating Solzhenitsyn and Sakharov was the first time they have been directly tied to allegedly illegal activities. This could presage direct action against one or both of them.

Sakharov, a member of the Soviet Academy of Sciences, was the principal developer of the Soviet hydrogen bomb. Solzhenitsyn, winner of the Nobel Prize for literature, wrote "The First Circle," "The Cancer Ward," and other novels, which are banned here.

According to Tass, the government news agency, Solzhenitsyn's name was raised in the trial by Pyotr Yakir, 50, one of the accused. Yakir, the son of a Red Army general executed in the purges of the 1930s, is a former activist who was arrested 14 months ago, and who has been cooperating with the political police.

THE CHARGE

One of the charges against Yakir is that he participated in producing the "Chronicle of Current Events," an underground journal reporting the plight of dissidents in Soviet society. Tass said Yakir testified that Solzhenitsyn was "systematically sent the bulletins for evaluation."

Sakharov's name, according to Tass, "came up many times in the course of the trial." Tass accused him of having met with Yakir "many times" at farewell parties for foreign correspondents who had been expelled from the Soviet Union.

Sakharov has said he met Yakir only once, and briefly, at one such party for David Bonavia, a correspondent of the London Times.

Official accounts of the trial have noted that works by Sakharov were among the "anti-Soviet materials" allegedly produced and distributed by Yakir and Viktor Krasin, 44, the other defendant.

Tass said the questioning of witnesses had ended, suggesting that the trial was almost over.

COOPERATION

Both defendants confessed their guilt at the beginning of the trial. Both indicated to friends months ago that they would cooperate with the authorities in the case.

The Tass account of the trial included references to foreign newsmen who allegedly helped Yakir and Krasin. Tass said Bonavia of the London Times, Ennio Caretto of the Italian paper La Stampa, Jay Axelbank of Newsweek and Roger Leddington of the Associated Press all had been associated with Yakir's and Krasin's activities.

Bonavia and Caretto were expelled from the

Soviet Union, Axelbank and Leddington are still here.

Izvestia tonight carried four articles signed by Soviet citizens attacking Solzhenitsyn and Sakharov. The main headline over these stories said, "Against the Interest of the People."

The Soviets have often responded to their critics for the benefit of foreign audiences, but tonight's Izvestia—bought by 8 million people—brought the issue into the homes of ordinary Soviet citizens, an unusual development.

Tass distributed a report on a letter to Pravda signed by a prominent Soviet writer, attacking Sakharov and Solzhenitsyn.

The letter said, "The conduct of people like Sakharov and Solzhenitsyn who slander our government and social system . . . can evoke no other feelings but the deepest scorn and contempt."

[From the Washington Post, Aug. 31, 1973]

DRIVE AGAINST DISSIDENTS VERSUS DÉTENTE

(By Robert G. Kaiser)

Moscow.—For nearly two years, the Soviet Union's political police have been trying to stamp out the last remnants of active intellectual opposition to the regime. Much of their work proceeded quietly and efficiently.

But in the last few weeks a remarkable coincidence of events has put the Soviets' campaign against dissidence at the center of international attention, vividly revealing one of the weak links in the new system of detente that East and West are jointly building.

Just this month, the Soviet image has suffered these embarrassments.

Outbursts of apparently official anti-Semitism at the World University Games in Moscow.

Bitter denunciations of the Soviet system by Alexander Solzhenitsyn, probably the single best-known private citizen in the outside world.

Defiant public statements from Andrei Sakharov, principal developer of the Soviet hydrogen bomb and another nonconformist intellectual whose fame assures wide publicity for his statements.

International protests against the new three-year labor camp sentence for the writer Andrei Amalrik.

Unfavorable publicity associated with the sudden removal of Soviet citizenship from Zhores Medvedev, an internationally known biologist.

A political trial in Moscow this week, which the Soviets are deliberately publicizing, has also drawn international attention to the campaign against dissidence.

Each of these events is tied to the security forces' attempts to wipe out the active dissidents, a campaign the Soviets regard as an internal matter.

STATE'S RIGHT

"The state has the right to defend itself," one of the Soviet Union's senior law officers told Sakharov a fortnight ago, a message that Soviet officials repeat in private conversations with foreigners.

We have our own customs and traditions, and our own way of dealing with troublemakers, they say, and foreigners have no right to question us about them.

Yet foreigners do question them, and the Soviet authorities have recognized the connection between their domestic policies and international detente. The connection is acknowledged in Soviet replies to foreign critics.

For example, in response to numerous documented accusations that Soviet mental hospitals are used for the forcible treatment of dissidents, the government news agency Tass recently carried an interview with a Soviet professor of psychiatry. Disputing foreign criticisms, the professor said that "hired anti-Sovietests obligingly spread these lies to please the circles that are interested in poisoning the international atmosphere and in preventing further detente."

Such comments represent a recognition that detente can be hindered if foreigners object to real or imagined aspects of Soviet internal policy.

In recent days the Soviets have mounted a propaganda offensive to respond to their critics. The responses, like that of the professor of psychiatry, often consist primarily of attacks on the accusers.

Another common response is a blanket denial. For instance, Tass simply denied that there were any displays of anti-Semitism at the university games, though these outbursts were witnessed by numerous foreigners, and one act was photographed.

Another form of reply is to blame manifestations of domestic dissidence on foreigners. This line emerged from the political trial of Pyotr Yakir and Viktor Krassin this week.

The speed and strength of recent Soviet replies to foreign and domestic critics confirms that their criticism is taken seriously.

The question remains how the Soviets will respond to it.

The current leadership has shown an unprecedented willingness to react constructively to some foreign pressure. The best example of this is the decision to allow thousands of Soviet Jews to emigrate, a decision that would have been inconceivable without foreign pressure.

IDEOLOGICAL ORTHODOXY

Yet the same leadership has decided that relaxation of tensions with the West must be accompanied by the strictest ideological orthodoxy at home, a decision that has led to the crackdown on dissidents.

There are hints of a dispute inside the leadership on ideological issues. Leonid Brezhnev, general secretary of the Communist Party, said in a speech this month that he welcomed a freer exchange of people and ideas with the West, because this would win "more supporters for the ideas of scientific Communism."

This confident approach to a sensitive subject has not appeared in any other official Soviet statement before or after Brezhnev's speech. A few days after he spoke, Pravda published an authoritative article ignoring Brezhnev's formulation and reiterating the familiar Soviet position that any exchanges of people and ideas must respect the laws and customs of all countries—meaning specifically, censorship in the Soviet Union.

Whether these two views represent a debate or two sides of the same coin is not known.

In any case, discussions about vague notions like the freer exchange of people and ideas can't cover the difficult specific problems the Soviet leaders now face. The most obvious of these is what to do with two world famous Soviet citizens, Solzhenitsyn and Sakharov, whose statements command enormous attention.

Are they to be stamped out too? Or would the outcry abroad that would certainly follow any further repression of them jeopardize more important causes, like the detente policy? Is that policy already threatened by Western reaction to the suppression of nonconformists in the Soviet Union?

The Soviets may feel that they can, in the Washington phrase, tough it out. The Western countries may well decide that it is preferable to acquiesce to Soviet domestic policies and sacrifice the tiny handful of dissidents, if trying to defend them would jeopardize the new and favorable international atmosphere.

Moreover, even the most indignant Westerners can have trouble finding ways to pressure Moscow. One astute Westerner here asked. "What are they going to do, say we won't sell you our computers unless you release Andrei Amalrik?"

Nor, if the West is trying to nudge the Soviet Union out of its historic isolation, is it necessarily desirable to pressure the country's leaders to change their historic attitude toward nonconformists at the same time.

The Soviet word for dissidents translates literally as "those who think differently." Differently from what? That question hasn't been asked in Russia for years, neither under the czars nor under their successors.

[From the Washington Post, Sept. 4, 1973]

SOVIET COMPOSERS ATTACK SAKHAROV

(By Robert G. Kaiser)

Moscow.—The Soviet Union's best-known musical composers today joined in the continuing public condemnation of physicist Andrei Sakharov.

Dmitriy Shostakovich, who was persecuted in Stalin's time, Aram Khachaturian and Rodion Shchedrin (the husband of ballerina Maya Plisetskaya) were among 12 musical personalities who signed a bitter attack on Sakharov published in this morning's Pravda.

Their letter said Sakharov's recent criticisms of the Soviet Union and his warnings to the West that detente must be accompanied by democratization in the Soviet Union "are a slur upon the honor and dignity of the Soviet intelligentsia."

This was the first group letter from prominent cultural figures in the organized campaign against Sakharov, which has now continued for six days.

There is no precedent in recent Soviet history. After six days, the authorities have still not hinted what, if any, action they will take against Sakharov, a member of the prestigious Soviet Academy of Sciences and the principal developer of the Soviet hydrogen bomb.

Some intellectuals here speculate that the campaign was begun in haste, in response to a press conference Sakharov gave to Western correspondents, and that its organizers still do not know how it should end.

The letters appearing each day in the press are similar, and none recommends any specific steps against Sakharov. Typically, the letters say that Sakharov's activities "are incompatible with the lofty title of Soviet citizen and Soviet scientists," as the musicians' letter put it.

Most of the letters also accuse Sakharov of opposing "the Soviet Union's policy of reducing international tensions," again to quote the musicians. In fact, Sakharov has not criticized the Soviet policy of detente specifically, though he has warned that if detente is to be meaningful, it must proceed in tandem with some opening up of Soviet society.

The letters are signed by scientists, engineers and workers—and, today, by musicians.

In another article today, Pravda, the newspaper of the Soviet Communist Party, obliquely informed its readers that there had been widespread criticism in the West of Soviet internal policy.

Pravda reprinted an article which it attributed to an Austrian Communist Party official, Hans Kalt. The article said that "In recent days the bourgeois press has launched another campaign of hysteria spearheaded against . . . the Soviet Union."

According to the article, the real reason for this campaign was fear in the West that "the ideas of socialism" are becoming more popular.

Mr. KENNEDY. Mr. President, In another incident which occurred during the recess, press reports, which I ask unanimous consent to be included in the RECORD, described harassment of both Israeli basketball players participating in the world university games and Soviet Jews who sought to attend those games.

What is of particular concern is that

the anti-Semitism evidenced in these events was in no way disavowed by the government. In fact, Associated Press attributed some of the harassment inside the gym to some 100 Soviet army recruits dressed in blue sweatshirts. In a second incident, Reuters reported that Soviet plainclothesmen roughed up a group of Soviet Jews as they were leaving the gym.

Both the indication of government-sanctioned anti-Semitism and the offensive against Soviet dissidents constitute matters of grave concern, particularly to those who desire to see further progress toward détente. While further progress on arms control and détente in the military sphere is essential, in non-security matters, the actions of the Soviet Union with regard to human rights remains a legitimate concern for this Nation.

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

[From the New York Times, Aug. 10, 1973]

SOVIET ATHLETES DOMINATE; JEWISH FANS ARE BARRED

Moscow, August 18.—The Soviet Union, running away with gold medals at the World University Games, won eight more finals tonight—including four in the prestigious track and field competition—to raise its total to 17. All other nations have only six gold medals.

The United States, still frustrated in its efforts to gain gold medal No. 1, at least maintained its basketball prestige with another one-sided rout—a 140–34 decision over Portugal. But even in basketball the focus was not on the Americans.

Cuba beat Israel, 81–63, with large numbers of Soviet Jews barred from the arena by soldiers and police.

Nearly 115 Soviet army draftees, dressed in blue sweat shirts and white caps, surrounded the court at the Central Army sports complex. Outside, scores of fans—many of them Soviet Jews—waved their tickets frantically only to be ignored by the somber-faced police and soldiers. At Israel's first basketball game, against Belgium, Thursday, about 40 Soviet Jews showed up to cheer and during half-time crowded around the Israeli players, talking with them and exchanging pins and medals.

The police action in barring the Jews from the arena today appeared to indicate that Soviet authorities were displeased by the fraternizing that occurred at the Thursday game.

"It's a little sad," said Adin Talbar, the Israeli representative to the International Federation of Student Sports, organizer of the games. "They think we're here for politics but we just came to compete."

The Cuban team, bronze medalist at the Olympics last summer, had little trouble.

"We've got two good players and they've got 10," said the Israeli coach. Joshua Rosen, whose only bright spot of the day was the 30-point performance of his star forward, Shmuel Avishar.

With Yevgeny Arzhanov leading the way with a stunning late victory over favored Marcel Philippe of France and Fordham, the Soviet Union again dominated at the Lenin Stadium track. Arzhanov raced past Philippe with about 200 yards left and won by a yard in 1 minute 46.8 seconds.

"I suddenly found myself in the lead at 400 meters," said Philippe. "Then I knew I was dead."

Other Soviet victories went to pony-tailed Nadyeshda Kolesnikova in the women's 400 meters (52 seconds), Valery Podluzhky in the long jump (36 feet 9 inches) and Viktor Dgurba in the discus (202 feet 1 inch).

OLGA'S STILL NO. 1

The United States could do no better than a pair of fourth-place finishes by Rick Brown in the 800 and Dennis Schultz in the 400.

Away from the track, the Soviet Union proved to be almost as formidable with two gold medals in gymnastics, one in fencing and one in Greco-Roman wrestling.

Naturally it was the pixie-faced Olga Korbut who dazzled the packed house at the gymnastics competition. Dressed in turquoise with her pigtails tied back in matching ribbons, Miss Korbut took her second gold medal of the Games by winning the women's individual combined event with 77.65 points.

In fencing the Soviet Union scored a 1-2-3 sweep in the women's individual foil event.

The only other nations to crack the gold today were Britain and Cuba.

The Britons got their first gold medal in the men's 110-meter high hurdles when Berwyn Price overcame a terrible start to win in 13.7 seconds. The Cubans scored in the 400 meters when Alberto Juantorena upset David Jenkins of Britain in 45.4 seconds.

"I ran absolutely terrible," Price said. "I had a horrendous start, but I guess that's what happens when you have to run three races in three days."

A PROMISE BY BARNES

The United States basketball team was overmatched against the Portuguese, whose tallest player was only 6 feet 3 inches.

Tom Burleson, the 7-4 center from North Carolina State, who has 68 points in three games, had a field day on the backboards along with 6-9 Maurice Lucas of Marquette and 6-8 Marvin Barnes of Providence.

"We will beat the Russians—you can count on it," Barnes promised.

[From the Washington Post, Aug. 20, 1973]

SOVIET SOLDIERS JEER ISRAELIS

Moscow, Aug. 19.—The Soviets packed the smallest gym in town with soldiers today to jeer and howl at the Israeli basketball team at the World University Games.

"A disgusting exhibition," one Israeli player said after the 63–56 loss to Brazil. "Of course it rattled us," another player said.

Adin Talbar, an Israel team official, said he was going to protest to the International University Sports Federation, FISU, which sponsors the games. "This is against everything the federation is committed to," Talbar added.

"That was not sports," he said, "that was Russia against Israel."

The game was held in a Central Army Club gymnasium, which has only four rows of wooden bleachers. The entire front row was occupied by soldiers in identical blue sweatsuits. Uniformed soldiers were scattered throughout the crowd of about 400.

Some 25 Moscow Jews who had managed to obtain tickets tried to chant "El, el Israel," which one of the fans said meant "Go, go Israel." Each time the chant was started the soldiers raised a chorus of whistles and jeers.

Moshe Zilberman, Israel's high scorer with 23 points, said he had trouble keeping his mind on the game.

The crowd was quiet when a Brazilian player was standing at the foul line.

Each Brazilian score was greeted by a roar of approval from the crowd. The soldiers shouted the Russian equivalent of "good going" when a Brazilian made a field goal.

Talbar said he had asked FISU to send an observer to the game, "but nobody from FSIU came."

"Our players are being harassed. This jeering of the players disturbs them," he said. "Under the circumstances I would say our team played a marvelous game, but they are very upset."

A reporter asked one of the young men in the blue sweatclothes who they were. "We are soldiers," he replied. They were all about the same age and had the very short haircuts of Red Army recruits.

Their presence in the front rows appeared to have a crowd control aspect as well. At halftime they stood along the sidelines to prevent anyone from walking onto the court.

Outside the stadium security officials set up metal barriers staffed by police and uniformed soldiers. One Jew who was turned away before the game said he had been told his ticket was no good.

Saturday, officials refused entry to more than 60 Moscow Jews at the Israel-Cuba game. Today officials allowed some local Jews to get past the two rows of barriers.

A girl from the Danish basketball squad who stayed on to watch the Israel-Brazil game was nearly in tears.

"That was very ugly," she said.

[From the Washington Post, Aug. 22, 1973]

JEWISH FANS ARE ATTACKED IN MOSCOW

Moscow, Aug. 21.—Plainclothes Soviet security officials today physically attacked a group of Soviet Jews watching the Israeli basketball team at the 1973 World University Games here.

The Reuter news agency reported that about 20 Jews were leaving the Central Army Sports Club basketball hall when they were set upon by security men, seemingly irritated by the Jews' support for the Israeli team in today's match against Puerto Rico, won by the Israelis, 77–61.

Two women were almost knocked to the ground, a man had his arm twisted and his spectacles broken and three people, including two school children, were detained at a police station.

Members of the Jewish group said the two children were Marina Polski, 14, and Alexander Yoffe, 16.

During the match the Jews, who were made to sit as far away as possible from the Israeli team bench, were involved in scuffles with uniformed soldiers who ripped up an Israeli flag and destroyed a banner proclaiming in Hebrew, "Success to Israel."

Meanwhile, in New York, the Associated Press quoted U.S. sports officials as saying the Soviets' treatment of the Israeli athletes may have damaged the Soviet Union's chances of hosting the 1980 Summer Olympic Games.

"It's certainly a step in very bad taste, because the Russian-Jewish situation is bad enough," said Newgold Black, secretary to U.S. Olympic Committee president Philip Krum.

Black said that Krum would probably withhold comment until George Killian, the head of the U.S. team in Moscow, returns to the U.S. and gives Krum more details.

"I think it is a terrible state of affairs," said David Rivenes, president of the AAU. Politics should not enter into the Olympic Games, Pan American Games, and certainly not the University Games. It is merely supposed to be a get-together of students.

"My conclusion is that Russia is going to have a tough time convincing other countries to approve their bid. The facilities, language barriers and the almost prison-like security measures all raise questions."

The International Olympic Committee will vote next year at Vienna, Austria, on the site of the 1980 Summer Games. The 1976 Summer Games will be held at Montreal.

Claude Pinaud of France, secretary general of the International University Sports Federation (F.I.S.U.), was to have attended today's game but did not appear and Israel's F.I.S.U. representative, Adin Talbar, said later that the delegation would discuss tonight what new action to take, if any. "As things stand there is no question of our going home," Talbar said.

"This sort of thing will never stop us from competing in international sports. Anyway, how would the Jews here feel if we went home? They are heroes for the way they stand up to the regime," he added.

Pinaud, contacted at his hotel, said of the game, "I sent someone who reported to me what happened."

The delegate's account of what happened at the game left Pinaud with the impression that the atmosphere was simply one of "excited sports fans." He declined to say who his delegate was.

At today's game, the Associated Press reported that part of the gallery was calling the Soviet Jews who held the Israeli flag "kikes, kikes." Reuter reported the word as "Yids."

Throughout the game, soldiers in blue sweatsuits who made up one-fourth of the crowd jeered and whistled derisively at the Israeli athletes.

The soldiers in sweatsuits filled the bottom row of the four-tier bleachers. They were there ostensibly as monitors for crowd control.

It was the third straight game in which Russian soldiers were used to harass and jeer the Israeli basketball players. The first incident was last Saturday when Israel played Cuba. It was repeated Sunday in the game against Brazil.

Soviet organization of the World University Games, which began Aug. 15 and conclude Aug. 25, was being viewed as a test of their ability to host the 1980 Olympics.

The Israelis took an early lead in the game, giving about 30 Soviet Jews occasion to chant "El El Israel" (Go, Go Israel) and wave their paper banner.

The soldiers replied with earsplitting whistles. Several people in civilian clothes were heard to chant "kikes, kikes."

A Jewish woman told a reporter she had asked the police to intervene—racial slurs are prohibited by law in the Soviet Union. The police spoke only to the Jews and did nothing about the antisemitic shouts.

"We are not kikes," the woman told a reporter, "We are Jews."

During the second half of the game, when Israel had increased its lead to 47–36 and appeared to have a safe margin for victory, the Soviet Jews, who sat together at one end of the court, stood up and held the Israeli flag aloft.

Several uniformed soldiers made their way to where they were holding the flag, snatched it from the Jews' hands and ripped it into pieces. There was a brief scuffle while the police looked on.

After the game, Talbar said, "This causes a lot of anxiety. This is the organized creation of hostile atmosphere."

A French basketball player, whose team was to play England following the Israel-Puerto Rico game, commented: "It made me want to vomit."

A member of the Danish women's team, who came with several teammates to watch the game, said: "This is terrible." Indicating the jeering soldiers in sweatclothes, she said, "They're so awful."

The Soviet Jews who came to support Israel left the gym together. Outside they were surrounded by uniformed soldiers all the way to the gate.

A police colonel ordered his men to prevent a reporter from approaching them.

[From the New York Times, Aug. 22, 1973]

TWENTY JEWS IN CLASH AT MOSCOW GAMES—RUSSIAN FANS OF THE ISRAELI TEAM ARE SET UPON AFTER BASKETBALL CONTEST

(By Theodore Shabad)

Moscow, Aug. 21.—A group of Russians clashed today with about 20 Soviet Jews who had rooted for the Israeli basketball team at the World University Games here.

The Jews, leaving the Central Army Sports Club, where the basketball competition is being held, were set upon by unidentified Russians, seemingly irritated by the Jews' displaying of an Israeli flag and of Hebrew slogans during a game between the Israeli and Puerto Rican teams. Israel won, 77 to 61.

According to witnesses, two Jewish women were nearly knocked to the ground, a man's arm was twisted and his eyeglasses broken and three persons were taken to a police station.

The three were identified by friends as Viktor Polsky, a 43-year-old engineer who has been frustrated in attempts to emigrate to Israel, his daughter, Marina, 14, and another youngster, Aleksandr Yoffe, 16.

Today's incident was the latest in a series plaguing Israeli players and their Soviet Jewish supporters since the student games opened last Wednesday. These games, last held in 1970 in Turin, Italy, are conducted every three years and are open to athletes aged 18 to 28 and currently affiliated with an educational institution.

Soviet officials have described the games here as a dress rehearsal for the 1980 Olympics, which they also hope to hold here, and they seem to have been eager to convey an impression of efficient organization and orderly competition.

But from the opening day's parade of delegations, during which the Israeli team was jeered from the stands, team members are reported to have been harassed in many of their appearances. The harassment of the Israelis has been matched by vocal support from their Soviet Jewish fans.

It is almost unheard of for Soviet citizens to dare show enthusiasm for any but Soviet athletes, and the sympathy demonstrated by Jews for the Israelis must have been particularly irritating in view of the Kremlin's official hostility to Israel in her dispute with the Arabs.

Israeli athletic officials here have protested the repeated heckling to the International Federation of University Sports, which sponsors the World Student Games, and have requested that a representative of the federation attend events in which Israelis participate.

Although a representative of the international body was to have attended today's basketball game, none appeared, according to the Israelis.

In the game against Puerto Rico, witnesses reported, the Israelis were subjected to shouts of "Zhid! Zhid!" ("Kike!") as well as steady whistling and foot-stamping from about a hundred men in blue track suits ringing the arena.

Uniformed soldiers who also watched the game in the army gym were said to have ripped up an Israeli flag held by Soviet Jewish spectators and to have destroyed a banner bearing the slogan "Success to Israel," written in Hebrew. When the game ended, the Jewish demonstrators were quickly ushered from the hall and were set upon outside by waiting Russians.

Foreign athletes have been virtually isolated in a dormitory of Moscow University, ostensibly for their security, and that isolation has been particularly stringent in the case of the Israelis.

[From the Washington Post, Aug. 27, 1973]

ISRAEL PROTESTS SOVIET GAMES

TEL AVIV, August 26.—Israel Deputy Prime Minister Yigal Allon, charging that his country's athletes were subjected to "racism and anti-Semitism" at the World University Games in Moscow, said today Russia should not host the 1980 Olympics.

Welcoming the team home, Allon said, "All this shows that this country (the Soviet Union) does not deserve to hold the next Olympic Games. Israel might take measures to demand that the Olympics be transferred somewhere else."

The Soviet Union is seeking to host the next Olympic Games.

Before the team left Moscow, the Israeli delegate to the games said the Israelis continually were harassed and insulted by Russians during the 10-day event, but that Israel's protests were ignored.

The incidents affecting the Israeli team reflected on the inability of the Soviets to stage a sporting competition "in the spirit of fair play," said Adin Talber, Israel's representative to the International Federation of University Sports (FISU).

There was scattered jeering and whistling at the Israelis by Soviet spectators during the finale, but it seemed more subdued than the booing directed toward the athletes during opening ceremonies.

Talber criticized the FISU for what he said was its inaction on Israeli complaints.

Talber said the Israeli basketball team was "continually harassed in an organized manner by hundreds of members of the Central Army Sports Club" during the Aug. 18 contest against Cuba. "The continuous jeering, whistling and screaming against our team had a detrimental effect on its play," he said.

"However, the worst moment of these games for the Israeli team came when a paper flag of Israel which was waved by a small group of people in the audience was torn up by uniformed policemen and civilians in an act of oppression against those friendly to us, and a flagrant insult to Israeli guests in these international student games in Moscow."

The Israeli official said his 32-member delegation appreciated the friendly interpretors, good food, satisfactory transportation, fair references and security. But he said he was dismayed that the Israelis were "totally ignored by Russian press and TV" and regretted that Israeli journalists were barred entry to the Soviet Union "contrary to the regulations of FISU."

The newspaper Sovietsky Sport today defended the Soviet spectators saying, "Yes, there may have been whistling, but people whistle in all stadiums."

Sovietsky Sport also denounced Western correspondents who, it said, "were only looking for facts which would help compromise the hosts of the Universiade." It said the newsmen "were trying in all possible ways to produce an impression among readers of foreign publications of an inadmissible situation in Moscow for conducting the next Olympiad."

[From the New York Times Aug. 27, 1973]

SOVIET TERMS ATTACKS AT GAMES THE DOING OF OVERZEALOUS FANS

Moscow, Aug. 26.—The Soviet Union, evidently embarrassed by adverse publicity over the World University Games, today attributed incidents surrounding Israeli athletes to unruly fans of a type that could be found at any sports event.

An article in the official sports daily Sovetsky Sport charged that "episodes likely to occur at athletic contests" had been blown out of all proportion by the Western press.

The organizers of the student games, which ended yesterday, appeared to have been particularly upset by a widely published photograph that showed a group of fans, led by uniformed soldiers, rushing at Moscow Jews who had been waving an Israeli flag at a basketball game between Israel and Puerto Rico.

The games, which attracted about 4,000 student athletes from 70 countries to Moscow, appear to have been plagued by a basic conflict between two primary Soviet policy objectives.

On the one hand, the organizers of the games were evidently eager to convey the Soviet Union's ability to conduct an international event of such magnitude in an organized fashion. The games have been presented here as a dress rehearsal for the 1980 Olympics, for which Moscow is bidding.

On the other hand, the presence of a 40-member Israeli delegation was being used by

pro-Israeli Moscow Jews as a focus of attention, and the Soviet authorities apparently felt that they could not tolerate such open support for the athletes of a country that what being denounced almost daily in the controlled press.

The Soviet organizers had sought to balance Israeli participation by extending an official invitation to Yasir Arafat, the most prominent Palestinian guerrilla leader. Mr. Arafat's presence in Moscow was widely publicized in the press.

But despite this attempt at political balance, the Israeli athletes posed particular problems for Soviet officials. They were subjected to special security measures and, after the first day of fraternization between the basketball player and Moscow Jews, an effort was made to isolate the Israelis from their Soviet fans.

The Soviet sports newspaper justified this special treatment of the Israelis on the gound that the Russians did not want a repetition of the massacre of Israeli athletes at the 1972 Olympic Games in Munich.

Although some whistling and foot-stamping by Soviet fans at Israeli events was thought to have been officially inspired the sports daily said:

"Passions tend to flare at many popular athletic events throughout the world, and sober, objective correspondents will treat them as such, knowing full well that not all the fans in the stands may be equally restrained and properly brought up."

ALLON CHARGES "RACISM"

TEL AVIV, Aug. 26.—Deputy Premier Yigal Allon of Israel, charging that his country's athletes had met with "racism and Anti-Semitism" at the World University Games in Moscow, said today that the Soviet Union should not be host to the 1980 Olympics. He spoke at welcome-home ceremonies for the Israeli team.

Before the team left Moscow today, Israel's delegate to the games said that athletes were continually harassed and insulted by Russians, but that protests had been ignored.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 5, which the clerk will state by title.

The assistant legislative clerk read the bill (S. 5) by title, as follows:

A bill to promote the public welfare.

The PRESIDING OFFICER. Debate on this bill is limited to 1½ hours, to be equally divided between and controlled by the Senator from Minnesota (Mr. MONDALE) and the minority leader or his designee, with 20 minutes on any amendments and 10 minutes on any debatable motions or appeals.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged against both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. 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. MONDALE. Mr. President, the pending proposal, S. 5, would establish a Council of Social Advisers, modeled after the Council of Economic Advisers, and require the President to submit to Congress an annual Social Report, modeled after the Economic Report.

The Council of Economic Advisers has played a central role in national economic decisionmaking over the last quarter century. It has helped to focus governmental and public attention on overall economic policy and has helped to stimulate development of highly sophisticated economic statistics. The congressional hearings on the President's Economic Report each year are a forum for administration officials to give an accounting of their economic stewardship, and for Congress, outside experts, and the general public to discuss and analyze the economic health of the Nation.

It is now time for us to focus that same kind of attention on the social health of the Nation and the effectiveness of our social programs.

The 1960's saw the passage of the most extensive and far-reaching social programs in our history. More recently, social scientists have begun to develop more useful and effective indicators of our social needs and of the effectiveness of social programs.

We can now begin to see what these programs have done, where they have fallen short, and where they can be improved. We can begin to determine what remains to be done, and how best to do it.

The effectiveness of Government food programs should be measured not by the amount of money spent on them, but by whether children in families receiving food stamps are healthier and stronger.

The effectiveness of education programs should be measured not by dollars spent or classrooms built, but by whether children are learning more.

The effectiveness of crime prevention programs should be measured not by the number of policemen on the streets, but by whether people in the neighborhood feel safe going out at night.

The new Council of Social Advisers would spur the further development of these new social indicators. Instead of the so-called "cold facts" of dollars spent and resources used, we will have the "hot facts" which measure the real impact of social developments and programs on people's everyday lives.

This kind of information is desperately needed if we are to make knowledgeable decisions on the many issues that confront us. But we do not have it now.

Mr. President, in the nearly 9 years I have served in this body, I believe that I have served on as many human problem subcommittees and committees as any of my colleagues. I have sat through hours and hours and hours of testimony to develop programs for education, health, housing, urban development, rural development, poverty, mental health, and the rest. Time and time again, I have shared with my colleagues the frustration of being unable to really depend on whether these programs are working, whether they might work in a better context or in a better way under a different context, and what might be done to make them more effective.

One of the reasons this frustration mounts is that so many of these statistics prepared by Government are virtually useless. I can recall a few years ago when the administration wanted to eliminate a third of the Job Corps camps in our country. We asked the administration spokesman to testify what their figures indicated as to the best way to train unskilled manpower.

How could we get the best return for our dollar? Which programs seemed to help the most, and what were their recommendations based upon those statistics?

They said they would provide the information, but when it arrived, the information was utterly useless. The truth of it is that the Labor Department did not have the slightest idea of what did not work, and despite the expenditure of billions of dollars, for all practical purposes the Government was headless insofar as the development of statistics that would help us determine what worked and what did not work was concerned.

I have seen this same phenomenon in education. For nearly 3½ years, under my chairmanship, the Select Committee on Equal Educational Opportunity sought to probe the question of how well our educational institutional institutions are doing in terms of delivering equality in education. We were overwhelmed with statistics, but none of them, or few of them, were helpful.

This phenomenon has been commented on by people in government. One of the best witnesses we have had in support of this proposal was Mr. Joseph Califano, who was President Johnson's top domestic adviser, and who for some years sought to develop for the President, with the support of the prestige of the President, the domestic programs of the Johnson administration.

In that capacity, he frequently called up Cabinet officers and other government officials to challenge their answers to the kinds of questions I have been discussing.

In testimony before our subcommittee, he said this:

> The disturbing truth is that the basis of recommendations by an American Cabinet officer on whether to begin, eliminate, or expand vast social programs more nearly resembles the instituitve judgment of a benevolent tribal chief in remote Africa than the elaborate and sophisticated data with which the Secretary of Defense supports a major weapons system. When one recognizes how many and how costly are the honest mistakes that have been made in the Defense Department despite its sophisticated information systems, it becomes frightening to think of the mistakes which might be made on the domestic side of our government because of lack of adequate data.

Now, that statement was made in the context of an earlier observation about a conversation which Mr. Califano had had with the then Secretary of HEW, Mr. Gardner. He asked Mr. Gardner to tell him who was on welfare, how many

were in the aid to dependent children category, how many were in the disabled class and other such categories, how many were adult males who could work but were not working, and the rest.

The Secretary said:

I do not have that information with me, but I will go back to the Department. I am sure it is available, and I will submit the information to you in a few days.

I think the information took almost 2 years in coming, because even though the Department of HEW was spending at that time, I think, nearly $4 billion on welfare, they did not know who was on welfare. They had some vague figures, but no specific data, and it took them nearly 2 years to find out in specific terms who were the recipients of that $4 billion.

That is what led Mr. Califano to this observation that most of our judgments on these massive programs are intuitive.

Another witness, referring to what he called the "governmental strategy of suboptimization," said:

The Government is getting better and better at little things, and worse and worse at big things.

One of the things we would hope to accomplish is to bring to Washington some of the best social scientists, the Walter Hellers of the social science field, to tell us how we are doing in meeting our needs in the areas of health, education, housing, equal employment, law enforcement, drug abuse prevention, this whole range of social issues and many others, and to try to develop a strategic approach, rather than a tactical approach, to the fulfillment and enrichment of the lives of our fellow Americans, and to try to better determine which programs work and under what circumstances.

It has been argued that this additional capability is not needed, that existing institutions are already taking care of the problem. The short answer is that they are not.

No one in the Federal Government is charged with taking an overall look at the social health of the country and the effectiveness of existing and proposed social programs, and reporting their findings to Congress and the public.

Each Federal agency looks only at its small piece of the problem, and is preoccupied with the day-to-day operation of its programs.

I think it is fair to say, with all due deference to these agencies—and a great many people are doing their best—that the natural tendency of each agency is to put out only good news, and to deemphasize and hide the bad news. So when you turn to agencies for help, what you usually receive is their official position. You do not receive the tough analysis that you need to really determine the questions which come before us here in Congress.

Nor do we have anywhere else that Congress can look. The OMB and the Domestic Council are designed solely to serve the Executive. Their work is done in secret, shielded by the claim of executive privilege, and they are accountable only to the President. Officials of OMB and the Domestic Council are not confirmed by the Senate, and they are not required to appear and testify before congressional committees.

A few years ago, when this proposal was before us, we were told that the Domestic Council was the answer to the needs raised by this proposal. We have found since that the Domestic Council was, above all, the place where the "plumbers" group was developed to accomplish a far different purpose. My opinion is that the Domestic Council is a body of virtually no significance in terms of helping this country analyze what should be done in these fields of human need.

The Council of Social Advisers, by contrast, would have three members appointed by the President and confirmed by the Senate, just as are the Members of the Council of Economic Advisers and the Council on Environmental Quality. They would be available for testimony before congressional committees, and they would be accountable to a public and professional constituency, just as CEA members are. The President's annual social report would be the occasion each year for the executive, the Congress, and the public to look carefully at the social health of the Nation, and the effectiveness of our social programs. There would be extensive press and media coverage, and congressional committees would hold hearings on the report, just as happens with the annual economic report.

We would hope that this would be the beginning of a public dialog in which our educational institutions, the public bodies, the press, the foundations, and the rest would all be involved in a far more focused and sophisticated discussion. Congress and the public would have the benefit of better information and better evaluations. Decisions on social issues would be greatly improved in in my opinion, both in the Executive and in Congress.

This greater public attention would stimulate more and better statistics and techniques to measure social conditions and evaluate social programs. The social indicators that have already been developed would be refined and improved, and new indicators would be devised just as we have seen through the work of the Council of Economic Advisers.

This work is vital if we are to fulfill the promise of our Nation and make Government work for the benefit of all our people.

If I may digress for a moment, I sense as I go around our country, that there is a growing sense of frustration and even despair as to the effectiveness of the programs we have for education, health, and the rest.

There is even a feeling, which I find scary, that this great society of ours is in some way lacking in capability to do such a fundamentally important thing as providing equal education for our children. That is the devastating conclusion which I think would undermine much of the hopes for social justice in our country. For that reason, I think, even more than may have been true in the past, we need to refocus our attention with the best minds in this country within the structure of the kind I am proposing, once again to regain the initiative and set this country on the right course in terms of social justice.

As Abraham Lincoln said more than 100 years ago:

If we could first know where we are, and whither we are tending, we could better judge what to do, and how to do it.

That, Mr. President, is what we propose to do in this Council of Social Advisers.

This proposal has been adopted on two occasions by the Senate and in both cases by overwhelming majorities. I would hope that that would be the case today and that this time we might, since we have a little more time in this Congress than on previous occasions, find a response from the other body so that this might be adopted and sent on to the President, hopefully for his signature.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the bill, S. 5; a transcript of my remarks delivered on July 30, 1973, when this measure was called up in the closing days before the recess; remarks delivered by me to this body on July 25, 1972; and a letter which I have written to my colleagues along with my distinguished cosponsor, the Senator from New York (Mr. JAVITS), describing the details of this proposal.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Full Opportunity and National Goals and Priorities Act".

TITLE I—FULL OPPORTUNITY

DECLARATION OF POLICY

SEC. 101. In order to promote the general welfare, the Congress declares that it is the continuing policy and responsibility of the Federal Government, consistent with the primary responsibilities of State and local governments and the private sector, to promote and encourage such conditions as will give every American a full opportunity to live in decency and dignity, and to provide a clear and precise picture of whether such conditions are promoted and encouraged in such areas as health, education and training, rehabilitation, housing, vocational opportunities, the arts and humanities, and special assistance for the mentally ill and retarded, the deprived, the abandoned, and the criminal, and by measuring progress in meeting such needs.

SOCIAL REPORT OF THE PRESIDENT

SEC. 102. (a) The President shall transmit to the Congress not later than February 15 of each year a report to be known as the social report, setting forth (1) the overall progress and effectiveness of Federal efforts designed to carry out the policy declared in section 101 with particular emphasis upon the manner in which such efforts serve to meet national social needs in such areas as health, education, and training, rehabilitation, housing, vocational opportunities, the arts and humanities, and special assistance for the mentally ill and retarded, the deprived, the abandoned, and the criminal; (2) a review of State, local, and private efforts designed to create the conditions specified in section 101; (3) current and foreseeable needs in the areas served by such efforts and the progress of development of plans to meet such needs; and (4) programs and policies for carrying out the policy de-

clared in section 101, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the social report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 101.

(c) The social report, and all supplementary reports transmitted under subsection (b) of this section, shall, when transmitted to Congress, be referred to the Committee on Labor and Public Welfare of the Senate and the Committees on Education and Labor and Interstate and Foreign Commerce of the House of Representatives. Nothing in this subsection shall be construed to prohibit the consideration of the report by any other committee of the Senate or the House of Representatives with respect to any matter within the jurisdiction of any such committee.

COUNCIL OF SOCIAL ADVISERS TO THE PRESIDENT

SEC. 103. (a) There is created in the Executive Office of the President a Council of Social Advisers (hereinafter called the Council). The Council shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, and each of whom shall be a person who, as a result of his training, experience, and attainments, is exceptionally qualified to appraise programs and activities of the Government in the light of the policy declared in section 101, and to formulate and recommend programs to carry out such policy. Each member of the Council, other than the Chairman, shall receive compensation at the rate prescribed for level IV of the Executive Schedule by section 5315 of title 5 of the United States Code. The President shall designate one of the members of the Council as Chairman who shall receive compensation at the rate prescribed by level II of such schedule.

(b) The Chairman of the Council is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for the carrying out of its functions under this Act, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of relating to classification and General Schedule pay rates, and is authorized, subject to such provisions, to employ such other officers and employees as may be necessary for carrying out its functions under this Act, and fix their compensation in accordance with the provisions of such chapter 51 and subchapter III of chapter 53.

(c) It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the social report;

(2) to gather timely and authoritative information and statistical data concerning developments and programs designed to carry out the policy declared in section 101, both current and prospective, and to develop a series of social indicators to analyze and interpret such information and data in the light of the policy declared in section 101 and to compile and submit to the President studies relating to such developments and programs;

(3) to appraise the various programs and activities of the Federal Government in the light of the policy declared in section 101 of this Act for the purpose of determining the extent to which such programs and activities contribute to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop priorities for programs designed to carry out the policy declared in section 101 and recommend to the President the most efficient way to allocate Federal resources and the level of government—Federal, State, or local—best suited to carry out such programs;

(5) to make and furnish such studies, reports thereon, and recommendations with respect to programs, activities, and legislation to carry out the policy declared in section 101 as the President may request.

(6) to make and furnish such studies, reports thereon, and recommendations with respect to programs, activities, and legislation as the President may request in appraising long-range aspects of social policy and programing consistent with the policy declared in section 101.

(d) Recognizing the predominance of State and local governments in the social area, the President shall, when appropriate, provide for the dissemination to such States and localities of information or data developed by the Council pursuant to subsection (c) of this section.

(e) The Council shall make an annual report to the President in January of each year.

(f) In exercising its powers, functions, and duties under this Act—

(1) the Council may constitute such advisory committees and may consult with such representatives of industry, agriculture, labor, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the direct participation in the Council's planning of such interested parties;

(2) the Council shall, to the fullest extent possible, use the servcies, facilities, and information (including statistical information) of Federal, State, and local government agencies as well as of private research agencies, in order that duplication of effort and expense may be avoided;

(3) the Council shall, to the fullest extent possible, insure that the individual's right to privacy is not infringed by its activities; and

(4) (A) the Council may enter into essential contractual relationships with educational institutions, private research organizations, and other organizations as needed; and

(B) any reports, studies, or analyses resulting from such contractual relationships shall be made available to any person for purposes of study.

(g) To enable the Council to exercise its powers, functions, and duties under this Act, there are authorized to be appropriated (except for the salaries of the members and officers and employees of the Council) such sums as may be necessary. For the salaries of the members and salaries of officers and employees of the Council, there is authorized to be appropriated not exceeding $900,000 in the aggregate for each fiscal year.

TITLE II—NATIONAL GOALS AND PRIORITIES

DECLARATION OF PURPOSES

SEC. 201. The Congress finds and declares that there is a need for a more explicit and rational formulation of national goals and priorities, and the Congress needs more detailed and current budget data and economic analysis in order to make informed priority decisions among alternative programs and courses of action. In order to meet these needs and establish a framework of national priorities within which individual decisions can be made in a consistent and considered manner, and to stimulate an informed awareness and discussion of national priorities, it is hereby declared to be the intent of Congress to establish an office within the Congress which will conduct a continuing analysis of national goals and priorities and will provide the Congress with the information, data, and analysis necessary for enlightened priority decisions.

ESTABLISHMENT

SEC. 202. (a) There is established an Office of Goals and Priorities Analysis (hereafter referred to as the "Office") which shall be within the Congress.

(b) There shall be in the Office a Director of Goals and Priorities Analysis (hereafter referred to as the "Director") and an Assistant Director of Goals and Priorities Analysis (hereafter referred to as the "Assistant Director"), each of whom shall be appointed jointly by the majority leader of the Senate and the Speaker of the House of Representatives and confirmed by a majority vote of each House. The Office shall be under the control and supervision of the Director, and shall have a seal adopted by him. The Assistant Director shall perform such duties as may be assigned to him by the Director, and, during the absence or incapacity of the Director, or during a vacancy in the office, shall act as the Director. The Director shall designate an employee of the Office to act as Director during the absence or incapacity of the Director and the Assistant Director, or during a vacancy in both of such offices.

(c) The annual compensation of the Director shall be equal to the annual compensation of the Comptroller General of the United States. The annual compensation of the Assistant Director shall be equal to that of the Assistant Comptroller General of the United States.

(d) The terms of office of the Director and the Assistant Director first appointed shall expire on January 31, 1977. The terms of office of Directors and Assistant Directors subsequently appointed shall expire on January 31 every four years thereafter. Except in the case of his removal under the provisions of subsection (e), a Director or Assistant Director may serve until his successor is appointed.

(e) The Director or Assistant Director may be removed at any time by a resolution of the Senate or the House of Representatives. A vacancy occurring during the term of the Director or Assistant Director shall be filled by appointment, as provided in this section.

(f) The professional staff members, including the Director and Assistant Director, shall be persons selected without regard to political affiliations who, as a result of training, experience, and attainments, are exceptionally qualified to analyze and interpret public policies and programs.

FUNCTIONS

SEC. 203. (a) The Office shall make such studies as it deems necessary to carry out the purposes of section 201. Primary emphasis shall be given to supplying such analysis as will be most useful to the Congress in voting on the measures and appropriations which come before it, and on providing the framework and overview of priority considerations within which a meaningful consideration of individual measures can be undertaken.

(b) The Office shall submit to the Congress on March 1 of each year a national goals and priorities report and copies of such report shall be furnished to the Committee on Appropriations of the Senate and of the House of Representatives, the Joint Economic Committee, and other interested committees. The report shall include, but not be limited to—

(1) an analysis, in terms of national goals and priorities of the programs in the annual budget submitted by the President, the Economic Report of the President, and the Social Report of the President;

(2) an examination of resources available to the Nation, the foreseeable costs and expected benefits of existing and proposed Federal programs, and the resources and cost implications of alternative sets of national priorities; and

(3) recommendations concerning spending priorities among Federal programs and

courses of action, including the identification of those programs and courses of action which should be given greatest priority and those which could more properly be deferred.

(c) In addition to the national goals and priorities report and other reports and studies which the Office submits to the Congress, the Office shall provide upon request to any Member of the Congress further information, data, or analysis relevant to an informed determination of national goals and priorities.

POWERS OF THE OFFICE

SEC. 204. (a) In the performance of its functions under this title, the Office is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Office;

(2) to employ and fix the compensation of such employees, and purchase or otherwise acquire such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and as may be appropriated by the Congress;

(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code; and

(4) to use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(b) (1) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Office, upon request made by the Director, such information as the Director considers necessary to carry out the functions of the Office.

(2) The Comptroller General of the United States shall furnish to the Director copies of analyses of expenditures prepared by the General Accounting Office with respect to any department or agency in the executive branch.

(3) The Office of Management and Budget shall furnish to the Director copies of special analytic studies, program and financial plans, and such other reports of a similar nature as may be required under the planning-programing-budgeting system, or any other law.

(c) Section 2107 of title 5, United States Code, is amended by—

(1) striking out the "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) adding at the end thereof the following new paragraph:

"(9) the Director, Assistant Director, and employees of the Office of Goals and Priorities Analysis.".

JOINT ECONOMIC COMMITTEE HEARINGS

SEC. 205. The Joint Economic Committee of the Congress shall hold hearings on the national goals and priorities report and on such other reports and duties of the Office as it deems advisable.

PAYMENT OF EXPENSES

SEC. 206. All expenses and salaries of the Office shall be paid by the Secretary of the Senate from funds appropriated for the Office upon vouchers signed by the Director or, in the event of a vacancy in that Office, the Acting Director.

FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

The Senate continued with the consideration of the bill (S. 5) to promote the general welfare.

Mr. MONDALE. Mr. President, S. 5, the pending measure, is a bill which has passed the Senate in almost identical form in two previous Congresses. It is the product of extensive hearings, extensive committee and Senate deliberation, and I would hope that it would pass overwhelmingly and that in this Congress we might see action in the House.

The measure seeks to establish a Council of Social Advisers in the office of the Presidency and require that council to prepare an annual social report which would be referred to the Joint Economic Committee and to the respective Labor and Public Welfare Committees of the House and the Senate. The council would have other responsibilities such as the establishment of an effort toward establishing social indicators to measure the social health of this country.

Mr. President, one of our most illuminating witnesses was Mr. Joseph Califano, who, as many know, served as President Johnson's key domestic counselor. Following his period of service in that position, he testified before our committee upon the almost total lack of information upon which we make social policy. Mr. Califano said:

"The disturbing truth is that the basis of recommendations by an American Cabinet officer on whether to begin, eliminate, or expand vast social programs more nearly resembles the initiative judgment of a benevolent tribal chief in remote Africa than the elaborate sophisticated data with which the Secretary of Defense supports a major new weapons system."

Support for this institution has come from a broad range of leaders in the field of human development and from persons who have been in government, as well as the academic community. As a matter of fact, they have repeatedly and strongly urged the creation of this Council of Social Advisers.

In the development of this legislation I have been privileged to have the long-term support and the creative contributions of the distinguished senior Senator from New York (Mr. JAVITS), who has cosponsored this measure from its beginning and who has been so helpful over the years in trying to develop it, improve it, and strengthen it.

The present measure, in title II, contains a series of sections under the heading "National Goals and Priorities." It seeks to establish in the Congress an office to better prepare the Congress when dealing with the broad objectives of goals and priorities.

This measure was originally introduced in separate bill form by the distinguished Senator from New York (Mr. JAVITS) and is now found as title II in S. 5.

Together these titles are designed to do something about the present anarchy in the field of human programs.

We have a nation in which we spend billions in education, billions in health, billions on poverty, and billions on various other human programs. Yet, when we ask those involved in these programs whether they are achieving the results intended and whether they are doing so in the most efficient way, and, indeed, whether they are counterproductive, one is often at a complete loss to obtain that essential information upon which any intelligent government should base its decisionmaking, as one of our witnesses said, the American Government seems to be proceeding on the theory of substandardization, by which we are doing better and better in little things and worse and worse in big things.

This council is designed to try to better analyze and evaluate and plan social programs so that we might better understand how we seek to educate our children, so that we might know better how well we are doing at this task of education, so that we might know better how to improve and make more efficient the effort at education.

The same is true with our efforts in the field of health, in the field of manpower, in the field of employment, and in the other areas, housing and the rest, which are essential services for a healthy and developing people.

I have been in the Senate now for more than 9 years. I guess that I have served on as many or more human problem committees and subcommittees than any other Senator, or at least as many as any other Senator. I am constantly surprised and sometimes shocked when we are holding hearings on programs—some of which cost several hundreds of millions of dollars a year—when I ask those who are in charge of the programs to tell us what they are accomplishing and what we are getting for our money. Usually they can fill us full of statistics and information that really is not helpful. They can tell us how many bricks there are in a building and how many lunches are served in the hot lunch program. However, if we ask them how many children are being educated, often they do not have the slightest idea. The same thing is true with respect to health and manpower programs. What might be called the hot facts concerning what is being achieved through these programs is often not available.

Yet this very condition of anarchy and uncertainty is becoming a strong force in the hands of those who seek to counsel the Government and the people to give up this effort and to conclude that there is no hope and that we should stop trying to deliver the essential services needed for the social health of our people.

I can think of nothing that would be more tragic to our country than that, for we know that despite our wealth, despite our strength, and despite the magnificence of our great country, there are still millions and millions of Americans who in no meaningful way share in the fullness of American life.

The programs that this council would seek to better understand and guide are the very programs on which social justice in our Nation depend. And this institution could contribute enormously to a more sophisticated, responsible, balanced, efficient, and extraordinary approach to human problems.

Mr. President, this bill was reported from the Committee on Labor and Public Welfare on June 15, 1972. I am proud to state that it has 24 cosponsors from both sides of the aisle. The Senator from New York (Mr. JAVITS, who is the principal cosponsor of the bill, has contributed very significantly to the bill, including the sponsorship of a most important amendment to it. This amendment appears as title II of the bill.

A predecessor bill was extensively considered by the Subcommittee on Government Research of the Government Operations Committee during the 90th Congress under the distinguished leadership of the Senator from Oklahoma (Mr. HARRIS). An identical bill was considered and passed by the Senate in the second session of the 90th Congress. We have now accumulated five volumes of hearings on this bill and a consensus in support of it has been growing throughout the Nation.

Testimony in support of the bill has been heard from a number of former Cabinet members and White House aides. Former HEW Secretaries John Gardner and Wilbur Cohen and former Treasury Secretary Barr have testified for the bill. Former Labor Secretary Wirtz has spoken publicly in favor of it. A number of thoughtful spokesmen in the field of public affairs have supported the bill. The late Whitney Young was among them. A special study for the National Academy of Science's National Research Council included a recommendation for enactment of this bill. The report of the Commission on Violence, headed by Dr. Milton Eisenhower, also recommended enactment.

Few objections have been raised to enactment of this measure and those have dealt principally with the organizational aspect. It has been claimed that existing elements

in the Executive Office of the President can do the job. However, I would like to point out that former Budget Director Zwick and former Special Assistant to the President Califano have testified in support of the bill. They now agree that the development of an annual social report and of a social indicators system would make an important contribution to dealing effectively with social problems. A Council of Social Advisers in the Executive Office would assist the President in stimulating and guiding these developments and in preparing an annual social report to be submitted by the President to the Congress.

The bill is patterned generally after the Employment Act of 1946 which, for the first time, established as a national goal the achievement of maximum employment, production, and purchasing power. To assist in achieving that goal, the Employment Act established the Council of Economic Advisers, provided for the annual economic report of the President, and established a Joint Economic Committee in the Congress.

It is our belief that this legislation will accomplish for the broad range of social policies what the Employment Act has done so well in the economic sector. By declaring a new national objective and increasing the quantity, quality, and visibility of information needed to pursue that objective, we should markedly advance our prospects for effective social action.

Mr. President, by now we have had a series of studies by prestigious commissions which have told us about the gap which remains in our society between the promise of full opportunity and the realities of deprivation, powerlessness, and poor fortune into which millions of our citizens are born. The increasing affluence of great segments of our society has merely sharpened the division between them and those who have not yet benefited from the phenomenal growth in our economy, in our technological and scientific base, and in our educational systems.

As a result, the demands of the deprived for their fair share in the benefits of our society and the responsiveness of our political institutions have both increased dramatically. At the same time, however, we have also become acutely aware of the fundamental inadequacy of the information upon which social policies and programs are based.

We have seen this phenomenon pressed upon us repeatedly and often tragically. One result of our information gaps is that national problems go nearly unnoticed until they are forced upon us by some significant and shocking event. Suddenly, we learn of widespread hunger in America, of the rapid deterioration of our environment, of dangerous tensions and unrest in our great urban centers, of the shocking conditions under which migrant farmworkers live, and of the absence of decent medical care for tens of millions of our citizens.

We desperately need ways to monitor such problems before they destroy or seriously damage our society.

Another tremendously expensive consequence of our lack of adequate information is that we devise and operate programs based on myth and ignorance or guess and supposition.

Examples are urban renewal, mass transportation, air and water pollution, and health delivery systems. In practically every major social problem in this country, it is not only a question of resources; it is not only a question of will; often it is simply a question of the unavailability of the information we need with which to deal effectively with the problem.

After years of experimenting with such techniques as program planning and evaluation systems, we still are quite ill-equipped to measure what our existing programs do accomplish. And we have no adequate means to compare the costs and effectiveness of alternative programs.

A Council of Social Advisers, dedicated to developing indicators of our social problems and progress, could well be a source of enormous savings to the taxpayer as well as of more effective solutions to the problems we face. Such a council, taking full advantage of the latest developments in planning, programing, and budgeting systems, in computerized data collection and statistical methodology, in systems analysis and social accounting, could unlock the enormous potential of the social sciences to assist the Congress and the Executive in developing and administering public policy.

A Council of Social Advisers would not itself, be a new decisionmaking forum. Rather, as a social monitoring, data gathering, and program evaluation agency, it would provide the President and his staff agencies with much of the information needed to make policy and program judgments. The President has available the broad range of economic information now furnished by the Council of Social Advisers. The Council of Social Advisers would fill a significant gap in the information system which is needed to buttress the policymaking apparatus under the President.

While title I of the bill, with its new Council of Social Advisers and its new social report, should greatly augment the capacity of the Congress to make intelligent policy decisions, title II of the bill is even more significant with respect to strengthening the Congress. I was delighted to cosponsor the amendment to the bill which was offered by the Senator from New York (Mr. JAVITS) to create a new congressional staff office of goals and priorities analysis.

Mr. President, the proposal embodied in title II, offered by the distinguished Senator from New York (Mr. JAVITS), comes at a very propitious time. We now know, based upon studies of the Brookings Institution and upon other sources, that in terms of general resources generated under the existing tax rate, we are in the middle of one of the deepest budget deficits in history, and the deficit is back-to-back with another budget deficit—with predictions next year of a budget deficit up to $40 million.

Mr. President, the predictions based on economic growth and the existing tax rate show a budget thinly balanced for the first time only 3 years from now. So, whatever may have been the case in the past, this Congress and this Government must judge more wisely than we ever have before. This applies to social fields, as well as to other aspects of the budget.

We can no longer rely, as we have in the past, on good will alone. We need far more information—and far better analysis—and far better strategies for dealing with the human problems which face America than we have ever had before, if there is any hope of success in those fields.

That is what this bill is all about. One of our experts said that the Federal Government has been pursuing increasingly a strategy of suboptimization which he defined to be a strategy of doing better and better with little things and worse and worse with important things.

We lack a strategic approach to the solution of human problems. We have a tactical approach, a great deal of data, and a great deal of minute detail in small areas and a failure to develop a proper overall approach to dealing with our problems. Much of this stems from ignorance about basic facts which is found at the funding level.

Mr. President, I have now served in the Senate nearly 9 years. Along with many of my colleagues, I spend most of my time dealing with the human problems with which the average American is confronted.

I never cease to be amazed by the abundance of evidence concerning how little we seem to know at the Federal level about what is really going on.

Thus, something as elementary as decent nutrition—something so essential to a sound body and a sound mind—was something about which the Federal Government was almost totally ignorant in 1967. We knew how many soybeans were grown. We knew how much money was being spent on the direct commodity distribution program, the food program, and so on. But no one had the slightest idea whether there was widespread hunger and, if there was, where it was to be found and why, what the cost of feeding the hungry was, what the cost of not feeding them was, what the cost of the program was, or any of the other fundamental questions directly related to the issue of the most basic necessity of American life itself. The same was true with respect to decent housing.

In 1967, even though we should have been warned earlier, the major American cities began to explode in our faces. Newark, Detroit, and one community after another literally blew up in an astonishing and cataclysmic explosion causing the widespread loss of human life, and human injury, and millions of dollars in property damage, and an emotional and cultural shock to Americans which we are still in the throes of. None of this was anticipated by the Government.

When hearings were started, this Nation was thrashing around; Congress and the Senate were thrashing around; members of the Cabinet and leading members of the executive branch were thrashing around, all trying to find out what was causing such a fundamental occurrence as this outrageous, heartbreaking phenomenon in American life.

We could go from this example to other examples. We lack an institution which takes not a tactical approach but a strategic approach to human problems which this society faces. We need to chart the social health of this country and seek to go forward; not, as John Gardner said, stumbling into the future. Instead, we must try to come up with the analysis, facts, and figures, and, as someone said, the "hot data" to help us understand our society and what we must do to make it more effective than it is in meeting this Nation's human problems.

One of our most impressive witnesses was Mr. Joseph Califano who formerly served as adviser on domestic programs to President Johnson. More than any other man he was in the Nation's hot seat trying to develop a program to advise the rightest official in the land on domestic programs.

He recounted several instances of the phenomena to which I have made reference. For example, on one occasion, the Secretary of Health, Education, and Welfare was in conference with Mr. Califano. He was asked how many people were on welfare, who they were, and all the rest. Since we are spending several billions of dollars one would have thought that information would be immediately available.

The Secretary thought the information would be available to him as soon as he returned to his office. He said that he would send it right back. As a matter of fact, it took HEW almost a year and a half to find out who was on welfare. Mr. Califano said this was a common experience with basic and fundamental human problems, to find that not even the President would have available to him the basic data necessary to make the choices upon which our very civilization depends.

He commented in this way about the issue of hunger:

"The even more shocking element to me is that no one in the federal government in 1965 knew how many people were hungry, where they were located geographically, and who they were. No one knew whether they were children, elderly Americans, pregnant mothers, black, white, or Indian."

Then Mr. Califano concluded with this statement:

"The disturbing truth is that the basis of recommendations by an American Cabinet officer on whether to begin, eliminate or expand vast social programs more nearly resembles the intuitive judgment of a benevolent tribal chief in remote Africa than the elaborate sophisticated data with which the Secretary of Defense supports a major new weapons system. When one recognizes how many and how costly are the honest mistakes that have been made in the Defense Department despite its sophisticated information systems, it becomes frightening to think of the mistakes which might be made on the domestic side of our Government because of lack of adequate data."

Mr. President, for 5 years the Congress has been considering its need for additional information about social programs so that it can properly discharge its obligations to the public. The "power of the purse" has little meaning if we do not have the data and analyses to exercise that power meaningfully. The present and last administrations have agreed that we need this kind of information. However, they have insisted that it could be provided without any organizational change. By now, it is clear that this is not so. We must have a governmental agency charged by law with developing a system of social indicators or we will never have such a system.

Mr. President, for that reason I am hopeful the Senate will approve the pending measure, that it will soon be adopted by the House and sent to the President for signature.

U.S. SENATE,
Washington, D.C., September 10, 1973.

DEAR COLLEAGUE: We are writing to urge your support for S. 5, which would establish a Council of Social Advisers and require the President to submit an annual Social Report to the Congress. S. 5 is scheduled to come to a vote on the Floor Tuesday, September 11.

S. 5 was first introduced in 1967, and has been passed twice before by the Senate—in 1970 and 1972—after extensive hearings. S. 5 was reported by the Labor and Public Welfare Committee on July 18 of this year by a vote of 13–3.

The Council of Social Advisers S. 5 would establish is modeled after the Council of Economic Advisers, which has been the focal point of economic policy-making and coordination in the executive branch for more than a quarter of a century. Like the CEA, the new Council of Social Advisers would have three members, appointed by the President and confirmed by the Senate, and thus available to testify before Congressional committees.

The new Council would focus public and governmental attention on the social and human needs of the Nation. It would develop better measures of our needs in health, education, housing, job training, crime and drug abuse prevention, and other social areas, and analyze thoroughly the way in which our existing programs are meeting those needs.

The President's Social Report—modeled after the annual Economic Report—would be the occasion each year for the Executive, the Congress, and the public to look carefully at the social health of the Nation, and the effectiveness of our social programs.

No one in the Federal government is charged now with the responsibility for this kind of public and authoritative overall evaluation. Each agency now looks only at its small piece of the problem and is preoccupied with the day-to-day operation of its programs. Neither the Domestic Council nor the Office of Management and Budget report to the Congress or the public on their activities. They are designed principally to serve the executive branch, and their officials are not subject to Senate confirmation.

The Council of Social Advisers and the Social Report will benefit the Congress as well as the Executive, and will help to inform and educate the public on social issues. Congressional committees will hold hearings on the Social Report, as they do on the Economic Report, and perform their own independent evaluations of the issues and programs covered in the report. The new social indicators the Council is charged with developing will be available to Congress, making it possible for the Congress better to evaluate existing and proposed programs.

For your information, Title II of S. 5, which would set up a Congressional Office of Goals and Priorities Analysis, was deleted from the bill by its author, Senator Javits, on August 3, and reintroduced as an amendment to S. 1541, the Congressional Budgetary Procedures Act, for consideration by the Government Operations Committee, which is now seeking to implement the recommendations of the Joint Study Committee on Budget Control.

If you have any questions on S. 5, please do not hesitate to let us know or ask your staff to call Jim Verdier (Senator Mondale, x5641) or John Scales (Senator Javits, x7686).

With warm regards.

Sincerely,

WALTER F. MONDALE.
JACOB K. JAVITS.

The PRESIDING OFFICER (Mr. ABOUREZK). Who yields time?

Mr. TAFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. TAFT. The time to be equally divided——

Mr. MONDALE. Mr. President, would the Presiding Officer please tell me what the time situation is?

The PRESIDING OFFICER. The Senator from Minnesota has 22 minutes remaining, and the Senator from Pennsylvania has 37 minutes remaining.

Mr. MONDALE. I thank the Chair. I would be glad to agree to that time on the quorum call, but in no event should the time exceed 5 minutes from our side, if that is agreeable to the Senator from Ohio.

Mr. TAFT. That would be entirely agreeable to me.

Mr. MONDALE. Fine. As I understand it, then, the request is that the time will come out equally from both sides but in no event not more than 5 minutes from our side.

Mr. TAFT. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TAFT. 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. TAFT. Mr. President, I do not know what the ultimate disposition of this particular measure may turn out to be. Some discussions have been underway at the present time and I may make a motion later in the debate to refer S. 5 to the Government Operations Committee.

As I am sure Members of the Senate are aware, title II has already been stricken from the bill, leaving only title I.

As pointed out in the minority views signed by Senators DOMINICK, BEALL, and myself, we expressed opposition to the entire bill but especially we expressed opposition to title I as establishing a council of social advisers in the Executive Office of the President and requiring an annual social report.

We indicated that we believed the President is the one in the best position, as head of the executive branch, to determine whether he needs an additional council to assist him in establishing social goals and priorities to recommend to Congress. We feel that the administration is justified in opposing the creation of this additional bureaucratic layer in the executive office.

Three years ago, the President, through executive reorganization, established the Domestic Council to assist him in the coordination and overview of domestic policy. The Domestic Council has great potential to provide coordinated planning and policy data to the President, and the recent personnel and organizational changes implemented with regard to the Council should prove to be quite constructive.

We would also point out that the Office of Management and Budget is very active in policy planning and coordination within the executive branch, especially at the current time, when, as the President recently pointed out, one of our top priorities must be to determine what the proper fiscal course of this Government will be.

The creation of a Council of Social Advisers as proposed in S. 5 would overlap the functions of the Domestic Council, OMB, and other executive branch organizations and represent in reality nothing more than an unnecessary additional expense to the Nation's taxpayers.

Mr. President, I feel that it would be an infringement on the internal executive branch's organization. I see no reason why a council is necessary or is likely to contribute materially to the course of the governmental process.

With respect to the Domestic Council, we have the distinguished and extremely capable Melvin Laird who has taken over on that Council recently, with new personnel. We have had, this very week, a comprehensive 24-page message from the President citing the various programs establishing priorities as advanced by the Domestic Council. Also, of course, particularly as we are talking about budgetary restraints, that is a good reason for not enacting title I from that point of view. Title I would authorize $1,500,000 to be appropriated for that program for each of 3 years. In other words, I feel that this Council is completely unnecessary.

Let me proceed for a moment to a discussion of the procedural situation in which we find ourselves at this time.

Title 1 is the only remaining part of the bill, title 2 having been stricken by an amendment by the Senator from New York (Mr. JAVITS). At the same time, the Senator from New York (Mr. JAVITS) offered an amendment to a bill pending before the Committee on Government Operations, and that amendment is pending at the desk. It would have the

effect of bringing up the items in title 2 on that bill, when and if the bill comes to the floor.

As to title 1, I think it is clear that this measure properly should be considered by the Government Operations Committee and actually should have been originated by the Government Operations Committee. The rules of the Senate are quite clear that that committee has the responsibilities with regard to the matter of the organization of the executive branch of Government, and I feel that properly this measure ought to be there.

In due time, if others do not take such action, I expect, under the consent agreement we have before us, to move to refer the entire bill to the Committee on Government Operations. As I understand from the Parliamentarian, this would be in the nature of the motion to recommit which is referred to in the unanimous-consent agreement; and a vote would occur on it, unless other action is taken by the Senate, at 11:45 a.m., under the unanimous-consent agreement.

I think this would properly dispose of the measure at this time and put it on the right track for consideration as to whether any suggestions or questions are raised as to the current operation of the domestic council and the OMB that could be better provided for by looking at the proposals made in this measure. As I have said, I doubt it.

If I am constrained to vote on the measure at this time, I shall, of course, vote against it. The more orderly and proper procedure, it seems to me, is to refer it to the Committee on Government Operations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Does the Senator from North Carolina desire time?

Mr. ERVIN. Mr. President, will the Senator yield me 1 minute?

Mr. TAFT. I yield the Senator from North Carolina such time as he may desire.

Mr. ERVIN. Mr. President, I think this bill is clearly within the jurisdiction of the Committee on Government Operations. It would establish a council in the Office of the President, and for that reason the bill falls clearly within the jurisdiction of the Government Operations Committee. I hope the distinguished Senator from Minnesota will agree to a reference to that committee. I can assure him that we will hold a hearing on the bill immediately.

Mr. MONDALE. Mr. President, as I indicated to the distinguished Senator from North Carolina earlier, if it was his judgment that this is a matter which should be referred jointly to the Committee on Labor and Public Welfare and the Committee on Government Operations, I would have no objection; and if he felt it was a matter of exclusive jurisdiction, I might not object, either.

I am waiting now to consult Mr. JAVITS, the cosponsor of the measure. I hope only that the chairman could be in a position that some kind of expeditious treatment of this matter might be provided by the committee. I would not ask for a time agreement.

Mr. ERVIN. I assure the Senator that we would do all we could to give as speedy a hearing on the bill as possible.

Mr. MONDALE. Mr. President, as the chairman may know, the bill has been passed twice by a substantial margin, as I recall, and this is the third time it is being considered. This is the first time this particular question has been raised.

I do not feel too strongly about the proposal, but I would, first, like to speak with the minority cosponsor (Mr. JAVITS).

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MONDALE. 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. MONDALE. Mr. President, in conversation with my distinguished cosponsor, the Senator from New York (Mr. JAVITS), and the chairman of the Committee on Government Operations, the Senator from North Carolina (Mr. ERVIN), we have agreed that this matter can be referred to the Committee on Government Operations. The chairman, I believe, indicated he would be willing to agree to a 60-day reporting period.

I ask the sponsor of the amendment, the distinguished Senator from Ohio, if he could modify his amendment accordingly. If so, I think we can proceed on that basis.

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

Mr. MONDALE. I yield.

Mr. TAFT. Mr. President, I have not offered the proposal yet, but in view of that I will move to refer S. 5, the Full Opportunity and National Goals and Priorities Act, to the Committee on Government Operations, with instructions that the Committee on Government Operations is to report in 60 days, if that is agreeable to the chairman of the committee.

Mr. ERVIN. That is entirely satisfactory to me. The matter will be referred to the proper subcommittee. The cosponsor of the measure, the Senator from New York (Mr. JAVITS) is a member of the Committee on Government Operations. He is one of the most diligent members of the committee, and he renders extremely valuable services to the committee, the Senate, and the country in his capacity as a member of that committee.

Mr. MONDALE. I thank the distinguished chairman of the Committee on Government Operations.

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

Mr. MONDALE. I yield.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I think that the distinguished Senator from Minnesota (Mr. MONDALE) is well advised to agree to this resolution with a time limitation.

The Committee on Government Operations has under consideration right now a rather broad question of congressional machinery to deal with what are considered to be new responsibilities which have resulted from a new consciousness on the part of Congress and the President that the allocation of power, as it has been developed in recent decades—and certainly since World War II—is neither satisfactory to the United States nor to Congress. It is considering that in respect of impoundment; it is considering that in respect of congressional machinery to deal with priorities and objectives which have been so largely taken for granted in the executive budget.

It seems to me, therefore, that this effort to concentrate consideration across the board on the social aspects of our governmental operation—which although in the Executive hands would have its relation to the Congress—fits precisely within that pattern.

I am a member of the Committee on Government Operations, and have the honor to serve under the Senator from North Carolina (Mr. ERVIN). I wish to assure the Senator from Minnesota (Mr. MONDALE) that insofar as I can I will favor consideration of this matter in a very sympathetic way.

I have an idea that the way this matter ultimately will come out is that we will have a more complete framework than we have today and that the arch will have segments and I think hopefully this can be a segment of that arch.

I chose to strike title II of which I was the author from the bill because I saw so much under consideration by our committee. I would not for a moment counsel the Senator from Minnesota, but I think that although this will turn out perhaps not the optimum way to get this particular bill passed, it is the best way to have the idea made meaningful, and knowing the Senator from Minnesota as I do I feel that is what he wants primarily.

So I am pleased to see the resolution of the problem and I will do my utmost to cooperate.

Mr. MONDALE. Mr. President, I wish to add this point. I am agreeing to this referral without prejudice to any jurisdictional claims the Committee on Labor and Public Welfare may have on this matter or over such questions as confirmation.

Mr. President, I ask unanimous consent that a table indicating jurisdiction on similar matters on past occasions appear at this point in my remarks.

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

CONGRESSIONAL RESEARCH SERVICE

SELECTED UNITS OF THE EXECUTIVE OFFICE OF THE PRESIDENT WITH OPERATIONAL AUTHORITY AND SENATE LEGISLATIVE COMMITTEE INDICATED

EOP unit	Authority	Title (if any)	Senate legislative committee
Council of Economic Advisers	60 Stat. 24	Employment Act of 1946	Committee on Banking and Currency.
National Security Council	61 Stat. 496	National Security Act of 1947	Committee on Armed Services.
	63 Stat. 579	National Security Act Amendments of 1949	Do.
National Aeronautics and Space Council	72 Stat. 427	National Aeronautics and Space Act of 1958	Special Committee on Space and Aeronautics.
Office of Economic Opportunity	78 Stat. 508	Economic Opportunity Act of 1964	Committee on Labor and Public Welfare.
Office of Emergency Preparedness	Reorg. Plan No. 1 (1958) and E.O. 11051 (Sept. 27, 1962).	None	None.
Office of Science and Technology	Reorg. Plan No. 2 (1962)	do	Do.
Office of the Special Representative for Trade Negotiations.	E.O. 11075 (Jan. 15, 1963)	do	Do.
Council on Environmental Quality	83 Stat. 852	National Environmental Policy Act of 1969	Committee on Interior and Insular Affairs.
Office of Telecommunications Policy	Reorg. Plan No. 1 (1970)	None	None.
Council on International Economic Policy	Public Law 92-412	Export Administration Act Amendments of 1972.	Committee on Banking, Housing and Urban Affairs and Committee on Foreign Relations.
Office of Consumer Affairs	E.O. 11583 (Feb. 24, 1971) and E.O. 11595 (May 26, 1971).	None	None.
Special Action Office for Drug Abuse Prevention	Public Law 92-255	Drug Abuse Office and Treatment Act	Committee on Government Operations and Committee on Labor and Public Welfare.

Mr. MONDALE. Mr. President, I am prepared to yield back my time.

Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be taken equally from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unanimous-consent agreement with relation to the pending business be vitiated.

The PRESIDING OFFICER. Without objection, the order will be vitiated.

Mr. TAFT. Mr. President, I believe the pending question is now my motion to refer.

The PRESIDING OFFICER. The Senator is correct.

Mr. TAFT. Mr. President, I yield back any time I have remaining.

Mr. MONDALE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Chair will advise the Senate that there is no time limitation since the unanimous-consent agreement has been vitiated.

Mr. MANSFIELD. Mr. President, would the Presiding Officer have the motion read again for the benefit of the Senate?

The PRESIDING OFFICER. The clerk will read the motion again.

The legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) offers a motion to refer S. 5 to the Government Operations Committee with instructions to report back within 60 days.

Mr. MANSFIELD. Mr. President, is it understood that when it is reported back within 60 days, it will be immediately placed on the calendar?

The PRESIDING OFFICER. That is the understanding of the Chair. That is the usual procedure.

The question is on agreeing to the motion (putting the question).

The motion was agreed to.

APPOINTMENT BY THE VICE PRESIDENT—NORTH ATLANTIC ASSEMBLY

The PRESIDING OFFICER (Mr. ABOUREZK). The Chair on behalf of the Vice President, in accordance with Public Law 84-689, appoints the Senator from Alabama (Mr. SPARKMAN) and the Senator from Massachusetts (Mr. KENNEDY) to be delegates to the North Atlantic Assembly, to be held in Ankara, Turkey, October 21-27, 1973.

APPOINTMENT BY THE VICE PRESIDENT—GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

The PRESIDING OFFICER (Mr. ABOUREZK). The Chair, on behalf of the Vice President, appoints the Senator from Rhode Island (Mr. PASTORE) and the Senator from Utah (Mr. BENNETT) to attend the 17th session of the general conference of the International Atomic Energy Agency, to be held in Vienna, Austria, September 18-24, 1973.

APPOINTMENT BY THE VICE PRESIDENT—U.S. TERRITORIAL EXPANSION MEMORIAL COMMISSION

The PRESIDING OFFICER (Mr. ABOUREZK). The Chair, on behalf of the Vice President, in accordance with 48 Statute 967, appoints the Senator from Missouri (Mr. SYMINGTON) to the U.S. Territorial Expansion Memorial Commission, in lieu of the Senator from Idaho (Mr. CHURCH), resigned.

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 Presiding Officer (Mr. HUDDLESTON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1165. An act to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar", and for other purposes; and

S. 1672. An act to amend the Small Business Act.

The enrolled bills were subsequently signed by the President pro tempore.

INCREASE IN CERTAIN ANNUITIES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1866, which the clerk will now report.

The legislative clerk read as follows:

Calendar No. 335 (S. 1866), a bill to provide increases in certain annuities payable under chapter 83 of title V, United States Code, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Post Office and Civil Service with amendments, on page 1, line 7, after the word "than", strike out "twelve" and insert "12"; on page 2, at the beginning of line 10, strike out "thirty-six" and insert "9"; in line 14 after the word "Act" strike out "divided by the number of children; and" and insert a semicolon and "and"; at the beginning of line 17, strike out "twelve" and insert "12"; and, after line 20, strike out:

SEC. 3. (a) An annuity payable from the civil service retirement and disability fund to an annuitant as the result of a separation from service occurring prior to October 20, 1969, shall be increased by $240.

(b) An annuity payable from that fund to the surviving spouse of an annuitant, as the result of a separation from service of the annuitant occurring prior to October 20, 1969, shall be increased by $132.

And, in lieu thereof, insert:

SEC. 3. Section 8332(b) (9) of title 5, United States Code, is amended by striking out "8339(h)" and inserting in lieu thereof "8339(i)".

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 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) The annuity of an employee or Member retiring under this subchapter, or prior comparable provision of law, shall in no event be less than 12 times the smallest primary insurance amount (including any cost-of-

living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act. This subsection shall not apply to any individual receiving benefits under such title II."

SEC. 2. Section 8341 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The annuity of a survivor payable under this subchapter, or prior comparable provision of law, shall in no event be—

"(1) in the case of a surviving child, less than 9 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act; and

"(2) in the case of any other survivor, less than 12 times such primary insurance amount (including any such cost-of-living increase).

This subsection shall not apply to any individual receiving benefits under such title II."

SEC. 3. Section 8332(b)(9) of title 5, United States Code, is amended by striking out "8339(h)" and inserting in lieu thereof "8339(i)".

SEC. 4. This Act (other than section 3 and this section) shall become effective ninety days after its enactment. Increases in annuities provided by this Act shall apply with respect to a monthly payment of any annuity made for any month commencing on or after such effective date.

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. BURDICK. 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. BURDICK. Mr. President, I bring before the Senate for consideration, S. 1866, as reported by the Committee on Post Office and Civil Service. Hearings were held during the 92d Congress before the Subcommittee on Compensation and Employment Benefits on legislation I introduced similar to that presently before the Senate. Again, during this Congress, the annuity situation was reviewed before the same subcommittee. I think that a substantial record was built to justify the legislation as reported by the committee. I would like to thank the distinguished chairman of the full Committee on Post Office and Civil Service, Senator McGEE, my colleagues on the committee, and the staff for their diligent work in behalf of this and other legislation to benefit Federal retirees.

The bill before us proposes a minimum civil service retirement annuity equal to the social security minimum. Any individual receiving benefits under title II of the Social Security Act would be excluded from receiving the minimum civil service benefit established. The bill would also provide, in the case of a surviving child, that the monthly installment of annuity payable shall in no event be less than three-fourths of the minimum monthly amount allowed under social security. In the case of any other survivor, the monthly installment of annuity in no event shall be less than the monthly minimum allowed under social security. As my colleagues are aware, the present social security minimum payment is $84.50 per month.

S. 1866 further provides that the annuity for civil servants would change to reflect future increases in social security passed by Congress.

The committee estimates that the unfunded liability of the Civil Service Retirement Fund would be increased by $233.4 million, amortized by 30 equal annual installments of $14.5 million.

Mr. President, the intent of this legislation is to benefit those civil service retirees who need it the most. Cases have been presented to the Subcommittee on Compensation and Employment Benefits, which I chair, showing that workers with long Federal experience have retired on annuities far below the $84.50 minimum. For example, the National Association of Retired Federal Employees has told of a case in which a retiree with 23 years of service received $45 per month annuities. Another case showed a 27-year retiree receiving $75 per month, and yet another related the case of a 37-year Federal worker who now receives an annuity of $78. These people are asking for no more than subsistence—and bare subsistence at that—when they ask Congress for a minimum annuity equal to that provided others under the social security system. The committee felt that, by excluding from minimum annuities those receiving social security payments, the retired Federal workers who need help the most will be benefited. In other words, Mr. President, we are putting this retirement system on the same basis, in the same amount, and on the same footing as social security.

Mr. FONG. Mr. President, I rise to support the bill. It is a fair bill. This bill brings the lowest annuity of civil service retirees who are not receiving any social security retirement up to that of the minimum received by social security annuitants. I ask that the Senate pass the bill.

Mr. BURDICK. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and the committee amendments are considered and agreed to en bloc.

The bill is open to further amendment.

Mr. FONG. Mr. President, I suggest the absence of a quorum. The Senator from Florida (Mr. GURNEY) has an amendment to the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. 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. GURNEY. Mr. President, I call up my amendments numbered 448 to S. 1866, on behalf of myself and the Senator from Utah (Mr. Moss).

The PRESIDING OFFICER. The amendments will be read.

The assistant legislative clerk read the amendments as follows:

On page 2, at the end of section 2, insert the following new section 3:

"SEC. 3. (a) An annuity payable from the civil service retirement and disability fund to an annuitant as the result of a separation from service occurring prior to October 20, 1969, shall be increased by $240.

"(b) An annuity payable from that fund to the surviving spouse of an annuitant, as the result of a separation from service of the annuitant occurring prior to October 20, 1969, shall be increased by $132.".

Renumber subsequent sections accordingly.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. GURNEY. Yes, I yield to the distinguished acting majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Florida for yielding.

Mr. President, I have discussed the following request with him and with the distinguished manager of the bill (Mr. BURDICK) and the distinguished ranking Republican member of the committee (Mr. FONG). It is as follows:

I ask unanimous consent that the vote on the amendment by Mr. GURNEY occur at the hour of 2 o'clock p.m. today, and that upon the disposition of that amendment the Senate then proceed to vote on passage of the bill (S. 1866), and that rule XXII be waived.

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

ORDER TO CONSIDER H.R. 7724, TO AMEND THE PUBLIC HEALTH SERVICE ACT

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for one further request?

Mr. GURNEY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 1866 today, the Senate then proceed to the consideration of H.R. 7724, an act to amend the Public Health Service Act.

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

Mr. ROBERT C. BYRD. I thank the distinguished Senator for yielding.

INCREASE IN CERTAIN ANNUITIES

The Senate continued the consideration of the bill (S. 1866) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

The PRESIDING OFFICER. Does the Senator from West Virginia have a suggestion on the division of the time?

Mr. ROBERT C. BYRD. Yes, Mr. President. I ask unanimous consent that the time on the pending measure be equally divided between Mr. BURDICK and Mr. FONG, or their designees, and that time on the amendment be divided in accordance with the usual form.

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

Mr. GURNEY. Mrs. President, I ask unanimous consent that the name of Mr. TOWER, the Senator from Texas, Mr. DOLE, the Senator from Kansas, and Mr. RANDOLPH, the Senator from West Vir-

ginia be added as a cosponsor of my amendment.

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

Mr. GURNEY. Mr. President, first of all, I want to commend the Post Office and Civil Service Committee for bringing out this bill, which I think is desperately needed as far as our civil service retirees are concerned, to increase their pension benefits in some small way, to bring them up to equal what some of our social security recipients are receiving. That is what the bill would do. Certainly, the committee is to be commended for recognizing this need and for bringing out this bill.

I do think, however, that we ought to do something a little more, and that is what my amendment provides. What it actually does is provide that for civil service retirees who retired prior to 1969 there would be a flat $20 a month increase, or $11 a month for surviving spouses in case the recipient of a civil service pension did not live.

Actually, of course, these figures, translated to a yearly level, would be $240 a year in the case of a civil service retiree and $132 in the case of his or her surviving spouse.

The 1969 date is used, as it was in the original bill, because prior to 1969 Federal retirement benefits were based on the high 5-year earnings. Since that time the benefits are based on the high 3 years of earnings, so that persons who have retired since 1969 generally have higher pensions than people who retired prior to 1969, all other things being equal. Moreover, substantial increases in salary for current civil service employees have taken place since that time, thereby widening the gap between the older and younger retirees.

I firmly believe that the arguments in favor of my amendment are overwhelming. As I pointed out in a floor statement yesterday, Federal retirees have received only one-half of the benefit increases in recent years that social security retirees have received, and usually that has not taken place until several months after the increases for the social security recipients.

For example, in the fact of a 20-percent increase effective last September, for social security retirees, civil service retirees received a 6.1-percent increase in their pensions this past July. That certainly is a long way from a 20-percent increase that we awarded the social security recipients, but certainly the cost of living, rent, food, clothing, and all the other products that people have to have or desire to buy with their retirement income is just as high for a retired postal worker or some other retired Government worker as it is for a former factory worker or someone else who is receiving social security.

I might point out that in recent months a number of articles in the press have described the shameful manner in which Americans have treated their elderly over the years. A few months ago a CBS documentary entitled "You'll Get Yours When You're 65" compared the retirement systems in Europe with ours here in the United States. To say that our retirement systems are inferior is to put it mildly, to say the least. While we do have the highest standard of living of any nation in the world, higher than any other country in the world, we have not done nearly as well for our elderly people to partake in the abundance of our Nation's wealth. Those who are employed do, but those who are retired do not.

For example, let us take a look at some of the comparisons between the benefit increases for social security recipients in recent years versus the benefit increases for Federal retirees.

In January 1970, we increased social security by 15 percent.

In August 1970—and there again, I point out the time gap between what we did for the social security recipients and what we did for the Federal civil service retirees—we increased the civil service pension by 5.6 percent, as contrasted to the 15 percent for those social security recipients.

In January 1971, we gave a 10-percent increase in the payments to the social security recipients.

In June of that year—6 months later—we came up with a 4.5-percent increase for the civil service retirees.

In September of 1972—last year—of course, we had a 20-percent increase for the social security recipients. I think that is the largest increase that has been granted during the history of the Social Security Act. In July of that year we increased the civil service recipients by 4.8 percent. Later on, we came back in July of this year—but that was a year later—and increased the civil service retirees by 6.1 percent. However, that was still only a little better than half of the increase which we had given to the social security recipients in September of last year.

I do not think that this is at all fair. I do not think it is necessary. I think that the country has enough wealth and abundance so that we can treat our civil service retirees a little better. Certainly it seems to me that if we have a soft spot in our hearts for anyone as far as retirees are concerned, we ought to think of the Government employees, people who back up our work in the Congress and in the Senate. We call on them again and again for information to help us do our work in the Congress.

It seems to me that we at least ought to treat them on a fair and equal basis with the social security retirees. There is not much question that the retirement pensions of a great many of our people are really less than adequate for today.

I live in the State of Florida. Florida has the highest percentage of elderly retirees of any State in the Nation. And that percentage is growing all the time. I am thoroughly familiar with the problems they have. I cannot help remembering just a few weeks ago when Congress was in recess that I did some shopping in my hometown in some of the supermarkets. I would watch an elderly couple go down the aisle with their food cart and select the items they were going to buy for the next week, or for whatever period it was.

I watched them pick up a can or some package of food from the shelf, examine it carefully and read everything on the label. They would then take another can or package of food and examine it also to be sure that they would get the most for their money.

I watched them put a can or food package of some kind into the cart and go on with their shopping. On some occasions, I would see them back up and put the can or package back on the shelf, because they did not think that they could afford that particular food item.

Mr. President, when one sees people buying staples for their daily diet, items that those of us in the Senate would never question as far as price is concerned, it drives home the fact that the elderly today are hard-pressed to stretch their income enough to provide for them the bare necessities of life—food, shelter, and clothing—that they have to have.

As far as the civil service retirees are concerned, faithful Government employees who have given all of their working lifetime to the Government service, we ought at least to treat them a little better in this particular pension bill. We did a good job in bringing it up to the social security minimum. However, those who retired prior to 1969 certainly are not getting a fair shake compared to those who retired after 1969.

As I have said before, the retirement income prior to 1969 was based upon the average yearly salary of a period of 5 years. After 1969, it was based upon the highest yearly salary over a period of 3 years.

Obviously those who retired with a pension calculated on the basis of the highest annual salary over a period of 5 years receive less than those who retired with their pension based on their average salary based on a period of 3 years on that basis alone.

Then, another discouraging thing is that the longer one stays in the Government, the higher the salary becomes so as to take care of the cost of living. And that is not reflected in the retirement benefits at all.

I believe that Congress must proceed with this very modest increase of $20 a month or $240 a year so as to give those people who retired prior to 1969 a little fairer shake than they received at the time they retired.

Mr. President, I reserve the remainder of my time.

Mr. BURDICK. Mr. President, as the author of the pending bill, and as the floor manager of the bill before the Senate today, I find myself in a very unusual position.

When I introduced S. 1866 in the Senate, the very provision now sought to be added by the distinguished Senator from Florida was part of my bill. I cannot take issue with the arguments raised by the Senator, because I fully agree with him. However, the problem we face is not in the merits. The problem we face is in the budget.

The Civil Service Commission appeared before the committee and very strongly testified against not only the material stated in the Senator's amendment, but also against the entire bill based upon a matter of cost.

The testimony shows that the amend-

ment of the Senator from Florida would cost $1.935 billion over a 30-year period, or $119 million a year or more.

The minimum floor that was left in the bill would cost $233.4 million, or about $14.5 million a year over a 30-year period.

It was thought by the committee that we could better get the approval of the administration for the lesser amount, and that we might lose it all if we were to include the material suggested in the Senator's amendment. That is the rationalization for coming out with a minimum bill.

We should bear in mind that there are 70,000 annuitants in this country today who receive less than $84.50 a month. There are survivors of annuitants numbering 140,000 who will benefit by this minimum bill.

If we add this amendment to the bill, it might receive a veto and possibly we could not override it. However, then the 70,000 annuitants and the 140,000 survivors will have suffered loss of money they dearly need.

It is just a question of judgment. We believe that we can receive approval of the bill in its present form. And we are very apprehensive that it will not be approved if the amendment is agreed to.

As I said before, I am for the amendment. It was part of the bill when it was introduced in the first place. I have no arguments against it on its merits. However, I do on budgetary matters.

Mr. FONG. Mr. President, although there is some merit in the amendment of the distinguished Senator from Florida, I rise to oppose the Gurney amendment to S. 1866, a bill which as reported out by the Senate Committee on Post Office and Civil Service, establishes a minimum for Federal annuities.

The committee, after intensive discussion, decided to include in this bill provision only for a minimum or floor for annuities payable out of the Federal retirement fund. The minimum selected is the same as that payable under title II of the Social Security Act. At the present time this minimum is $84.50 per month.

The bill also provides that the minimum Federal annuity would change to reflect any future social security increases passed by the Congress. Any individual receiving benefits under title II of the Social Security Act would be excluded from receiving the civil service retirement minimum annuity benefit.

The cost of the bill as reported is $233.4 million. This cost would be amortized over a 30-year period by payments from the general treasury to the retirement fund—$14.5 million annually.

S. 1866, as introduced, contained an additional provision which would have given all Federal retirees who retired prior to October 20, 1969, a $240 per year increase in their annuities.

In other words, any retiree who retired prior to October 20, 1969, would be given $240 more a year, added to his annuity.

The October 20, 1969, date was selected, because that was the date when computations of Federal employee annuities were changed from a base of the average "high 5" salary to the average of the "high 3" salary rate.

During committee discussions on the measure which changed the base rate from "high 5" to "high 3" all Senators realized that a cutoff date had to be selected. It was decided that the change should be effective on the date of enactment and not be retroactive. It might be mentioned here that the change was necessitated by the keen competition for competent employees which was taking place then and continues to take place between Government and private industry.

To add to that, I wish to read from a letter from the U.S. Civil Service Commission dated June 6, 1973, addressed to Senator McGEE, a paragraph which explains why we changed from the "high 5" to the "high 3" computation.

The letter states:

These liberalizations and their cost—

Referring to the cost of using the "high 3" rather than the "high 5"—

can be justified because of the need to maintain the Government's competitive position in the labor market. This justification cannot be extended to employees already retired. Furthermore, the Federal Government has not, and in our opinion should not, adopt a policy of assuring its already retired employees that their benefits will be kept on a par with those available to employees currently retiring, taking into account increases in salary and liberalizations in the Civil Service Retirement law. Instead, as indicated above, the policy is one of providing annuities in amounts related directly to length of service and salary received and thereafter guaranteeing that the purchasing power of the "earned" annuity will be preserved by automatic upward adjustments in accordance with the rise in the cost of living as reflected by the Consumer Price Index.

When S. 1866 was being discussed in committee earlier this year, it was decided to strike from the bill being reported out the provision giving the $240-per-year annuity increase to all pre-1969 annuitants.

This decision was made on the basis of the consideration given in 1969 to making Public Law 91–93 prospective and not retroactive and the extremely high cost of the $240 provision.

The provision giving $240-per-year increase to all pre-1969 Federal annuitants—833,326 out of the total 1,192,465 persons on the Federal retired rolls—will cost almost $2 billion. Of the persons now retired, more than 70 percent were retired before 1969 and, if this amendment is passed almost three out of every four retirees will receive this increase of $240 per year. If this amendment is passed it will add another $2 billion to the unfunded liability of the Federal retirement fund.

At the present time the Federal retirement fund is $63.5 billion in deficit. Although Congress has provided for making up this deficit by the year 1980 it is still $63.5 billion in the red. Any liberalizations added for Federal annuities, increases this unfunded liability of $63.5 billion and increases the drain on the Federal Treasury.

If the $240 per year annuity increase provision was to become law the $2 billion cost would be amortized over a 30-year period with annual contributions of $119.9 million from the general treasury to the retirement fund.

In other words, we would take this money from the general treasury. However, if this provision is added to the bill, it would certainly run the real risk of a Presidential veto. In fact, the Civil Service Commission came before the committee and fought against this bill entirely—in other words, the Civil Service Commission was also against the bill as we have reported it here on the floor, which calls for an amortization of $14 million a year. If we add this $2 billion deficit to the $63.5 billion in arrears of the fund, it will surely be vetoed by the President.

The bill as reported out by the Post Office and Civil Service Committee is a bill that will help all of the Federal annuitants who are below the poverty level. These are the annuitants who need the help the most. This is what the committee intended to do. Adding the Gurney amendment to the bill is sacrificing these little people for a provision that will almost of a certainty bring a Presidential veto.

In referring to all Federal annuitants, the Congress in 1966 wrote into law the provision increasing Federal annuities whenever the cost of living index exceeded the base period by 3 percent for 3 consecutive months. Since the initial law was enacted the Congress has amended it to add a full 1 percent in addition to the cost-of-living increase figure.

Since 1966, Federal annuitants have received increases totaling 57.8 percent, because of the cost-of-living increase law.

That is the way the Congress intended to compensate the Federal annuitants—not with a $240 per year increase, which is far too expensive.

In view of the laws which have been passed increasing Federal annuities, the cost of the Gurney amendment, the current urgent need to exercise fiscal restraint in an anticipated deficit year, and a sure veto by the President if this amendment is passed, thereby killing the minimum annuitant provisions in this bill, I urge that the Senate approve S. 1866 as reported out by the committee and vote against the Gurney amendment.

Mr. GURNEY. Mr. President, I think we have some disparity in our figures here. My understanding is that the total cost of the bill with my amendment in it will be approximately $1.9 billion. If you take out the $233 million which the present bill supplies, that leaves the cost of my amendment, as I calculate it, about $1.66 billion, not $2 billion—not $2 billion. Then, of course, the other thing I think we must point out here is that the total overall bill of $1.9 billion will be amortized over a period of 30 years, which is a long time. It is not as though we are going to pick up that tab next year, but the $1.9 billion will be amortized out over a period of 30 years, with each year seeing a lessened amount of spending, because of the deaths which will occur to the older retirees.

So I do not think it is all that great big a thing. My record on economy in the

Senate equals that of any other Senator over the years. For that matter, it has been so in the 11 years since I came to Congress—House and Senate combined. Sometimes I have been called a total penny-pincher, but this is one area I do not believe in pinching pennies and that is in the retirement income area of our older people who need it and need it more desperately today than they ever have before. The way inflation goes on in this country today, each week, each month, shows a dwindling purchasing power, which of course affects the elderly segment of our society more than any other.

I have praised the merits of the bill that the committee has brought out. I did that in all sincerity and honesty and I still feel the same way. I also point out that my information is that this particular bill, so far as Federal civil service retirees are concerned, will affect only between 3, 4, and 5 percent of Federal civil service retirees—somewhere in that ball park figure. So the 95 percent, 96 percent, and 97 percent will not be affected at all. The only ones affected are those presently who are receiving only a civil service retirement pension that is less than the minimum paid to social security recipients. As I say, my information is that that is a very small percentage figure. We are not talking about helping many people.

I still go back to the same argument I made before: Why give these people any increase at all, even though it does cost us money?

Well, we do it because they are not being treated fairly and squarely in comparison to those who retired after 1969. To me, that is unconscionable, to retire a segment of employees prior to one year and give them retirement benefits less than those who retired after that year. I have never been able to understand that. I do not understand it in the military retirement system, either. It exists there, too. It seems to me that everyone should be treated on an equal basis.

So far as a Presidential veto is concerned, I must say that I am not worried about that too much. We can disagree with the President on occasion. I have done so myself, and so have other Senators on occasion. We will do so again. The thing we must think about here is, what is the fair and equitable thing to do? If we have to face a veto, we will face it and then come back and vote on it again.

I point out—and this is extremely important—that the information I get from retirement organizaions which encompass the bulk of retirees in this country, like the National Association of Retired Federal Employees, as well as the National Retired Teachers Association and the American Association of Retired People, is that all of these associations back this amendment 100 percent. They say that they would rather risk a Presidential veto than simply to get the rather limited benefits that are in the main bill, so far as the number of retired civil service employees is concerned.

So, I say, let us face the danger of a veto. We do not know whether we will get one or not. Ofttimes the 1600 Pennsylvania group of Government will make noises and try to discourage the Senate or the House from acting and then, after they have acted, those noises die away, just as the leaves in autumn.

I think that we can risk a veto here, if we feel in our minds that we are doing the fair and equitable thing—and I certainly think that we are.

Now, Mr. President, I am prepared to yield back the remainder of my time.

Mr. BEALL. Mr. President, the legislation currently under discussion, S. 1866, would provide for a minimum civil service retirement annuity equal to the minimum received by social security annuitants. As pointed out in the committee report, during the year 1971 over 70,000 Federal annuitants were receiving less than $84.50 a month, the current social security minimum. If our Nation's Federal retirees are to be equipped, at least in part, with the means necessary to meet the dramatic increases in the cost of living, this legislation must be enacted.

While I support passage of S. 1866, I strongly urge the adoption of Senator GURNEY's vital amendment to the legislation. This amendment, which I have cosponsored, would restore section 3 of the bill, which had been deleted by the Post Office and Civil Service Committee, to provide a $20 per month benefit increase for all those civil service employees who retired prior to October 1969 in an effort to aid those retirees who retired during the period of lower pay scales. In addition, those who retired prior to October, 1969 did not have the benefit of the liberalized retirement law which provided for a computation of annuities based on the 3 highest years rather than on the 5 highest years.

My contacts with the many Federal retirees throughout the State of Maryland certainly have indicated the necessity for a provision correcting the inequity which exists in this area and I am pleased to support Senator GURNEY in this effort.

PLIGHT OF OUR SENIOR ANNUITANTS

Mr. DOLE. Mr. President, I have joined as a cosponsor of the amendment to S. 1866 now offered by the senior Senator from Florida. This amendment would provide a $20 a month increase for pre-1969 civil servant annuitants, or an $11 a month increase for their surviving spouses.

The justice of such an amendment is obvious since it would merely authorize pre-1969 retirees from a position the same benefits that an employee retiring from that same position today would be eligible to receive. And though there are significant costs tied to passage of this amendment, they are set costs. The population eligible for benefits under this amendment cannot expand, and therefore, neither can the Federal Government's liability. The cost of the annuity increase will also be spread over a 30-year period, and thus it is obvious that the item will not become a budget buster.

In addition, there is little doubt as to the need for the annuity increase. Older Americans across the Nation who are dependent upon fixed annuity incomes or social security have suffered the most from inflation. Their cost of living continues to increase, yet their income is fixed subject to adjustment only by an act of Congress. I feel it is incumbent upon those of us in Congress to remain aware of these needs and to act not only to assure a decent income for these elderly citizens, but also to halt the rapidly rising inflation which is the real cause of the problem.

Opponents of the amendment have stressed its cost and emphasized the inflationary impacts of such Federal spending programs. Limiting Federal spending is one effective means of controlling inflation, but the spending limitations must be imposed in such a way that they are not equally disastrous to our older citizens as is inflation itself.

I support this amendment as one of several legislative efforts which they desperately need and deserve. I am hopeful that the amendment receives favorable consideration, and that Congres will give other legislative proposals such as the property tax relief for the elderly proposed by the President in his message to Congress yesterday prompt and positive consideration.

Mr. BURDICK. Mr. President, I am prepared to yield back the balance of my time, but I understand that the Senator from Alaska (Mr. STEVENS) has an amendment. If the Senator from Florida is prepared to yield back his time——

Mr. STEVENS. Mr. President, I do have an amendment which I should like to call up. I understand that the time of the Senator from Florida (Mr. GURNEY) will run until 2 p.m., inasmuch as there is an agreement to vote on the bill at 2 p.m.; is that not correct?

The PRESIDING OFFICER (Mr. HATHAWAY). The agreement is to vote on the Senator's amendment at 2 p.m.

Mr. STEVENS. Yes, and that the vote will occur immediately thereafter on the bill; is that not correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Would it not be in order to offer an amendment to be taken up in the meantime, if all time is yielded back on the Gurney amendment?

The PRESIDING OFFICER. It would take unanimous consent to do so.

Mr. GURNEY. Mr. President, I yield back the remainder of my time.

Mr. BURDICK. Mr. President, I yield back the remainder of my time.

Mr. FONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the Gurney amendment has now been yielded back.

Mr. STEVENS. Mr. President, I have an amendment at the desk and ask unanimous consent that I may be permitted to call it up at this time, with the vote on it to occur immediately after the vote on the Gurney amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered.

The amendment of the Senator from Alaska will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with, and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 1, line 3, after "That", insert "(a)".

On page 1, line 4, strike out "subsection" and insert in lieu thereof "subsections".

On page 2, line 2, strike out the quotation marks.

On page 2, between lines 2 and 3, insert the following:

"(p)(1) An employee retiring under this subchapter is entitled to have his annuity increased in accordance with this subsection, if the employee—

"(A) is residing, at the time of his entitlement to an annuity, in any State, territory, or possession of the United States in which employees are receiving an allowance under section 5941 of this title; and

"(B) has completed a period of at least 10 years service in one such State, territory, or possession.

"(2) Whenever an employee is serving in any State, territory, or possession in which employees are receiving an allowance under such section 5941, he may give notice in writing to the official by whom he is paid of his desire to become subject to this subsection. An employee satisfying the provisions of clauses (A) and (B) of paragraph (1) of this subsection may, at the time of retirement, give notice of his desire to become subject to this subsection. Upon giving any such notice, the amounts paid the employee as an allowance under section 5941 of this title shall be considered as basic pay for purposes of section 8334 of this title, except that deductions, contributions, and deposits made in accordance with such section 8334 shall not be made for any period after the first 10 years of total service in such States, territories, and possessions.

"(3) The provisions of this subsection shall not apply with respect to an employee, or survivor thereof, unless deductions or deposits (including interest), or both, have been made for such first 10 years of total service.

"(4) The amount of the increase in an annuity to which an employee is entitled under this subsection is the annuity of the employee computed under this section (other than this subsection) multiplied by the percent in effect under section 5941 of this title for that State, territory, or possession in which he resides at the time of retirement.

"(5) The amount of the increase in the annuity payable under this subsection shall be paid to the retired employee only for those full calendar months during which the annuitant resides in the State, territory, or possession in which he resided at the time of retirement."

(b) Section 8339 of title 5, United States Code, is further amended as follows:

(1) In subsections (j) and (k), strike out the phrase "subsections (a)–(i)" wherever it appears and insert in lieu thereof "subsections (a)–(i) and (p)".

(2) In subsection (l), immediately after "subsections (a)–(k)" insert the following: ", excluding any part of an annuity increased under subsection (p) of this section,".

(c) Section 8341, of title 5, United States Code, is amended as follows:

(1) in subsection (b)(1), strike out "section 8339(a)–(i)" and insert in lieu thereof "section 8339 (a)–(i) and (p)".

(2) In subsection (d) strike out "section 8339 (a)–(f) and (i) of this title and insert in lieu thereof "subsections (a)–(f) and (i) of section 8339 of this title, and subsection (p) of such section (if the employee had at least 10 years service in one State, territory, or possession of the United States in which employees received an allowance under section 5941 of this title and the employee died in such State, territory, or possession),".

(3) At the end thereof, add the following:

"(h) The amount that the annuity of a retired employee is increased as the result of section 8339(p) of this title shall not be included in computing the annuity of the survivor, widow, or widower under subsection (b), (c), or (d) of this section—

"(1) if the survivor, widow, or widower is not residing in the State, territory, or possession in which the employee resided at the time of retirement or death; and

"(2) commencing from the first day of the month in which the survivor, widow, or widower does not continuously reside in such State, territory, or possession after the date of retirement or death of the employee."

(d) Subsection (p) of section 8339 of title 5, United States Code (as added by subsection (a) of this section), and the amendments made by subsections (a) and (c) of this section shall apply to an employee (as defined in section 8331(1) of such title) and his survivors regardless of the date of retirement or death of the employee, except that the 10-year period of service for which deductions or deposits, or both, are required to be made shall be reduced by the period determined as follows: from the total number of months of service (not to exceed 120 months) that the employee was paid an allowance, prior to the effective date of this Act, under section 5941 of such title less the total number of months (not to exceed 120 months) that the employee was paid such allowance on and after such effective date.

Mr. STEVENS. Mr. President, at the time this bill was before the committee, I did indicate that I had a desire to discuss this question of the cost-of-living allowances. This amendment would correct a gross inequity in the civil service in Alaska, Hawaii, Puerto Rico, Guam, and any other areas which now or in the future are areas in which Federal employees may be eligible for cost-of-living allowances under section 5941 of title 5. These areas include stations "outside the continental United States," and also includes the State of Alaska, although that is within the continental United States.

These cost-of-living allowances were enacted many years ago by Congress to assist employees and to attract them to the Federal service in areas in which private industry created a great inducement and rendered the Federal service financially unattractive. They also enabled dedicated career Federal civil servants to be transferred to such areas with a high cost of living and to maintain a decent standard of living.

The cost of living in Alaska is still extremely high. Anchorage is the highest large city in the United States. Smaller towns in Alaska, particularly those north of Anchorage may be 50 percent higher. Fairbanks is much higher than Anchorage. Nome and Barrow are still higher. The cost of living in these parts of Alaska requires Federal civil servants be paid substantially more than those in the "Lower 48" just to maintain the same standard of living.

And that is not always possible. In many areas of Alaska severe cold plus relatively primitive conditions make it impossible to maintain a standard of living equivalent to a middle-class family in the "lower 48."

Although Alaska has the highest cost of living in the country, Hawaii is not far behind. I say to my good friend from Hawaii—Senator FONG—that I am aware that the fine city of Honolulu has the second highest cost of living of any major city. I am also aware of the higher cost of living in the other islands of the State of Hawaii.

This is the reason that Congress enacted section 5941. It gives the President the authority to establish in each such area the amount of any cost-of-living allowance. It sets a maximum of 25 percent of the basic pay of the employee. It does not require the amount—25 percent—be set in any area. Because of the extremely high cost of living in Alaska, the rate in my State is currently 25 percent. I understand it is significantly less—15 percent—in Hawaii. Section 5941 vests the discretion in the President to set the rate as he sees fit.

But even though section 5941 was enacted to attract Federal employees to the civil service in these high cost-of-living areas by increasing their take-home pay, the Federal Government has neglected another equally important aspect of the Federal salary problem.

This is the retirement benefits a Federal employee located in a high cost-of-living area can look forward to. Most unfortunately, there is no provision for an annuity program that will permit employees in these areas to contribute additional amounts to their annuity funds to enable them to receive annuities that will include funds sufficient to meet the high cost-of-living. There is no way now the dedicated civil servant who has put in 10 or more years in these extra high cost-of-living areas to retire, knowing that he will receive an extra cost-of-living allowance as an annuitant that will enable him to meet the high cost-of-living he will continue to face after retirement.

This has concerned us in Alaska for many years. In the 91st Congress I introduced S. 4243 to provide a cost-of-living allowance in Alaska to retired civil service employees. This bill was numbered S. 409 in the 92d Congress and was reintroduced as S. 191 in this Congress. This concept is embodied in my amendment.

My amendment has, however, been considerably revised at the suggestion of the Civil Service Commission and the Comptroller General. I shall discuss the details of these changes later in my discussion of the amendment.

This legislation will meet a very distinct problem in Alaska. It is a problem that was similar to the problem faced by the Federal Government during World War II in the then Territory of Alaska. A cost of living allowance was instituted in my State during the war by a number of agencies, one of which was the Post Office. To explain that concept, I would like to quote from the CONGRESSIONAL RECORD debates of February 2, 1948, as Congressman Farrington explained it:

The Postal employees of Alaska do receive this 25% differential. There is a long history behind the payment of that 25%. It arose out of the conditions that developed during the

War. I do not have the time to outline that now but it came about through the necessity of moving a great many people to those areas for the purpose of prosecuting the War and also because of the high cost of living in those areas.

We will shortly be seeing a similar influx of people in Alaska. They will be necessary to meet the critical energy needs of the United States and to construct the trans-Alaska pipeline. Many of them will bring with them their families and will become permanent residents of the State. Others will not, but all need government services—post office, fire protection, social services, law enforcement protection, et cetera.

Moreover, work must be provided for the families of these pipeline workers. Many of them are prime candidates for the Federal service. Many Federal agencies have offices in Alaska. These include the Federal Aviation Administration, the Bureau of Land Management and the Bureau of Indian Affairs just to name a few. Of course, the post office is a major federal employer in Alaska, and the post office has recently recorded a much higher turnover in the Anchorage and Fairbanks post offices than in comparable offices in the contiguous 48 States. One way we can assist the post office and other such Federal employers is to provide a good workable retirement system in Alaska. This will enable people to buy homes, make investments in the community, establish roots, particularly as they approach retirement age. Something must be done. We must do all we can to assure that the best employees remain in the Federal service in our noncontiguous States.

This concept will be highly acclaimed by Federal employees in the noncontiguous States. It will have an immediate and profound effect throughout the entire communities, in fact.

Although no action has been taken on the legislation I had introduced separately, I received a large number of letters from Federal employees in Alaska. I would like to quote from some of them.

One constituent writes:

Just last Friday I attended a retirement party for six of my brother locomotive engineers who are retiring (from the Alaska Railroad) and not one of them is going to retire here. You ask them why. They say they can't afford it. I work for the railroad. I am a locomotive engineer. December 1, 1973 I will start my twenty-fourth year on the railroad. I am proud of it. But will I be able to retire here? Not as things are now.

Another constituent writes:

I'm glad to see you are putting in a bill to increase our pensions for a 25% differential. I do not know if there is any hope for passage, but if so, it will mean the difference of my remaining or leaving Alaska.

I have now resided in Alaska for close to 36 years. This is my home. This is where my friends are and where I want to live. I love this country and would find it hard to pull out and leave. Living costs in Fairbanks are at least 35% higher than most places outside. My retirement income is going to be low. Even after working my pay only equals my living expenses. How can I continue on approximately one half of that? I will leave Alaska only because I will need to, to survive. Nothing else would drive me away.

Mr. President, the high cost of living and the low retirement benefits are literally going to drive her away. I would like to see her stay.

Yet another writes:

The cost of living here, of course, is such that a retired employee cannot afford to stay in Alaska once they are retired. This means selling a home and moving to a new location.

We are forcing our senior citizens to sell their homes and move thousands of miles away back to the mainland and the lower 48. This bill will help these people to retain the roots they have taken literally years to establish. It will help them to stay in their homes.

Yet another writes:

The logic behind a cost of living allowance for retirees is an old one: Like pay treatment for like circumstances. It certainly follows that if the need exists for one group of federal employees, it exists for another. Actually the need is greater with the retired employee. The way it works now, an employee in Juneau is entitled to a 25% cost of living allowance until he retires. The day he retires, his cost of living allowance is cut off and in most cases, he is forced to leave the state because of the high cost of living. This hardly seems fair.

This hardly seems fair to me either, Mr. President. Why should the Federal Government turn its back on its dedicated civil servants the day they retire? Why should they be entitled to a cost-of-living allowance before they retire but be denied one after they retire?

Still another constituent writes:

On or prior to August 1, 1974, I do plan on retirement, particularly as I did pass my 65th birthday last April. Your bill is very pertinent to my situation as I must make a number of decisions during the next 12 months concerning my future plans. Incidentally, at that time, I will have completed 33 years of federal service.

We have lived in Alaska since 1950 and have owned our own home in Anchorage since 1955. We would like to retain our residence in Anchorage if financially possible.

I would like to help my constituents retain their home, too. One of the only ways they can do so is if we pass this amendment today. It is that important.

Mr. President, I have just indicated the feelings of many of my constituents. But one of them, Mr. Quinto L. Zanona of Palmer, mirrors the feelings of hundreds of similarly situated Alaskans. He wrote me in December 1970. He stated that this bill is—

Without a doubt the most important document affecting the Alaskan white-collar Civil Service worker since the enactment of the 25% cost-of-living allowance back during the '40's when we were still under territorial status.

I ask unanimous consent that Mr. Zanona's letter be printed in the RECORD.

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

PALMER, ALASKA,
December 30, 1970.

Hon. THEODORE STEVENS,
U.S. Senator,
Washington, D.C.

DEAR SENATOR STEVENS: I am an active member of the American Federation of Government Employees, Lodge #1712, an 18-year resident of Palmer, Alaska, and a Civil Service Employee with over 29 years of Federal Service.

I am taking this opportunity to express my appreciation to you and once again go on record in support of Senate Bill S. 4243 which you sponsored and introduced on 14 August 1970. This Bill is without a doubt the most important document affecting the Alaskan White Collar Civil Service worker since the enactment of the 25% cost-of-living allowance back during the '40's when we were still under territorial status. Up until the day that Senate Bill S. 4243 becomes Law, Alaskans will continue to be forced to face the hardship of selling their homes and leaving Alaska upon retirement simply because they cannot afford to continue living here on present retirement annuity which is geared to the cost of living in the lower '48.

The need for passage of Senate Bill S. 4243 will become even more critical as we enter the 1972–73 time frame which will see the construction of the new petroleum pipeline, the attendant boom, and the inflationary spiral which will ensue.

Your efforts in support of Senate Bill S. 4243 are deeply appreciated and will be closely followed by all of us here in the Anchorage Area.

Respectfully yours,

QUINTO L. ZANONA.

Mr. STEVENS. Section 5941 vests discretion in the President to set the rate as he sees fit. Even though section 5941 was enacted to attract Federal employees into the civil service in these high cost-of-living areas by increasing their take-home pay, we have neglected this cost-of-living allowance. Basically, this is what this amendment addresses. It addresses the problem of the retirement benefits of a Federal employee located in a high cost-of-living area.

In those areas, while employed, Federal civil servants receive a 25-percent cost-of-living allowance. When they retire, their retirement pay is based on the civil service schedule and does not include the 25-percent cost-of-living allowance they received during their years of Federal employment. So that when they retire, they face the problem of what to do if they are to continue to live in the high cost-of-living area and yet receive their retirement pay based upon the civil service schedule, which is substantially below what they received during the period of their active employment. The obvious choice for many retired civil servants is to leave the place where they have been employed, where they have children in school, or they have all their friends, and to move to another area of the country where they can afford to live during their retirement years.

The amendment I have offered would provide a cost-of-living allowance to retired civil service employees. I introduced a previous bill on this subject, S. 409, in the 92d Congress, and I reintroduced the bill, which is S. 191, in this Congress. The concept of both those bills is involved in this amendment.

We have had comments from the Civil Service Commission and the Comptroller General concerning the bills I have introduced, and I feel that it is proper to note that they have commented upon this subject.

I also point out to Members of the Senate that we are not very far from commencing construction of the Alaska

pipeline. When the Alaska pipeline construction begins, all the costs in Alaska will go up. We know that we are going to have substantial inflationary pressures on our economy, and the problem these civil service employees face is going to be even worse after the pipeline construction starts, particularly as to those who have reached retirement age. As our cost of living goes above what it is now, I have no doubt that they will experience severe pressures to move from Alaska when they retire.

I hope the managers of the bill will accept this amendment and take it to conference for the purpose of discussing it with Members of the House and to get the viewpoints of the affected Government agencies concerning it.

We have a very difficult problem in Alaska for those people who retire and have been in civil service a sufficient length of time to retire. I think the only way to really deal with this problem is to extend the cost of living allowance to retirement benefits.

I have received strong support from the Alaskan Local No. 985 of the National Federation of Federal Employees and have also received the endorsement of the National Association of Retired Federal Employees. The NARFE states:

We have only a few members in Alaska but I would be for this legislation even if we had no members whatsoever.

This indicates the importance these organizations attach to this amendment. Although very few people are involved with this amendment and its scope is not very large, I think a point of equity is involved, one which I would like to see Congress adopt. The amendment contains a requirement that deductions be made for the first 10 years of a Federal employee's service in a high cost-of-living area; and it provides the flexibility that is needed in dealing with the subject, so far as the Civil Service Commission and the President are concerned in the exercise of their discretion under existing law.

I ask unanimous consent that letters from the National Federation of Federal Employees and the National Association of Retired Federal Employees be printed in the RECORD at this point.

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

LOCAL NO. 985 OF THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES,
Kodiak, Alaska, April 22, 1971.

Senator TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVEN: We want you to know that the members of Local 985 of the National Federation of Federal Employees strongly support Senate Bill S. 409 which you recently introduced. This is much needed legislation and we hope that it passes.

We are certain that many more retired employees would continue to live in Alaska if they received additional financial help in the way of a cost-of-living allowance after retirement. After all, if a cost-of-living allowance is necessary while an employee is still working, how much more so is it required after he retires with less income. Please do all you can to see that this bill passes.

We thank you sincerely for you help.

Sincerely yours,
MARY B. WALLACE, *Secretary.*

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,
Washington, D.C., March 2, 1971.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Thank you for your letter of February 26, 1971 and on behalf of my staff I apologize for having overlooked the introduction of S. 409. This is certainly the legislation I had in mind and in our April issue of Retirement Life magazine I will make special note of it because I think it is just and fair and should be granted to the people who would prefer to continue living in Alaska after retirement if they can financially afford to do so. We have only a few members in Alaska but I would be for this legislation even if we had no members whatsoever.

The National Association of Retired Federal Employees pledges full support to you, Senator, and let us all get together and see if we can persuade your committee to get together and approve S. 409.

With kindest regards, I am,

Most sincerely,
THOMAS G. WALTERS, *President.*

Mr. STEVENS. I would be happy to answer any questions the manager of the bill might have concerning the amendment. I apologize for not having discussed it with him other than briefly in the committee. I have not had the text of the amendment available, myself, until today, because we have been working on it, trying to make certain that it meets some of the objections raised by other people concerned.

Mr. FONG. Mr. President, as a Senator from Hawaii and representing constituents who would profit by this amendment, I find myself in a very ambivalent position. As the ranking minority member of the Senate Committee on Post Office and Civil Service and as one who has fought very strongly for the retention of the cost-of-living allowance for the State of Alaska and Hawaii and the outlying territories, such as Puerto Rico and the Virgin Islands, I find that my better judgment tells me that I should oppose this amendment although it would benefit some of my constituents.

I do not know whether the Senator recalls the very serious fight we had with respect to the retention of the cost-of-living allowance for Federal employees in those areas a few years ago. There was a time when we were almost denied the cost-of-loving allowance, and I hate to have this matter brought up again before Congress, to open that very sore question.

In my State, there are two categories of employees. One category consists of those known as the white-collar employees, who do receive a cost-of-living allowance of 15 percent. That cost-of-living allowance is adjusted every year according to the cost of living there as compared to that in Washington, D.C. The other category consists of the blue-collar employees who do not receive the cost-of-living allowance. Their salaries and their rates of pay are based upon the prevailing rates of pay in the community, and that is so with respect to all the blue-collar employees throughout the United States.

If this amendment is adopted, those who are not receiving a cost-of-living allowance now and who are blue collar workers will receive a cost-of-living allowance in their retirement pay, and those who have received a cost-of-living allowance while actually working will continue to receive a cost-of-living allowance during their retirement.

Many, many people who work in my State, who have come from other States to work, have received a cost-of-living allowance; but after their retirement, they have moved to other jurisdictions to live because of the high cost of living in Hawaii. Although I sympathize with them, although I feel that something should be done, I think this is not the way to do it.

I am afraid that this amendment would open up this question again.

So I oppose this amendment, on the ground that it would not be equitable to all retirees in these States who are not receiving a cost-of-living allowance while they are working and who upon retirement will receive a cost-of-living allowance.

So I am constrained to vote against the amendment, even though I find myself in a very ambivalent position.

Mr. STEVENS. Mr. President, I should like to comment on what the Senator from Hawaii has said.

I ask unanimous consent to have printed in the RECORD the comments of the Civil Service Commission, dated July 6, together with other correspondence submitted to the chairman of our committee, on the bill I submitted in the last Congress, S. 409, and the identical bill, S. 191, I introduced in this Congress. These bills contain the essence of my amendment, which should cure the major points argued against the bill by these agencies.

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

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., July 6, 1971.

Hon. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on S. 409, a bill "To amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as such retired employees continue to reside in Alaska, and for other purposes."

S. 409 would amend the Civil Service Retirement law to increase by 25 percent the annuity of retirees (and their survivors) who had performed at least 10 years of service in Alaska prior to separation and who continue, thereafter, to live there. The increased rate would remain in effect as long as they maintained their Alaska residence. Persons retired before as well as after date of enactment would be eligible for the increased rate, but the allowance could not be paid for any period prior to the first of the month after date of enactment.

Under 5 U.S.C. 5941, pay of employees stationed outside the continental United States or in Alaska may be increased by up to 25 percent of basic pay to take account of (1) living costs substantially higher than in the District of Columbia, or (2) substantially different conditions of environment than exist

in continental United States that warrant an allowance as a recruitment incentive, or (3) both factors. As a result, Federal employees in Alaska currently receive a 25 percent cost-of-living allowance.

The underlying purpose of this allowance is to attract people to Federal employment in Alaska and to retain them there. The same justification does not exist for increasing the annuities of former employees.

In addition to Alaska, similar allowances are made in other areas, for example, Hawaii and Puerto Rico; granting Alaska retirees higher annuity benefits would establish a precedent that would be cited by annuitants residing in these, as well as numerous other high cost-of-living areas, urging Congress to give them similar treatment. Furthermore, relative living costs do not remain static.

For these reasons, the Commisison opposes enactment of this bill.

The Commission estimates the enactment of S. 409 would increase the unfunded liability of the Civil Service Retirement and Disability Fund by $23.5 million. Under the provisions of section 8348(f) of title 5, United States Code, this would require direct appropriations to the retirement Fund of $1.2 million a year over the next 30 years.

If the Committee wishes to give favorable consideration to this bill, there are certain technical and conforming changes that should be made in the text. Our technical staff would be made available to advise on this, if the Committee so desires.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT E. HAMPTON,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 2, 1971.

Hon. GALE W. McGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on S. 409, "To amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as such retired employees continue to reside in Alaska, and for other purposes."

The bill would provide a 25% increase in the annuity of any Federal retiree (and his survivors) who retires in Alaska following separation, so long as he continues to reside there, and provided he performed at least 10 years of active service in that State.

In its report on this bill, the Civil Service Commission sets forth a number of reasons for opposing its enactment.

We concur with the views expressed by the Civil Service Commission and, accordingly, recommend against enactment of S. 409.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., July 27, 1973.

B-136898

Hon. GALE W. McGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of June 29, 1973, requests our views and comments on S. 191, 93d Congress, a bill "To amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as such retired employees continue to reside in Alaska, and for other purposes."

The bill provides that the annuities of retired employees who have performed 10 years of service in Alaska prior to separation and who, after the commencing date of their annuities continue to reside in Alaska, without break in time after their separation shall be increased by 25 percent so long as the retired employees continue to reside in Alaska. The 25 percent increase also would be applicable to the annuities of survivors of such employees.

Under present law the computations of civil service retirement annuities for Federal employees are based on the rates of basic pay of the employees. 5 U.S.C. 8331, 8339. Cost-of-living allowances are not considered as part of basic pay in computing retirement annuities. The retirement law also provides that deductions by employing agencies of a portion of the basic pay of employees, and equal contributions from the appropriations or funds used to pay the employees, shall be deposited in the Treasury of the United States to the credit of the fund used to pay the annuities of retired employees and survivors. 5 U.S.C. 8334. Therefore, no retirement deductions are made from cost-of-living allowances paid to Federal employees in Alaska or elsewhere.

The bill would afford preferential treatment to certain employees retiring in Alaska because they would receive an additional annuity which would not be based on their contributions to the retirement fund, and because it would not include other Federal employees outside of the contiguous 48 states who receive cost-of-living salary allowances. Although these considerations are matters of policy for determination by Congress, we generally have not favored legislation granting such preferences.

Section 5941 of title 5 of the United States Code, which authorizes a cost-of-living allowance for Federal employees in Alaska, provides that the allowance may not exceed 25 percent of the rate of basic pay and that the allowance shall be paid in accordance with regulations prescribed by the President establishing the rate of the allowance. If the Committee considers the bill favorably, it may wish to provide similar flexibility for establishing the rate of the cost-of-living allowance for the Alaska annuitants in question to permit a reduction in the allowance to the extent warranted by any future change of conditions in Alaska.

Civil Service Commission records show that on December 31, 1969, there were about 2,705,800 Federal employees in the United States, of which about 14,400 were stationed in Alaska; also, that on July 1, 1969, there were 1,265 employee annuitants and survivors who resided in Alaska and received monthly annuities totaling $287,198. We have not requested current statistics nor estimated the additional cost of providing the employee annuitants and survivors with the cost-of-living addition contemplated by S. 191. We understand, however, that the Commission has been requested to comment on the bill. We assume that the Commission, if it is practicable to do so, will include data in its comments relating to the additional costs which would result from enactment of the bill.

As a technical matter, the subsection to be added by the bill should be designated "o" instead of "n" because former subsection "m" of 5 U.S.C. 8339 was redesignated "n" by Public Law 92-297, approved May 16, 1972.

Sincerely yours,

E. H. MORSE, Jr.,
For the
COMPTROLLER GENERAL
OF THE UNITED STATES.

Mr. STEVENS. The objections raised by the Civil Service Commission were quite similar to those just mentioned by the Senator from Hawaii, and we have attempted to meet those objections. The Civil Service Commission has told the committee that they felt that it would not be fair to extend this cost-of-living adjustment to civil service retirement annuities just to those people who live in Alaska, although they recognize that retired civil service employees in Alaska have the most difficult problem. To meet that objection, we drafted this amendment so that it applies to all people who receive additional cost-of-living allowances while they are employed as Federal civil servants.

Mr. President, this amendment provides that the cost will be partially funded by deductions from the pay of the employed civil servants. The 25 percent would be treated as income for that purpose and their contributions would be made on the 25 percent cost-of-living allowance, just as they make it on their own salaries.

Previously when we raised this matter, I was asked about the cost and I was unable to state the cost. The Civil Service Commission has worked out the cost and even if the Federal Government paid the entire cost for all the people who are employees of the Federal Government in Alaska, the cost is $1.2 million a year. That is a reasonable figure. If it were contributed to by the employees, the cost would be very small to the Government.

We originally tried to limit this to Alaska; because those employees face problems on the basic costs of living in terms of heat, clothing, the cost of food, which is so high, that other people do not face elsewhere as retired employees. But to be fair, and to meet the agencies objections, we have expanded it to other cost-of-living areas.

This bill has been tightened up so far as eligibility standards are concerned. The employee must elect at the time he commences services in an area where there is a cost-of-living allowance to receive the cost-of-living retirement benefit. If he does not there would not be a deduction from his pay while he served in that area; but if he did serve the 10 years in the cost-of-living area and had the deductions taken from the allowance, he would be entitled to civil service retirement annuities based on his total salary that he contributed upon. I think this is basic fairness. I am sorry that my good friend from Hawaii sees fit to oppose the measure.

Mr. President, I raised this question once before and I did not pursue the amendment at that time because of the comments that were made concerning the problems of the bill we had offered and its scope. However, we have worked long and hard to try to get an amendment which would be acceptable to those who administer the fund. It would, as I said, cover Alaska, Hawaii, Puerto Rico, Guam, and other areas where the cost-of-living allowance is paid to people on the Federal payroll.

I hope my good friend from Hawaii will reconsider the matter. I wish to point out to him that one of the provisions we have placed in this amendment is the

so-called grandfather clause. Those people who have not contributed during the period of service but have the required time in the area would be entitled to retirement benefits under this amendment, but contributions would be required in the future from those who do to receive civil service annuity benefits on the cost-of-living allowance after the effective date of this bill.

I think we have tried to take care of the problems the Senator has raised. I think the proposal is as fair as we can make it if we are going to recognize the problem, and that is what I am asking, that we recognize the problem. A person who works a substantial portion of his life in a cost-of-living area, receives the 25 percent and then receives a retirement benefit which is based upon what would amount to 80 percent of his income, has no alternative but to move from a high cost of living area. We would like to keep our civil service employees in Alaska. That is where they have their investment in their lives and I think they have asked for nothing more than justice, so long as they are willing to contribute to retirement benefits.

Mr. BURDICK. Mr. President, I would like to accommodate my good friend from Alaska, but the distinguished Senator from Hawaii, my other good friend, indicates this is "a can of worms." There are a lot of unanswered problems. In conference a very difficult situation would develop in regard to the main purpose of the bill, and with this controversial addition it might not be beneficial to the final passage of the bill. Therefore, I hope my good friend from Alaska will permit this legislation to ride on its own weight. I am sure the committee would give it full consideration, but I would not like to have it added to the bill at this time.

Mr. STEVENS. I might say that I have previously discussed this legislation. I have had the proposal pending for 4 years and each time I pursue it I have the same problem. I hope that my two good friends agree to take this amendment to conference. Both Senators know we cannot get the people downtown to make sense about something until we show them we are in earnest. If there is a good chance that Congress is going to pursue this course, many times if an amendment is rejected in conference at least we make substantial progress in getting recognition of the problem.

We have tried to meet Civil Service objections in this amendment. I do not want to leave the impression that the Civil Service Commission supports the amendment, but if my friends would agree to this amendment and take it to conference, if the Civil Service Commission has further objection, we could meet those objections in further legislation and I would not object, if the Senators saw fit, if those objections were substantial enough, to delete the amendment from the bill. I am trying to get their attention on what I consider a serious problem for a few people. It has been very difficult to do because since I have been here and served on the Committee on Post Office and Civil Service, I have not been able to get them to recognize this as a substantial problem because it affects so few people and it is not something that most Federal employees are interested in. I really would prefer to call up the amendment unless we obtain some kind of understanding from the managers of the bill. I want to demonstrate that I am going to pursue this amendment in this type of legislation as long as I am here, until I get something worked out that will permit retired civil service employees to maintain their homes and families in the areas in which they work all their lives, or a substantial portion thereof.

Mr. FONG. Mr. President, in view of the history of the cost-of-living allowance discussion in Congress and in view of the fact that we are opening up something which may cause many of the employees in Hawaii to lose the cost-of-living allowance I certainly cannot consent to the amendment.

Mr. BURDICK. Mr. President, with a certain degree of reluctance I move to table the Stevens amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alaska.

The motion was agreed to.

Mr. BURDICK. 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. BURDICK. 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. HUMPHREY. Mr. President, I ask unanimous consent that following the vote on the Gurney amendment—at which time it is my plan to offer an amendment which I have lying at the desk—that I have 10 minutes on the amendment, 5 minutes to the side, and an equal amount of time on any amendment to the amendment, and that at the conclusion of that time, there be a vote on the Humphrey amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. FONG. Mr. President, reserving the right to object, I would like to say that the Humphrey amendment will deal with social security, a matter with which I am not familiar. I would rather have the minority member of the Finance Committee present to say whether he would agree to that.

Subject to that information, I ask the Senator to withhold his request until I contact the minority member from the Finance Committee.

Mr. HUMPHREY. Mr. President, I withhold my request.

Mr. President, whether I get the unanimous-consent request agreed to or not, I would not be foreclosed from offering the amendment. I can offer my amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. I can do so after the vote on the Gurney amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. Mr. President, the amendment speaks for itself. Therefore, debate can be limited to a brief period.

TIME LIMITATION ON S. 7724

Mr. ROBERT C. BYRD. Mr. President, upon the disposition of the pending bill, the Senate under the previous order is to proceed to the consideration of H.R. 7724. I ask unanimous consent that, on that bill there be a time limitation of 1 hour to be equally divided between the distinguished majority leader and the distinguished minority leader or their designees, that the time on any amendment be limited to 1 hour, that the time on any amendment to an amendment be limited to 30 minutes, that the time on any debatable motion or appeal be limited to 10 minutes, and that the agreement be in the usual form.

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

INCREASE IN CERTAIN ANNUITIES

The Senate continued with the consideration of the bill (S. 1866) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

Mr. HUMPHREY. Mr. President, I ask for some time on the Gurney amendment.

The PRESIDING OFFICER. All time on the Gurney amendment has been yielded back.

Mr. HUMPHREY. Mr. President, what are we going to do with the time between now and 2 o'clock?

Mr. BURDICK. Mr. President, I ask unanimous consent that the distinguished Senator from Minnesota may proceed for 3 minutes on the Gurney amendment.

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

Mr. HUMPHREY. Mr. President, I thank the distinguished Senator from North Dakota. The reason I rise now is to explain, with respect to the pending amendment by Senator GURNEY, the intent of the further amendment which I shall offer. I want to make sure that what I have in mind will not in any way endanger the passing of the pending bill, because the pending bill is needed.

Some time ago Congress acted to provide a social security increase of 5.9 percent. That action was based on the rising cost of living between June of 1972 and June of 1973.

The result of the conference between the two Houses made the effective date for the increase in social security payments, for all practical purposes, July 1, 1974. In other words, the first check that anyone would receive would be received on July 1, 1974.

Everyone in this body knows that between 1972, when the last social security increase was provided, and now, there has been a tremendous rise in the cost of living which has worked a severe hardship upon the elderly.

The purpose of the amendment that I will offer will be to make the date for the 5.9-percent increase effective imme-

diately upon the enactment of this pending legislation. In other words, there would not be a delay in the increased social security payment to June or July of 1974.

I think this delay would be wrong. It is cruel, and whatever anyone may say about the effect of the social security benefit increase upon the President's budget, let me say that the effect of inflation under economic policies of the administration upon the elderly people's budgets today, to provide for food costs and other items, is a tragedy. It is a personal tragedy.

Other Senators are interested in this matter. I note that my esteemed colleague from Idaho (Mr. CHURCH) has submitted a bill to provide a 7-percent cost-of-living increase in social security benefits effective January 1, 1974.

The amendment I am offering would facilitate immediate legislative action. We have already legislated 5.9 percent in line with the actual Consumer Price Index increase over the last fiscal year. The only item before us is to determine whether that would be effective on June 1, 1974, or on the date of the passage of the legislation before us. That is the purpose of my amendment. I hope it will be voted upon and given a positive, affirmative vote.

Mr. BURDICK. 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. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Gurney amendment.

The yeas and nays were ordered.

Mr. BURDICK. 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. HUMPHREY. 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. HUMPHREY. Mr. President, I ask unanimous consent that following the vote on the Gurney amendment which has now been ordered, I be allowed 2 minutes on the amendment I have pending at the desk.

The PRESIDING OFFICER. To be equally divided?

Mr. HUMPHREY. To be equally divided, with Solomon-like wisdom.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and 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. HUMPHREY. Mr. President, could we get the yeas and nays on my amendment?

The PRESIDING OFFICER. It would require unanimous consent to order the yeas and nays at this time.

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.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on my amendment at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and it is so ordered.

Mr. HUMPHREY. I ask for the yeas and nays.

The yeas and nays were 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 (Mr. HELMS). Without objection, it is so ordered.

Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to vote on the amendments of the Senator from Florida (Mr. GURNEY).

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 Florida (Mr. CHILES), the Senator from Utah (Mr. Moss), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. FANNIN) is detained on official business.

The result was announced—yeas 70, nays 20, as follows:

[No. 386 Leg.]

YEAS—70

Abourezk	Gurney	Montoya
Baker	Hart	Muskie
Bayh	Hartke	Nelson
Beall	Haskell	Nunn
Bellmon	Hatfield	Pastore
Bentsen	Helms	Pearson
Brooke	Hollings	Pell
Buckley	Huddleston	Proxmire
Burdick	Hughes	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Cannon	Inouye	Schweiker
Case	Jackson	Scott, Va.
Church	Javits	Sparkman
Clark	Johnston	Stevens
Cook	Kennedy	Stevenson
Cotton	Magnuson	Symington
Cranston	Mansfield	Talmadge
Dole	Mathias	Thurmond
Domenici	McClellan	Tower
Eagleton	McGee	Tunney
Eastland	McGovern	Williams
Ervin	McIntyre	Young
Fulbright	Metcalf	
Gravel	Mondale	

NAYS—20

Aiken	Curtis	Roth
Allen	Fong	Saxbe
Bartlett	Goldwater	Scott, Pa.
Bennett	Griffin	Stafford
Biden	Hansen	Taft
Brock	Hathaway	
Byrd, Harry F., Jr.	Hruska	
	Percy	

NOT VOTING—10

Bible	Long	Stennis
Chiles	McClure	Weicker
Dominick	Moss	
Fannin	Packwood	

So Mr. GURNEY's amendments (No. 448) were agreed to.

Mr. GURNEY. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY obtained the floor.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? The Senator has an important amendment, and he is entitled to be heard.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. HUMPHREY. Mr. President, I call up an amendment on behalf of myself and Senators PASTORE, MONDALE, MUSKIE, CHURCH, CRANSTON, DOLE, GURNEY, RIBICOFF, KENNEDY, and MCINTYRE.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HUMPHREY. 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 3, line 8, strike all after "section" and insert "and section 5)."

At the end of the bill add the following section:

"SEC. 5. (a) Subsections (a)(2) and(c)(2) of section 201 of Public Law 93-66 are amended by striking out "May 1974" each place it appears and inserting in lieu thereof "the effective month of this section".

(b) Section 201 of Public Law 93-66 is further amended by adding at the end thereof the following new subsection:

"For purposes of subsections (a)(2) and (c)(2), the effective month of this section is the month in which this subsection is enacted.".

Mr. HUMPHREY. Mr. President, I neglected to include the names of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) and the distinguished Senator from Nevada (Mr. CANNON) as cosponsors. I ask unanimous consent that their names be added.

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

Mr. HUMPHREY. Mr. President, under the unanimous consent agreement, there are 2 minutes on this amendment, to be equally divided. I will state my case very simply.

The purpose of this amendment is to make effective, immediately upon the enactment of the legislation before the Senate, the social security increase that was voted by Congress, which under the present law—Public Law 93-66—would become effective in June of 1974.

Old people need this cost-of-living increase. Frankly, it is less than they ought to have, 5.9 percent was the cost of living increase from June 1972 to June 1973. Since June 1973, considerably more has been added to the cost of living. After visiting my home State, I was impressed this August with the urgent necessity of this legislation, and I ask my colleagues in the Senate to give it their support. I ask all those who wish to cosponsor the amendment to add their names as cosponsors.

Mr. BENNETT. Mr. President, I will claim the minute in opposition, in the absence of the chairman of the Committee on Finance, which has not had an opportunity to consider this matter.

The best estimate I can get is that this amendment would add $2 billion to this fiscal year, without any opportunity to get any of that back in increased revenue because the taxes to support it are not contained in the bill. While the present tax system might support it, it would be our grandchildren who would pay for this $2 billion. Since this would break the budget in this fiscal year by at least $2 billion, I think the amendment either should be rejected or should be referred to the Committee on Finance.

Mr. HUMPHREY. Mr. President, there is enough money in the trust fund to take care of this. Further trust fund receipts will also result from the previous enactment of an increase in the social security tax wage base to be effective in 1974.

This amendment is desperately needed by the people. We should not be misled by arguments about the budgetary impact of a social security benefit increase. We are going to take some money from other items that are not needed in this budget, and we are going to give the money to the people who need it.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from Minnesota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Indiana (Mr. HARTKE), the Senator from Utah (Mr. Moss) and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE), and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 59, nays 31, as follows:

[No. 387 Leg.]

YEAS—59

Abourezk	Biden	Byrd, Robert C.
Aiken	Brooke	Cannon
Bayh	Burdick	Case
Church	Humphrey	Pastore
Clark	Inouye	Pearson
Cranston	Jackson	Pell
Dole	Javits	Percy
Eagleton	Johnston	Proxmire
Eastland	Kennedy	Randolph
Ervin	Magnuson	Ribicoff
Fulbright	Mansfield	Schweiker
Gravel	Mathias	Stafford
Gurney	McGee	Stevens
Hart	McGovern	Stevenson
Haskell	McIntyre	Symington
Hatfield	Metcalf	Talmadge
Hathaway	Mondale	Tunney
Hollings	Montoya	Williams
Huddleston	Muskie	Young
Hughes	Nelson	

NAYS—31

Allen	Cook	McClellan
Baker	Cotton	Nunn
Bartlett	Curtis	Roth
Beall	Domenici	Saxbe
Bellmon	Fannin	Scott, Pa.
Bennett	Fong	Scott, Va.
Bentsen	Goldwater	Sparkman
Brock	Griffin	Taft
Buckley	Hansen	Thurmond
Byrd, Harry F., Jr.	Helms	Tower
	Hruska	

NOT VOTING—10

Bible	Long	Stennis
Chiles	McClure	Weicker
Dominick	Moss	
Hartke	Packwood	

So Mr. HUMPHREY's amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. BURDICK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on passage. The Clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Utah (Mr. Moss), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE), and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 71, nays 19, as follows:

[No. 388 Leg.]

YEAS—71

Abourezk	Allen	Bayh
Aiken	Baker	Beall
Bellmon	Hart	Mondale
Bentsen	Hartke	Montoya
Biden	Haskell	Muskie
Brooke	Hatfield	Nelson
Buckley	Hathaway	Pastore
Burdick	Hollings	Pearson
Byrd, Harry F., Jr.	Huddleston	Pell
	Hughes	Percy
Byrd, Robert C.	Humphrey	Proxmire
Cannon	Inouye	Randolph
Case	Jackson	Ribicoff
Church	Javits	Schweiker
Clark	Johnston	Scott, Va.
Cook	Kennedy	Sparkman
Cranston	Magnuson	Stafford
Dole	Mansfield	Stevens
Domenici	Mathias	Stevenson
Eagleton	McClellan	Symington
Eastland	McGee	Talmadge
Ervin	McGovern	Tunney
Gravel	McIntyre	Williams
Gurney	Metcalf	Young

NAYS—19

Bartlett	Goldwater	Saxbe
Bennett	Griffin	Scott, Pa.
Brock	Hansen	Taft
Cotton	Helms	Thurmond
Curtis	Hruska	Tower
Fannin	Nunn	
Fong	Roth	

NOT VOTING—10

Bible	Long	Stennis
Chiles	McClure	Weicker
Dominick	Moss	
Fulbright	Packwood	

So the bill (S. 1866) was passed, as follows:

S. 1866

An act to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) The annuity of an employee or Member retiring under this subchapter, or prior comparable provision of law, shall in no event be less than 12 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act. This subsection shall not apply to any individual receiving benefits under such title II."

SEC. 2 Section 8341 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The annuity of a survivor payable under this subchapter, or prior comparable provision of law, shall in no event be—

"(1) in the case of a surviving child, less than 9 times the smallest primary insurance amount (including any cost-of-living increase added to that amount) used as a basis for determining the amount of benefits payable to individuals from time to time under title II of the Social Security Act; and

"(2) in the case of any other survivor, less than 12 times such primary insurance amount (including any such cost-of-living increase).

This subsection shall not apply to any individual receiving benefits under such title II."

SEC. 3. (a) An annuity payable from the civil service retirement and disability fund to an annuitant as the result of a separation from service occurring prior to October 20, 1969, shall be increased by $240.

(b) An annuity payable from that fund to the surviving spouse of an annuitant, as the result of a separation from service of the annuitant occurring prior to October 20, 1969, shall be increased by $132.

SEC. 4. Section 8332(b)(9) of title 5, United States Code, is amended by striking out "8339(h)" and inserting in lieu thereof "8339(i)".

SEC. 5. This Act (other than section 3 and this section and section 6) shall become effective ninety days after its enactment. Increases in annuities provided by this Act shall apply with respect to a monthly payment of any annuity made for any month commencing on or after such effective date.

SEC. 6. (a) Subsections (a)(2) and (c)(2) of section 201 of Public Law 93-66 are amended by striking out "May 1974" each place it appears and inserting in lieu thereof "the effective month of this section".

(b) Section 201 of Public Law 93-66 is further amended by adding at the end thereof the following new subsection;

"For purposes of subsections (a)(2) and (c)(2), the effective month of this section is the month in which this subsection is enacted."

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL RESEARCH SERVICE AWARDS AND PROTECTION OF HUMAN SUBJECTS ACT

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the Chair lays before the Senate H.R. 7724, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 7724) to amend the Public Health Service Act to establish a national program of biomedical research, fellowships, traineeships, and training to assure the continued excellence of biomedical research in the United States and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to stike out all after the enacting clause and insert:

That this Act may be cited as the "National Research Service Awards and Protection of Human Subjects Act".

TITLE I—NATIONAL RESEARCH SERVICE AWARDS

SHORT TITLE

SEC. 101. This title may be cited as the "National Research Service Award Act".

FINDINGS AND DECLARATIONS OF PURPOSE

SEC. 102. (a) Congress finds and declares that—

(1) the success and continued viability of the Federal biomedical and behavioral research effort depends on the availability of excellent scientists and a network of institutions of excellence capable of producing superior research personnel;

(2) direct support of the training of scientists for careers in biomedical and behavioral research is an appropriate and necessary role for the Federal Government;

(3) National Research Service Awards should be the key element in the training programs of the National Institutes of Health and the National Institute of Mental Health.

(b) It is the purpose of this title, by consolidating existing research training and fellowship authorities into a single National Research Service Awards authority, to increase the capability of the National Institutes of Health and the National Institute of Mental Health to carry out their statuory responsibility of maintaining a superior national program of research into physical and mental diseases and impairments of man.

NATIONAL RESEARCH SERVICE AWARDS

SEC. 103. (a) Except as amended by this Act, the authorities of the Secretary of Health, Education, and Welfare to establish and maintain fellowships and traineeships for training in biomedical and behavioral research pursuant to sections 301 and 303 of title IV of the Public Health Service Act are repealed effective upon the date of the enactment of this Act.

(b) Part G of title IV of the Public Health Service Act (42 U.S.C. 201) is amended by adding after section 454 the following new sections:

"NATIONAL RESEARCH SERVICE AWARDS

"SEC. 455. (a) The Secretary, in consultation with the Directors of the National Institutes of Health and the National Institute of Mental Health, shall provide through the Office of the Director of the National Institutes of Health National Research Service Awards in the following manner:

"(1) The Secretary shall establish and maintain National Research Service Awards for—

"(A) biomedical and behavioral research at the National Institutes of Health and the National Institute of Mental Health, and

"(B) training at such institutes of individuals to undertake research in matters relating to the cause, diagnosis, prevention, and treatment of the disease or diseases to which the activities of such institutes are directed. Any references in this section to the National Institutes of Health and National Institute of Mental Health shall be considered a reference to the Institutes and their respective research institutes, divisions, and bureaus.

"(2) The Secretary shall establish and maintain National Research Service Awards for—

"(A) biomedical and behavioral research at non-Federal public and at nonprofit private institutions, and

"(B) training at such public and nonprofit private institutions of individuals to undertake such research.

"(3) No National Research Service Award (or grants made thereunder) may provide for support of residency training.

"(b)(1) No National Research Service Award may be granted under subsection (a) to any individual unless such individual provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the requirement of subsection (c)(1).

"(2) Applicants for National Research Service Awards must be sponsored by the accredited institution at which training shall be carried out (in accordance with regulations promulgated by the Secretary). The grants of National Research Service Awards by the Secretary under subsection (a) shall each be subject to review and approved by the appropriate advisory councils to the Institutes referred to in subsection (a)(1)(A) whose activities relate to the research or training under such awards or at which such training will be conducted.

"(3) The period of any National Research Service Award provided any individual under subsection (a) may not exceed three years in the aggregate unless the Secretary for good cause should waive the application of the three-year limit to such individual.

"(4)(A) No National Research Service Award may be granted by the Secretary under paragraph (1) or (2) of subsection (a) to any individual unless the individual has submitted to the Secretary an application therefor and the Secretary has approved the application. The application shall be in such form, submitted in such manner, and contain such information as the Secretary may prescribe by regulation.

"(B) National Research Service Awards granted under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependents allowances) for the recipients as the Secretary may determine necessary.

"(C) A National Research Service Award under subsection (a)(2) shall also provide for payments to be made to the accredited institutions at which programs for research or training for individual recipients of the National Research Service Award are conducted, for the cost of support services (including, but not limited to, a portion of faculty salaries, supplies, equipment, staff, general research support, and overhead) provided such recipients by such institution. The amount of such awards to such institutions shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs to the institution for establishing and maintaining the quality of biomedical or behavioral research and training programs at such institution.

"(5) Notwithstanding sections 103(a) and 106 of the National Research Service Award Act the Secretary shall maintain all existing commitments for research training grants and fellowships existing on the date of enactment of this Act but shall make no new commitments for research training grants and fellowships except as authorized by section 455 of this Act for National Research Service Awards.

"(c)(1)(A) Each individual who receives a National Research Service Award under subsection (a) shall in accordance with paragraph (2) of this subsection—

"(i) engage in health research or teaching at an accredited institution, or

"(ii) if authorized by clause (B) serve as a member of the National Health Service Corps (established under section 329) utilizing the specialty for which he has been trained, and for which such award was granted; serve in his specialty in private practice in a geographic area designated by the Secretary as requiring that specialty; or serve in his specialty as a member of a nonprofit prepaid group practice authorized for reimbursement under title XVIII of the Social Security Act, for a period computed as follows: For each year during which the individual receives a National Research Service Award the individual shall—

"(aa) engage in twelve months of health research or teaching at an accredited institution,

"(bb) if so authorized, serve in his specialty as a member of the National Health Service Corps for a period of twelve months,

"(cc) if so authorized serve in his specialty in such designated private practice area for a period of twenty months or

"(dd) if so authorized serve in his specialty in such prepaid group practice for a period of twenty months.

"(B) Any individual who—

"(i) received a National Research Service Award, and trained to provide health care directly to individual patients may, upon application to the Secretary, be authorized by the Secretary to serve in any capacity described in section (c)(1)(A)(ii) in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual to enable him to comply with the research or teaching requirement of this paragraph or if the Secre-

tary determines that such skills may be better utilized in another authorized capacity.

"(2) The requirements of paragraph (1) shall be complied with by any individual to whom it applies within a reasonable period of time, after the completion of such individual's National Research Service Award, as the Secretary shall by regulation prescribe. The Secretary shall by regulation prescribe the type of research and teaching in which individuals may engage to comply with such requirements and such other requirements respecting such research and teaching as he deems necessary.

"(3)(A) If any individual to whom the requirement of paragraph (1) is applicable, falls within the period prescribed by paragraph (2), to comply with such requirement, the United States shall be entitled to recover from such individual an amount equal to the product of—

"(i) the aggregate of (I) the amount of assistance provided to such individual under subsection (a), and (II) the sums of the interest which would be payable on such assistance if, at the time such assistance was provided, such assistance were a loan bearing interest at a rate fixed by the Secretary of the Treasury, after taking into consideration private consumer rates of interest prevailing at the time such assistance was provided and if the interest on each such assistance had been compounded annually, and

(ii) a fraction (I) the numerator of which is the number obtained by substracting the number of months equal to one-half the number of months of research or teaching performed by the individual in compliance with paragraph (1) from the total number of months in the period of research or teaching required to be performed by such individual by such paragraph, and (II) the denominator of which is a number equal to such total number of months.

Any amount which the United States is entitled to recover under this subparagraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this subparagraph on account of any assistance provided under this section is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury pursuant to clause (i) with respect to the assistance on account of which such amount is due the United States.

"(B) For purposes of subparagraph (A) the time at which assistance shall be considered as having been provided under subsection (a) to an individual shall, in the case of a National Research Service Award, be the date on which the National Research Service Award is awarded and shall, in the case of training, be the date on which such training was begun.

"(4)(A) Any obligation of any individual under paragraph (3) shall be canceled upon the death of such individual.

"(B) The Secretary shall by regulation provide for the waiver, reduction, or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(d) There are authorized to be appropriated to carry out the provisions of this section $207,947,000 for the fiscal year ending June 30, 1974."

"STUDIES RESPECTING BIOMEDICAL RESEARCH PERSONNEL

"SEC. 456. (a) The Secretary of Health, Education, and Welfare shall, in accordance with subsection (b), arrange for the conduct of ongoing studies annually to—

"(1) establish (A) the Nation's overall need for biomedical research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

"(2) assess (A) current training programs available for the training of biomedical research personnel which are conducted under the Public Health Act at or through the National Institutes of Health, the National Institute of Mental Health, and their respective research institutes, and (B) other current training programs available for the training of such personnel;

"(3) identify the winds of research positions available to and held by individuals completing such training programs;

"(4) determine, to the extent feasible, whether the programs referred to in paragraph (2)(B) would be adequate to meet the needs established under paragraph (1) if the programs referred to in paragraph (2)(A) were terminated; and

"(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

"(b)(1) The Secretary shall request the National Academy of Sciences to conduct such ongoing studies, required by subsection (a), under an arrangement under which the actual expenses incurred by such Academy in conducting such studies will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such studies.

"(2) If the National Academy of Science is unwilling to conduct one or more such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such studies and prepare and submit the reports thereon as provided in subsection (c).

"(c) The information required by subsection (a) pursuant to the studies thereunder shall be reported annually and the first such report is to be completed within the one-year period from the date of the enactment of this Act. Except for the first report, the reports on the results of such studies shall be annually submitted by the Secretary not later than January 31 of each year to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate.

"(d) National Research Service Awards shall be granted in any specialty only when the Secretary has certified, on the basis of evaluation of the study report required under subsection (c), that there is a need for additional manpower in that specialty. Such evaluation shall be completed within ninety days after submission of the first report as required under subsection (c).

"DEFINITIONS

"SEC. 457. (a) As used in this title of the Public Health Service Act, the term "residency training" means that medical training in an accredited institution where less than six months per year of training is devoted to research in a laboratory.

"(b) As used in this title of the Public Health Service Act, the term 'accredited institution' means a nonprofit institution designated by the Secretary to carry out the purposes of this Act.".

SEX DISCRIMINATION

SEC. 104. Section 799A of part H, title VII, of the Public Health Service Act, is amended by adding at the end thereof the following:

"In the case of a school of medicine which—

"(1) on the date of the enactment of this sentence is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

"(2) change is being carried out in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979."

FINANCIAL DISTRESS GRANTS

SEC. 105. Section 773(a) of the Public Health Service Act is amended by striking "$10,000,000" and inserting in lieu thereof "$15,000,000".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 106. (a) Section 308(b) of the Public Health Service Act is amended by striking out the words "in the United States and" wherever they appear.

(b) Section 301 of such Act is amended by striking subsection (c), by deleting the words "or research training projects" from subsection (d) and by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively.

(c)(1) Section 303(a) of such Act is amended by striking all of paragraph (1) and by striking the paragraph designation "(2)".

(2) Section 303(b) of such Act is amended by striking the words "paragraph (2) of".

(d) Section 402(a) of such Act is amended by adding the words "except for training in biomedical and behavioral research" after the word "training" in paragraph (3) and by striking paragraph (4) and by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(e) Section 407(b) of such Act is amended by adding at the end of paragraph (7) "no training stipends, fellowships, or carrier awards shall be made for training in biomedical or behavorial research."

(f) Section 408(b) of such Act is amended by adding after the words "training (including training for allied health personnel)" the words "except for training in biomedical and behavorial research."

(g) Section 412 of such Act is amended by striking paragraph (7).

(h) Section 413(a) of such Act is amended by striking paragraph (7) and redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(i)(1) Section 415(a)(2) of such Act is amended by adding in paragraph (C) after the word "disease," the words "Such programs shall not provide for training in biomedical or behavioral research."

(2) Section 415(b) of such Act is amended by inserting after the word "personnel," in paragraph (3) "except for training for biomedical and behavioral research".

(j) Section 422 of such Act is amended by striking paragraph (c) and by redesignating paragraphs (d) and (e) as paragraphs (c), (d), and (e), respectively, and by inserting in paragraph (e) as redesignated after the words "maintain traineeships," the words "except traineeships in biomedical and behavioral research."

(k) Section 434(c) of such Act is amended by adding at the end of clause (2), "such programs shall not provide for training in biomedical and behavioral research."

(l) Sections 433(a), 444, and 453 of such Act are amended by striking the second sentence of each section.

TITLE II—PROTECTION OF HUMAN SUBJECTS

SHORT TITLE

SEC. 201. This title may be cited as the "Protection of Human Subjects Act".

SEC. 202. The Public Health Service Act (42 U.S.C. 201) is amended by adding after title XI the following new title:

"TITLE XII—PROTECTION OF HUMAN SUBJECTS

"ESTABLISHMENT OF COMMISSION

"SEC. 1201. (a) There is hereby established within the Department of Health, Education, and Welfare, the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

"(b) The Commission shall be composed of eleven members who shall be appointed by the President from persons who are especially qualified to serve on the Commission by virtue of their training, experience, or background. The members of the Commission shall be appointed from the general public and from among individuals in the fields of medicine, law, ethics, theology, biological science, physical science, social science, philosophy, humanities, health administration, government, and public affairs.

"(c)(1) The President shall appoint, by and with the advice and consent of the Senate, one of the members to serve as Chairman and one to serve as Co-Chairman each for a term of four years at the time of appointment.

"(2) Of the persons designated under subsection (c)(1) at least, but no more than, one shall have conducted biomedical or behavioral research involving human subjects.

"(d) Not more than five members of the Commission shall be appointed who are or who have been engaged in biomedical or behavioral research involving human subjects.

"(e) The terms of each member shall be four years except that—

"(1) the members first appointed shall serve as designated by the President, three for a term of two years, four for a term of three years, and four for a term of four years; and

"(2) any member appointed to fill a vacancy occurring prior to expiration of such term shall serve only for the remainder of the term for which his predecessor was appointed.

"(f) In appointing the members of the Commission consideration shall be given to nominees from the National Academy of Sciences and other appropriate, independent, nongovernmental organizations.

"(g) No member shall serve for more than two full terms.

"(h) A vacancy in the Commission shall not affect the activities of the Commission and seven members thereof shall constitute a quorum. Appointed members may serve after the expiration of their terms until their successors have taken office.

"(i) Members of the Commission who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Commission compensation at rates equal to the daily equivalent of the annual rate in effect for GS–18 of the General Schedule, including traveltime; and all members while so serving away from their homes or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

"(j) The Secretary shall make available to the Commission such staff, consultants, experts, information, equipment, office space, and other assistance as it may require to carry out its activities.

"(k) The Commission shall appoint an executive director who shall serve full time and whose duty it shall be to administer the daily activities of the Commission. Such executive director shall be compensated at a rate equivalent to the annual rate for a person serving at the level of GS–18 of the General Schedule.

"DUTIES OF THE COMMISSION

"SEC. 1202. (a) The Commission shall—

"(1) undertake a comprehensive investigation and study to identify the basic ethical principles and develop guidelines which should underlie the conduct of biomedical and behavioral research involving human subjects and develop and implement policies and regulations to assure that such research is carried out in accordance with the ethical principles identified by the Commission in order to assure the full protection of the rights of the subjects of such research;

"(2) develop procedures for the certification of Institutional Review Boards;

"(3) develop and recommend to the Congress the implementation of an appropriate range of sanctions (and the conditions for their use) for failure of certified Institutional Review Boards to respond to Commission rules, regulations, and procedures;

"(4) develop and recommend to the Congress a mechanism for the compensation of individuals and their families for injuries or death proximately caused by the participation of such individuals in a biomedical or behavioral research program; and

"(5) develop and recommend to the Congress within one year after the date of enactment of this section an appropriate mechanism to broaden the scope of the Commission's jurisdiction in order to assure that all human subjects in biomedical and behavioral research programs, demonstrations, and activities are protected.

"(b) In fulfilling the mandate of subsection (a) the Commission shall, among other subjects, consider—

"(1) developing appropriate guidelines for the selection of human subjects for participation in biomedical or behavioral research projects;

"(2) the nature and definition of informed consent in various settings;

"(3) the role of assessment of risk-benefit criteria in the determination of the appropriateness of research involving human subjects;

"(4) the conditions and procedures by which appeal of an Institutional Review Board decision may be made to the Commission;

"(5) defining more precisely the boundary between biomedical and behavioral research involving human subjects and the accepted and routine practice of medicine;

"(6) evaluating and responding to, when appropriate, requests from the biomedical and behavioral research community and the public for clarification of particular ethical problems confronting society with regard to biomedical and behavioral research;

"(7) the need for variation in the review procedures carried out by the Institutional Review Boards;

"(8) evaluating and monitoring of the performance of Institutional Review Boards;

"(9) the question of conflict of interest in the performance of Institutional Review Board duties; and

"(10) conditions and procedures by which individual protocols may be referred to the Commission for decision.

Wherever there are duplications, overlaps, or conflicts, this title, and policies established by the Commission, and approved by the Secretary under this title, shall take precedence over existing Department of Health, Education, and Welfare policies governing biomedical and behavioral research involving human subjects.

"JURISDICTION

"SEC. 1203. The polices and procedures developed by the Commission pursuant to section 1202 shall to the maximum feasible extent be applied by the Secretary as appropriate to the delivery of health services in health service programs funded in whole or in part by the Department of Health, Education, and Welfare. Until such policies and procedures are developed, the provisions of section 1206(a), (b), and (c) of this title shall be applied by the Secretary as appropriate to the delivery of health services in health service programs funded in whole or in part by the Department of Health, Education, and Welfare.

CONSCIENCE AMENDMENT

"SEC. 1204. (a)(1) No individual shall be required to perform or assist in the performance of any portion of a health service program or research activity for which the provisions of this title are applicable, funded in whole or in part by the Department of Health, Education, and Welfare if such performance or assistance would be contrary to his religious beliefs or moral convictions.

"(2) No entity shall be required to make its facilities available for the performance of any health service program or research activity funded in whole or in part by the Department of Health, Education, and Welfare if such performance is prohibited by the entity on the basis of religious beliefs or moral convictions.

"(3) No entity may (A) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or (B) discriminate in the extension of staff or other services to any physician or other health care personnel solely because he performed or assisted in the performance of a lawful health service program or research activity for which the provisions of this title are applicable in an unrelated facility, or solely because he refused to perform or assist in the performance of such a health service program or research activity, in a facility controlled by such entity on the grounds that his performance or assistance in the performance of such health service program or research activity would be contrary to his religious beliefs or moral convictions.

"(b) The provisions of this title shall not be construed as superseding the provisions of section 601 (b) and (c) of this Act.

"INSTITUTIONAL REVIEW BOARDS

"SEC. 1205. (a) No institution may receive Department of Health, Education, and Welfare grants or contracts to conduct biomedical or behavioral research involving human subjects unless such institution has established an Institutional Review Board certified by the Commission.

"(b)(1) The members and the Chairman of such Institutional Review Boards shall be appointed by the chief executive officer of the institution in accordance with policies, regulations, and procedures of the Commission.

"(2) Such Institutional Review Boards must be composed of sufficient members (including religious leaders, persons schooled in ethics, and non-health-care professionals) with such varying backgrounds of competence as to assure complete and adequate review. No member of such Institutional Review Board shall be involved in either the initial or continuing review of an activity in which he has a conflict of interest as defined by the Commission, except to provide such information as may be requested by such Institutional Review Boards.

"(c) Each Institutional Review Board shall establish two subcommittees as follows:

"(1) a Protocol Review Subcommittee, which shall be responsible for approving, disapproving, or offering suggestions for modifications of protocols for experimental procedures;

(2) a Subject Advisory Subcommittee, which shall be primarily concerned with the protection of the rights of subjects of biomedical and behavioral research, and shall assure that human subjects are as well informed about the nature of the research as is reasonably possible.

"(d) The membership of the Institutional Review Board and its subcommittees established under this section shall be in accordance with regulations established by the Commission.

"(e) Nothing in this section shall prohibit or limit the authority of the Secretary to make grants or enter into contracts for biomedical or behavioral research prior to the promulgation of procedures under section 1202(a)(2).

"INTERIM PROVISIONS

"SEC. 1206. (a) Until such time as the certification of Institutional Review Boards has been established, each institution engaged in biomedical and behavioral research involving human subjects, shall determine that the rights and welfare of the subjects involved are fully protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained and that informed consent is to be obtained by methods that are adequate. Such informed consent shall be obtained in all but exceptional cases.

"(b) For the purposes of this section only, the term 'informed consent' shall mean the consent of a person, or his legal representative, so situated as to be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, or other form of constraint or coercion. Such consent shall be evidenced by an agreement signed by such person, or his legal representative. The information to be given to the subject in such written agreement shall include the following basic elements:

"(1) a fair explanation of the procedures to be followed. including an identification of any which are experimental;

"(2) a description of any attendant discomforts and risks reasonably to be expected;

"(3) a fair explanation of the likely results should the experimental procedure fail;

"(4) a description of any benefits reasonably to be expected;

"(5) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;

"(6) an offer to answer any inquiries concerning the procedures; and

"(7) an instruction that the subject is free to either decline entrance into a project or to withdraw his consent and to discontinue participation in the project or activity at any time without prejudicing his future care.

In addition, the agreement entered into by such person or his legal representative, shall include no exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, or to release the institution or its agents from liability for negligence. Any organization which initiates, directs, or engages in programs of research, development, or demonstration which require informed consent shall keep a permanent record of such consent and the information provided the subject and develop appropriate documentation and reporting procedures as an essential administrative function.

"(c) The term 'exceptional cases' as used in subsection (a) shall be strictly construed; shall permit the waiver only of those elements of consent listed in subsection (b) as may be justified by the circumstances of each case; and shall require the written concurrence in the acting physician's decision by at least two other licensed physicians not involved in the research project, unless in a lifethreatening situation, it is not feasible to obtain such concurrence.

"DUTIES OF THE BOARDS

"SEC. 1207. It shall be the duty of the Institutional Review Boards, established under section 1204, to—

"(1) establish local policies for the review of research sponsored in whole or part by the Department of Health, Education, and Welfare, consistent with the national guidelines promulgated under section 1202;

"(2) advise the Commission with regard to procedural modifications deemed necessary for effective research;

"(3) assume full responsibility to ensure that biomedical and behavioral research involving human subjects is carried out under the safest possible conditions with the fully informed consent of the subject (or his family) in a manner fully consistent with the ethical principles developed by the Commission;

"(4) seek the consultative services of the Commission on any decision, or for the provision of information needed to arrive at a decision; and

"(5) initiate, if appropriate, the referral of particular decisions to the Commission in accordance with regulations promulgated by the Commission.

"INSPECTIONS

"SEC. 1208. (a) The executive director in conclusion with the Secretary may at any reasonable time order the inspection by the appropriate agency of the Department of Health, Education, and Welfare of each institution involved in a biomedical and behavioral research program involving human subjects to deterimne if it is being operated in complaince with this title, and rules and regulations promulgated hereunder.

"(b) In the case of an institution inspected pursuant to this section, the inspection shall extend to all things therein (including records, files, papers, processes, controls, and facilities) bearing upon the conduct of the research in question.

"RECORDKEEPING REQUIREMENTS

SEC. 1209. (a) Every biomedical and behavioral research program operated under the jurisdiction of the Commission shall establish and maintain such records, make such reports, and provide such information as the Commission may reasonably require to enable it to determine whether such program is being conducted in compliance with the provisions of this Act and standards prescribed pursuant to this title and shall, upon request of an officer or employee designated by the Commission, permit such officer or employees to inspect, verify, and copy appropriate books, records, and documents relevant to determining whether such program is being conducted in compliance with standards prescribed pursuant to this section.

"(b)(1) The Commission shall not disclose any information reported to or otherwise obtained by it pursuant to this section which concerns any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, except that such information may be disclosed to other officers or employees of the Commission and of other agencies concerned with carrying out this section, or when relevant in any proceeding under this section.

"(2) Records compiled pursuant to this section which concern personal or medical information shall be confidential and may be disclosed only for the purposes and under the circumstances expressly authorized under paragraph (3) of this subsection.

(3)(A) If a person, with respect to whom any given record referred to in this section is maintained, gives his written consent, the content of such record may be disclosed to medical personnel for the purposes of diagnosis or treatment of such person, to governmental personnel for the purpose of obtaining benefits to which the person is entitled, and to such personnel as may be designated by the Commission for the purpose of carrying out this section.

"(B) If a person, with respect to whom any given record referred to in this section is maintained, does not give his written consent, the content of such record may be disclosed to medical personnel to the extent necessary to meet a bona fide medical emergency and to such qualified personnel as may be designated by the Commission for the purpose of conducting scientific or epidemiological research, but such personnel may not identify, directly or indirectly, any individual in any report of such record, or otherwise disclose identities in any manner.

"(4) The prohibitions of this section shall apply to records required to be maintained under this section concerning any individual notwithstanding any statute of limitations or other law which may apply.

"(5) Persons required by this section to maintain the confidentiality of records may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to disclose such records.

"(6) Any person who unlawfully discloses the contents of any record referred to in subsection (a) shall upon conviction be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

"REVIEW

"SEC. 1210. (a) In order to assess the efficacy of its policies and those of the Institutional Review Boards, the Commission shall annually evaluate its activities and duties under this Act by contract with a qualified, independent organization.

"(b) Not less than 1 per centum of the annual budget of the Commission shall be devoted to carrying out the purposes of subsection (a).

"PUBLICATION OF DECISIONS

"SEC. 1211. The Commission shall compile a complete list of decisions pertaining to programs under its jurisdiction and annually publish and distribute reports of important decisions. The Commission shall establish such channels of communication among Institutional Review Boards as it determines necessary to carry out its responsibilities under this Act.

"DEFINITIONS

"SEC. 1212. As used in this title the term—

"(1) 'Commission' means the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

"(2) 'Institution' means any person or entity (including Government departments or agencies) receiving Department of Health, Education, and Welfare support for biomedical or behavioral research involving human subjects.

"(3) 'Health service programs' means all programs administered by the Secretary except the Social Security Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC 1213. There are authorized to be appropriated to carry out the purposes of this title $3,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975."

AMENDMENT TO SPECIAL PROJECT GRANT AUTHORITY

SEC. 203. Section 772(a)(7) of the Public Health Service Act is amended by inserting immediately before the semicolon at the end thereof the following: ", or (C) providing increased emphasis on, the ethical, social, legal,

and moral implications of advances in biomedical research and technology with respect to the effects of such advances on individuals and society".

SEC. 204. That part G, title IV, of the Public Health Service Act, as amended by this Act, is further amended by adding at the end thereof the following:

"REVIEW OF GRANT AND CONTRACT AWARDS

"SEC. 458. The Secretary, after consultation with the Director of the National Institutes of Health and, where appropriate, with the Director of the National Institute of Mental Health, shall, by regulation, provide for the proper scientific peer review by assembled groups of qualified independent scientific experts of the review of all grants and for research and development contracts (except for grants under section 402(b) and 419(c) of this Act) administered by the National Institutes of Health or the National Institute of Mental Health, which will be awarded after the date of enactment of this section. Such system of scientific peer review shall be modeled after and shall utilize to the maximum extent possible appropriate peer review study section groups established by the National Institutes of Health or National Institute of Mental Health and shall be composed principally of non-Federal scientists and of no more than 20 per centum who are Federal employees in the scientific, biomedical, and behavioral research fields.".

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 205. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to XI" and inserting in lieu thereof titles I to XII".

(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title XII (as in effect prior to the date of enactment of this Act) as title XIII and by renumbering sections 1201 through 1214 (as in effect prior to such date) and references thereto as sections 1301 through 1314, respectively.

TITLE III—SPECIAL COMMISSION DUTIES

SHORT TITLE

SEC. 301. This title may be cited as the "Special Study of Biomedical Research Act".

SPECIAL STUDY

SEC. 302. Title XII of the Public Health Service Act is amended by adding after section 1213 the following:

"SPECIAL DUTIES OF THE COMMISSION

"SEC. 1214. (a) In addition to the duties prescribed under section 1202, the Commission shall undertake a comprehensive investigation and study of the ethical, social, and legal implications of advances in biomedical and behavioral research and technology, which shall include, without being limited to—

"(1) analysis and evaluation of scientific and technological advances in the biomedical services, past, current, and projected;

"(2) analysis and evaluation of the implications of such advances, both for individuals and for society;

"(3) analysis and evaluation of laws, codes, and principles governing the use of technology in medical practice;

"(4) analysis and evaluation through the use of seminars and public hearings and other appropriate means of public understanding of and attitudes toward such implications; and

"(5) analysis and evaluation of implications for public policy of such findings as are made by the Commission with respect to biomedical advances and public attitudes toward such advances.

"(b) The Commission shall make maximum feasible use of related investigations and studies conducted by public and private agencies.

"(c) The Commission shall transmit to the President and to the Congress, not less than once every twenty-four months, a report containing detailed statements of findings and conclusions of the studies conducted under subsection (a), together with recommendations for needed legislation or other appropriate action by public or private organizations or individuals.

"(d) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this section."

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. KENNEDY. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I ask unanimous consent that Eleanor Parker of my staff be accorded the privilege of the floor during the discussion and vote on this measure.

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

Mr. BEALL. Mr. President, I ask unanimous consent that David Rust of my staff be accorded the privilege of the floor during the discussion and vote.

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

Mr. KENNEDY. I ask unanimous consent that the staff members of the Senate Health Subcommittee, both majority and minority, have access to the floor during the consideration of this legislation.

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

Mr. KENNEDY. Mr. President, I rise to urge the enactment of H.R. 7724, the National Research Service Awards and Protection of Human Subjects Act, which was reported to the floor unanimously by the Labor and Public Welfare Committee on August 3, 1973. This is one of the most significant pieces of legislation to emerge from that committee. Its goal is to strengthen this Nation's biomedical research activities. It does this in two ways:

First, by providing a mechanism to assure that the biomedical researchers of the future will be trained in sufficient numbers and equipped with sufficient skills to assure the continuation of a research effort which is already preeminent in the world.

Second, it establishes a Commission for the Protection of Human Subjects of biomedical research—to be sure that the highest possible ethical standards and safeguards are employed in each research project involving human subjects.

It is no accident that this legislation combines support for biomedical research training and the establishment of a Commission for the Protection of Subjects of that research. While there is an urgent need to discover the causes of, and develop the cures for killer diseases such as cancer and heart disease, it is important those solutions not come at the expense of unwitting victims of biomedical research projects conducted without adequate safeguards.

I would like to summarize the major provisions of the two titles:

THE NATIONAL RESEARCH SERVICE AWARDS TITLE

It is generally conceded that the National Institutes of Health is the world's finest center for biomedical research. The Federal Government, through the Public Health Service, has been sponsoring the training of biomedical researchers since the Ransdell Act was signed on May 26, 1930. The training programs of NIH have grown in size and distinction since that time. In 1971, 18,000 trainees and fellows were supported by Federal funds.

With a record of over 40 years of excellence behind it, the NIH was justifiably shocked when the Office of Management and Budget made known that it was considering a drastic change in policy with regard to Federal support for the future biomedical researchers of this Nation. Before the biomedical researchers themselves knew that a battle was going on, the NIH had prepared a comprehensive document designed to rebut each of OMB's proposed changes. The NIH document concluded:

> The success, even the viability, of the Federal health effort will depend on the availability of excellent scientists and a network of institutions of excellence capable of producing superior research manpower.

When the President's 1974 budget proposals became public, the Nation's biomedical research community was stunned to learn of the proposed termination of the NIH fellowship and training grant programs. Nobel Laureate James Watson led the critics by describing the new administration policy as one of "sheer lunacy." As the magnitude of national opposition became clear, the administration, in a hearing before the Health Subcommittee, announced a change in position and proposed a fellowship program consisting of $30 million per year of new starts. The reaction from the biomedical research community was swift. John Cooper, president of the Association of American Medical College- stated:

> The proposal put forth by Secretary Weinberger indicates a lack of understanding of the process and system necessary to accomplish this purpose. This approach indicates a lack of understanding of the unique contributions that the training grant program has made to the advancement of education and research training in the biomedical sciences.

Mr. President, I ask unanimous consent that the full text of Dr. Cooper's letter be printed in the RECORD at the conclusion of my remarks.

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

[See exhibit 1.]

Mr. KENNEDY. The national research service awards title of H.R. 7724 has received overwhelming support from the Nation's biomedical research community. With the exception of the administration, no witness testified against it.

The title repeals existing research training grant and fellowship authorities and substitutes for them a single national research service award. These awards will be administered out of the Office of the Director of NIH. This con-

solidation of overlapping authority will provide the Secretary with greater flexibility in the administration of the program. The legislation requires that the Secretary "fine tune" the number of trainees in any given specialty area to the Nation's actual needs for additional manpower in those areas. Those needs will be determined by an ongoing study to be conducted by an independent, well-qualified organization like the National Academy of Sciences.

Another important innovation is the incorporation of a payback provision. This requires that all award recipients engage in a period of national service. This service may be as a biomedical researcher at a recognized university, as a member of the National Health Service Corps, in private practice in a designated medical shortage area or in a prepaid group practice. Options other than university research require special secretarial approval.

It should be noted that service awards will be given both to individuals—who must be sponsored by institutions—and to institutions themselves. This latter category is intended to offset the sizable costs incurred by an institution that is sponsoring a research training program.

Yesterday, my distinguished colleague, Senator MAGNUSON, drew national attention to the severe impact of the administration's proposed cutback on funding of nursing schools. I want it to be clear that this legislation is intended to include biomedical research training for nurses.

II. PROTECTION OF HUMAN SUBJECTS ACT

The Senate Health Subcommittee was both shocked and saddened by the testimony it received on abuses in the field of human experimentation. The sad facts concerning the Tuskegee syphilis study, the Montgomery sterilization cases, the use of DepoProvera for unapproved purposes, the unregulated performance of psychosurgery, are well known. The Protection of Human Subjects Act is designed to minimize the possibility of such events occurring again.

The legislation sets up a national Commission composed of scholars from a variety of disciplines, including ethics, philosophy, law, medicine and theology. This Commission will undertake a comprehensve investigation and study to identify the basic ethical principles which should underline the conduct of biomedical research involving human subjects. The Commission then has the authority to establish and implement policies designed to assure that biomedical research involving human subjects is carried out in accord with those principles.

If enacted, this Commission will become the first Government body whose sole responsibility is to protect human subjects of biomedical research.

It is interesting to note that this Nation's top biomedical researchers support this legislation. Dr. Albert Sabin, developer of the Sabin oral polio vaccine, summed up the consensus of testimony before the committee by saying: "This legislation is needed with no ifs, ands, or buts."

Whereas I believe that this Commission should have jurisdiction over all biomedical and behavioral research involving human subjects, this legislation is limited to programs sponsored in whole or in part by HEW. Significantly, the legislation does direct the Secretary to apply the principles and policies of the Commission to the maximum feasible extent to health services delivery programs, exclusive of the Social Security Act, which are funded in whole or in part by HEW.

The Commission is also directed to develop and recommend to the Congress a mechanism to broaden its jurisdiction so as to cover all participants in biomedical and behavioral research programs regardless of source of funding.

In addition, the Commission must undertake a comprehensive study of the impact of science and technology on the laws and social fabric of our society.

The Commission will operate through a series of certified local institutional review boards. Maximum flexibility has been built into the system so as to permit, wherever possible, local modification of national commission policies.

Part of the strength of the NIH has been its well-developed peer review system for all grants. When it became known that the administration was considering a drastic change in that system, the Nation's biomedical research community protested vehemently. This legislation puts into law for the first time, that NIH grants and research and development contracts must be subject to peer review. The legislation is designed to assure that existing peer review mechanisms be utilized to the maximum extent possible.

Mr. President, this Nation has had and must continue to have a biomedical research program second to none. It can have and it must have a system for the protection of human subject of research second to none. This legislation is designed to move forward on both fronts. The need for training the biomedical researchers of the future is clear. The events of the past several months have shown that it is equally urgent to develop a system to protect the human subjects of biomedical and behavioral research. I urge the prompt enactment of H.R. 7724.

EXHIBIT 1

ASSOCIATION OF AMERICAN MEDICAL COLLEGES,
Washington, D.C., July 9, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to you to express the deep concern of the Association of American Medical Colleges over the announcement by Secretary Weinberger concerning the future of the nation's biomedical research training program.

It is gratifying to us that the Administration has recognized that the national purpose requires Federal support for the training of biomedical scientists. Unfortunately, the proposal put forth by Secretary Weinberger indicates a lack of understanding of the process and system necessary to accomplish this purpose.

We have not had an opportunity to review the details of the Secretary's proposal, but it is our understanding that the Administration proposes to proceed with phasing out training grant programs and to support only postdoctoral students by direct fellowships. This approach indicates a lack of understanding of the unique contributions that the training grant program has made to the advancement of education and research training in the biomedical sciences.

The Secretary's proposal appears to neglect the fact that training for careers in biomedical research and teaching necessitates the provision of sites where special opportunities for learning advanced scientific knowledge and techniques are created by biomedical scientists working together to develop coherent, formal educational programs. His statement in fact implied that the trainees were being denied support because funds went to the institutions which prepare these special sites. It misses the whole point of developing institutional competence and excellence for the production process.

The Association wonders what types of training opportunities the Secretary envisions for the fellows he proposes to support. The resources for such training cannot be turned on and off in a capricious fashion. They are not available from other sources in the university or other Federal programs. Teams of skilled faculty and support personnel must be kept together over prolonged periods. They must be provided with the necessary equipment and supplies to develop and maintain their training programs. This can only be accomplished by providing stable funding to the institutions selected as training sites.

Furthermore, training grants have stimulated the faculty to develop more effective plans, both disciplinary and interdisciplinary, to provide students with the basic knowledge they require to do investigative work at the cutting edge of the biomedical sciences. This would be lost by a return to the apprenticeship training which is proposed under the Administration program.

Supporting the training sites solely through the mechanism of providing $3,000 per trainee per year will not permit the institutions to plan for or maintain ongoing, well organized training opportunities. Indeed, the amount proposed barely covers the cost of materials and supplies and is not adequate for supporting essential personnel. The Secretary's proposal, at best, will permit a few trainees to work with older scientists in an apprenticeship fashion. It will not promote the rigorous training of future investigators.

Limiting the support to postdoctoral students leaves completely unanswered the support of predoctoral students and medical students undertaking a combined program for the M.D.-Ph.D. degree. As we have previously stated, we believe it is essential that students at all levels seeking careers in teaching and research be provided adequate financial support during their education and training. They face the prospect of a lower income potential than those who prepare themselves for medical practice in residency programs for which they receive stipends. Faced with the necessity of incurring substantial debt to finance the full cost of their advanced training, many of these trainees would probably forego research careers, and opt to enter these more lucrative areas.

The proposed $90 million total support for biomedical research scientist training in future years is not enough. In 1972, Federal support of biomedical research training was $186 million. The manpower needs created by new research initiatives in cancer and heart and lung disease alone will require greater support than is now proposed. If promising research initiatives in other areas are to be pursued by creative, well-trained scientists, the absolute minimum investment by this nation must be at the level authorized by the Kennedy-Javits bill, S 2071.

The Association believes that the Administration's proposal will not assure the maintenance of our training capability which has reached such preeminence that it is the envy of every other nation. It will not provide the support for the further and continuing development of the structure of graduate medical education in the biomedical sciences to assure that we will maintain this level of excellence.

Mr. Chairman, the Association would like to thank you for this opportunity to comment on the Secretary's proposal, and would like to request that our comments be incorporated into the committee's record.

Yours truly,

JOHN A. D. COOPER, M.D.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. A parliamentary inquiry. Is there a time agreement?

The PRESIDING OFFICER. One hour on the bill and 1 hour on amendments.

Mr. KENNEDY. I would ask unanimous consent that it come out of my time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BEALL. 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. BEALL. Mr. President, on behalf of the distinguished Senator from Colorado (Mr. DOMINICK), I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BEALL. 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 the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 42, line 3, following the word, "disclosed", insert "(i)".

On line 4, change the comma following the word, "emergency", to a semicolon, strike the word, "and", and insert in lieu thereof "(ii)".

On line 9, following the word, "manner", change the period to a semicolon, and insert immediately thereafter the following:

"or (iii) if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the research program, and shall determine that the disclosure will not unduly interfere with the treatment of the patient or the conduct of the research program. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure. This section shall not supersede any other provision of federal law."

On line 14, change the word, "Persons", to "persons", and immediately prior thereto insert the following:

"Except as authorized under paragraph (3) of this subsection,".

Mr. BEALL. Mr. President, I understand that this amendment is acceptable to the manager of the bill, and that the Senator from Colorado (Mr. DOMINICK) has already talked to the manager about it.

Mr. KENNEDY. The Senator from Maryland is correct. The Senator from Colorado has spoken to us in the course of our deliberations during the markup of the bill, both in the executive session of the health subcommittee and in the full committee session.

At that time, the members of the committee understood what the Senator from Colorado was attempting to do, but his amendment did not have the language as precisely defined as we have it now. We are now in full support of this amendment.

I understand that the language here really incorporates the points being made by the Senator from Colorado and concerns the circumstances under which a court may inspect medical records. I have had an opportunity to examine the amendment. It is, I think, quite acceptable and I think it would be helpful.

Mr. JAVITS. Mr. President, I, too, have been consulted about this amendment of the Senator from Colorado, and it is agreeable to me to accept it.

Mr. BEALL. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. BEALL. Mr. President, I ask unanimous consent to have printed in the RECORD an explanation of the amendment.

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

EXPLANATION OF DOMINICK AMENDMENT TO H.R. 7724

This amendment would clarify section 1209 of the bill which deals with the confidentiality of records required to be maintained by HEW-funded research programs. Unless a participant in such research gives his consent, the bill as reported permits disclosure of records pertaining to him only in case of a "medical emergency", or where needed for "scientific or epidemiological research". Unless one of these two conditions is met, all records kept by the research program are absolutely privileged, and disclosure cannot be compelled in a judicial or administrative proceeding.

This amendment would permit disclosure of records in a third situation—where specifically authorized by a court upon a showing of "good cause". In determining "good cause", the court would be required to consider potential adverse effects on the research participant, the physician-patient relationship, and the research program, and could not order disclosure where it would interfere with medical treatment of the research participant or conduct of the research program. This language is taken from the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255, sec. 408(b)(2)(C)). It is intended to permit disclosure in situations such as a criminal or other judicial proceeding where there may be a strong need for certain records which are not protected by the physician-patient privilege. In order to assure that this language would not disturb confidentiality provisions applicable to other categories of research participants—such as those involved in drug programs, this amendment specifically provides that it shall not supersede any other provision of federal law.

The General Counsel for the National Institutes of Health has informally advised that this amendment would not adversely affect NIH-funded research, and that the bill as amended by this amendment would afford research participants greater protection with regard to confidentiality of records than they now have.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BEALL. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BEALL. 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 33, between lines 13 and 14, insert the following:

"(c)(1) In addition to its other duties, the Commission shall conduct a study and investigation of the employment of psychosurgery with a view to determining the number and types of cases, during the five-year period ending December 31, 1972, in which psychosurgery has been performed in all private and public hospitals in the United States, and of compiling an analysis, on a case-by-case basis, of a sufficient number of such cases (together with followup information thereon) to provide the basis for an objective scientific evaluation of psychosurgery performed during such period with regard to the types of psychosurgery so performed, the conditions for which it was performed, and the results thereof. The Commission shall, not later than two years after the date of enactment of this subsection, complete such study and investigation and shall, on the basis of the information gained therefrom, establish policies indicating the circumstances (if any) under which the performance of psychosurgery is appropriate.

"(2) During the period beginning on the date of enactment of this subsection and ending on the date the Commission establishes the policies required under the second sentence of paragraph (1), no Federal funds shall be expended, or available for expenditure, for the purpose of conducting, or providing assistance in the conduct of, any project or activity which consists of, or includes, the performance of psychosurgery; and during such period, no Federal facilities shall be available for the performance of psychosurgery or any project which includes the performance of psychosurgery. After such period (A) any Federal funds made available with respect to the performance of psychosurgery shall be made available only on the condition that all psychosurgery conducted with the assistance of such funds be conducted in accordance with policies established by the Commission, and (B) no Federal facility shall be available for the performance of psychosurgery which is not performed in accordance with such policies.

"(3) As used in this subsection, the term 'psychosurgery' means brain surgery on (A) normal brain tissue of an individual, who does not suffer from any pathological disease, for the purpose of changing or controlling the behavior or emotion of such individual, or (B) on diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure,

or ameliorate the effects of epilepsy; nor shall such term be construed to include electric shock treatments.

Mr. BEALL. Mr. President, this amendment, if adopted, would declare a 2-year moratorium on the use of Federal funds and Federal facilities in projects involving the medical procedures known collectively as psychosurgery or psychiatric surgery. This amendment will further direct the National Commission for the Protection of Human Subjects of Biomedical and Behavorial Research to undertake a comprehensive study of psychosurgery designed to determine the number and type of cases performed during the last 5 years in all public and private hospitals in the United States. I am further asking, Mr. President, that the Commission compile and analyze data on a sufficient number of cases to provide the basis for objective scientific evaluation of this surgical technique. This study, which will include follow-up information on an appropriate number of selected cases, is to be compiled within 2 years from the date of the enactment of this legislation. The Commission is directed to establish policies indicating the circumstances—if any—under which the performance of psychosurgery is appropriate.

This amendment is a modified version of Senate Journal Resolution 86, which I introduced on March 29, 1973, along with the senior Senator from Colorado (Mr. DOMINICK), the junior Senator from New York (Mr. BUCKLEY), the junior Senator from Virginia (Mr. SCOTT), and the senior Senator from South Dakota (Mr. MCGOVERN). The fundamental difference between Senate Journal Resolution 86 and this amendment is the nature of the study. Senate Journal Resolution 86 directed the Secretary to conduct the study and submit the recommendation and supporting information to the Congress which would then determine if a public policy should be established regarding this type of surgical technique. Since H.R. 7724 establishes a National Commission for the Protection of Human Subjects and Biomedical and Behavorial Research and invests it with the authority to establish policies regarding human experimentation, I thought it appropriate to modify my original legislation accordingly. Under the provisions of this amendment, Federal funds and Federal facilities will be withheld from the support of psychosurgery projects until the Commission completes its study and establishes a national policy. During the duration of the Commission's study, which is not to last longer than 2 years, the amendment establishes a temporary moratorium on the use of Federal funds or Federal facilities.

Mr. President, earlier this year the Health Subcommittee of the Labor and Public Welfare Committee held extensive hearings on the topic of human experimentation. During these hearings, it was clearly established that few, if any, meaningful controls exist to regulate the use of experimental drugs, new and untested medical devices, or experimental surgical techniques. For instance, DES—diethylstilbestrol—is a drug whose carcinogenic characteristics have caused the Food and Drug Administration to severely restrict its use in humans, while banning its use in cattle, but it continues to be widely used as a morning after contraceptive in college infirmaries, clinics, and so forth. It became obvious to the members of the subcommittee that once a drug has been approved, even on a very restrictive basis, it is virtually impossible to prevent it from being prescribed for other unrelated uses. The testimony went on to clearly indicate that the Department of Health, Education, and Welfare has no effective authority to control experimental medical devices, such as the "super coil" which is used to induce midterm abortions, or surgical techniques such as the ones we are discussing today.

These hearings made it increasingly obvious that the Federal Government would have to play a larger role in regulating medical research on humans. This amendment is designed to assert a responsible Federal role in one such area of medical experimentation.

During the 20 years between 1935 and 1955, a surgical technique known as lobotomy was widely practiced in this country and throughout the world. It is estimated that approximately 50,000 Americans underwent this radical surgical technique which produced extreme changes in personality, emotional disturbances, impairment of judgment, and a frequent lack of control of basic impulses. During his testimony before the Health Subcommittee, Dr. Bertram S. Brown, the Director of the National Institute of Mental Health, stated:

> Unequivocally, that no responsible scientist today would condone a classical lobotomy operation.

Mr. President, I do not wish to simplistically equate the more sophisticated psychosurgical techniques with the classical lobotomy, but I do believe that we should take reasonable and responsible steps designed to protect our citizens from these new and essentially experimental surgical procedures. The classical lobotomy, which permanently disabled tens of thousands of our fellow citizens, fell into disuse only after the American Medical Association, and the American Psychiatric Association all failed to take decisive action to bring this practice to an end.

In the context of the current situation, it is estimated that between 500 and 700 psychosurgical operations are performed each year in this country. Many psychosurgeons, including Dr. O. J. Andy, who testified before our Health Subcommittee, no longer consider this technique to be experimental. Thus, the potential exists for rapid expansion in the number of operations taking place each year, and I believe that the time has come for the Federal Government to assert itself in such a way as to insure that our citizens are not once again victimized by the specious promise of a quick and lasting surgical cure for mental illness.

Mr. President, during the remainder of my remarks, I will attempt to raise, for the consideration of my colleagues, some of the complex and largely unanswered questions that surround the practice of psychosurgery. In his testimony, Dr. Brown stated that:

> We need to know that answers to such questions as: What chemicals are responsible for transmission of nerve impulses within the brain and how do these chemicals control different forms of behavior? What chemical or physical changes occur when learning takes place or when a memory is recovered from the brain? What anatomical systems and what chemicals are responsible for aggressive behavior, sexual behavior, eating behavior, drinking behavior, and the common state of sleep and dreaming? How is the brain and central nervous system related to the autonomic nervous system which controls many life processes such as heart rate, blood pressure, and a wide variety of visceral functions? What happens to the behavior and cognitive processes of men when portions of the brain are damaged through accident, birth injury, malnutrition or disease? Can functions that have been lost through such disruption of the brain be recovered or taken over by other portions of the brain?

In response to a question, Dr. Brown stated that:

> We know much more about the functioning of the human brain today than we did 30 years ago—but we know very little of what we need to know.

I believe that this observation succinctly sums up the reasons for suspending Federal support to psychosurgical projects until such time as we have, at our disposal, the type of comprehensive information needed to make a valid policy decision. Dr. Brown reinforced this point when he stated:

> We have no reliable data on the extent of the practice of psychosurgery in this country, the types of patients subjected to this technique, or the after effects on patient behavior. The most systematic attempt (in this country) to assess the effects of psychosurgery on patient behavior and intellectual capacities was the Columbia-Greystone project which was conducted in 1954. Since then, many changes in psychiatric and medical practice have taken place: chemotherapy has dramatically changed the nature of the patient population in mental hospitals, and new surgical procedures have been introduced which are quite different from those studied by the Columbia-Greystone project. In order to make any specific recommendations for overseeing or controlling the clinical practice of psychosurgery a systematic survey of the field must be conducted—perhaps by one of the many professional societies and private foundations that have recently begun to focus on ethical issues in life sciences. We need to gather existing data available from patient histories and other sources which never come to our attention because they are not federally funded. In order to answer the "hard" questions, we must first find out what's going on.

Later on in his testimony, Dr. Brown sought to explain some of the problems confronting the Department of Health, Education, and Welfare with regard to human experimentation for medical purposes. He outlined the HEW regulations related to "informed consent" which cover only those cases involving Federal funds. It became clear during the course of these hearings that these guidelines are most often observed in the breach.

The observation of Dr. Brown were reinforced in a recent article entitled "Psychosurgery—Myriad Tough Questions" which appeared in the New York Times on March 18, 1973. In this article it was pointed out that psychosurgery raises some difficult questions. Is enough known about how the brain works to be

sure the surgery will have the desired effect and not interfere with otherwise normal responses and feelings? Or will those subjected to the refined techniques of modern surgery be "semivegetables" as were some patients who underwent the gross lobotomies of the decade past? How can it be demonstrated with certainty that the patient is unresponsive to more conservative treatment, especially if the patient is in a State institution where treatment is notoriously inadequate?

I might add, Mr. President, that a similar question might be directed to those cases involving small children. Many of the psychosurgeons, including one who testified before our subcommittee, perform surgery on children as young as 5 or 6 or 7 years of age. In fact, many of these children undergo multiple operations—sometimes numbering as high as five or six—until the desired effect is achieved. How can we be sure that the traditional forms of drug and psychiatric treatment have been exhausted when children this young are involved?

The ultimate question is probably what types of patients are considered to be acceptable candidates for psychosurgery. Targets are supposed to be depressed women, hyperactive children, drug addicts, alcoholics, epileptics, neurotics, psychotics, convicts. Targets are often blacks.

Typical patients include those who display what psychosurgeons refer to as "symptoms of abnormal behavior," such as emotional tension, anxiety, aggressiveness, destructiveness, agitation, distractability, suicidal tendencies, nervousness, mood changes, rage, stealing and explosive emotions. (Current Magazine—reprinted in the Baltimore Sunday Sun, March 23, 1973.)

The vastness of the range of potential psychosurgery patients is, in itself, a compelling reason for the Senate to give prompt and favorable consideration to the amendment I am introducing today. If we, as a Government, are going to make an error in judgment, then let it be on the side of caution—not on the side of haste. A very pertinent point was made by Dr. Willard Gaylin, president of the Hastings Institute, when he testified that 90 percent of the psychosurgical operations that are presently taking place would not occur if the proper guidelines and precautions were adhered to. This seems to me to be a very compelling argument for us to pursue at this time—a policy that will restrain and not encourage this type of experimental research. Dr. Breggin, who has emerged as a prominent spokesman in opposition to psychosurgery, expressed another area of concern when he summed up his views by stating that:

> The real issues are not scientific or technical. The real issues are moral, political, and spiritual. What is man—a machine, device, a space filled with molecules? Or is man a spiritual being, divine in origin, human in character, charged with life, with will, (and) with the ability to love. . . ? And how should man best live—under the control of others through behavioral modification, or to the best of his capacities within an environment that respects his freedom and his unique human and spiritual quality?

Mr. President, in conclusion let me say that the controversy surrounding psychosurgery has grown increasingly intense in recent months. I believe that the people are deeply distressed by the implications of a large-scale application of this surgical technique. Thus, the time has come for Congress to provide leadership in seeing that the Federal Government does not inadvertently promote the widespread use of an experimental surgical technique unless and until a more clearly defined public policy has been determined. The amendment I am offering today does not seek to preordain what that public policy should be, but it does mandate a pause in all Federal activities in this area until the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research has had an opportunity to compile, analyze, and act upon the vast amounts of existing data. Once this public policy has been established, I believe we can assure our citizens that maximum care has been taken to assure their safety.

Mr. President, the articles I have referred to in this statement and other supporting material were printed in the RECORD on March 29, 1973, when I introduced Senate Joint Resolution 86.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I hope the Senate will accept this amendment. We had testimony before the Senate Health Committee from Bert Brown, the head of the National Institute of Mental Health, who testified that there are great uncertainties about the impact of psychosurgery on the brain. The NIMH supports only one research program at the present time.

The thrust of this amendment, as I understand it, is to insure that any time Federal funds are made available for psychosurgery, the surgery will be performed under the highest ethical and the highest medical standards. That certainly is in complete conformity with the whole thrust and purpose of this commission and what the legislation intends to do.

So I think it will put this matter before the commission, and then at any time in the future, Congress will be able to review the actual results of the commission. Hopefully, we will be able to get the best possible minds in this country on the commission to consider this extremely important, complex, and difficult—yet, perhaps, hopeful—kind of medical procedure. It will not ban it as it pertains to the psychosurgery that has taken place. According to the testimony, approximately 500 operations a year are taking place at the present time, and I think some of them have taken place under very questionable circumstances. We had testimony that in some instances, it is even being practiced on children.

I think it would be wise for the Senate to accept this amendment. It is really one of the most challenging opportunities to which the commission can respond.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. BEALL. I yield.

Mr. COTTON. I find myself deeply interested in this debate, because I gather that the operation called a lobotomy is covered by this bill.

It happens that a member of my family had that type of operation 25 years ago, had been confined in institutions, was termed manic depressive, was suicidal, could not even have a knife and a fork. Even then, there was a great deal of controversy. Finally, in despair, we had the operation. It was an operation that changed the person's personality somewhat but in that case was extremely successful, so that the person is perfectly normal and has had a happy life for 25 years.

I have been told by many doctors that that operation is frowned upon now, that they felt it was too dangerous, and that the use of drugs is to take its place.

Let me ask this: Does this amendment affect shock treatments?

Mr. BEALL. It specifically excludes it. I will read the definition of psychosurgery.

The definition is as follows:

> The term "psychosurgery" means brain surgery on (A) normal brain tissue of an individual, who does not suffer from any pathological disease, for the purpose of changing or controlling the behavior or emotions of such individual, or (B) on diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure, or ameliorate the effects of epilepsy; nor shall such term be construed to include electric shock treatments.

Mr. COTTON. The amendment offered by the distinguished Senator from Maryland would give this commission full power to regulate, without coming back to Congress?

Mr. BEALL. Yes, because this amendment and the basic legislation gives the commission the authority to develop policies regarding research on humans.

Mr. COTTON. Is not the amendment offered by the distinguished Senator from Maryland more stringent and more arbitrary in its effect than the original bill?

Mr. BEALL. Than the bill we are now debating?

Mr. COTTON. Yes.

Mr. BEALL. It does not allow Federal participation for the next 2 years. It is a ban so far as Federal funds are concerned. It does not prevent operations from being performed; it just states that Federal funds and Federal facilities cannot be used for this type procedure, for a 2-year period.

Mr. COTTON. Would the bill as amended by the amendment after 2 years prevent operations financed by individuals or their families, or whoever had control?

Mr. BEALL. The effect of the amendment would be that the commission would establish the guidelines under which this procedure shall be used.

Mr. COTTON. The medical profession would have to conform to those guidelines?

Mr. BEALL. The medical profession involved in Federal programs would have to conform to those guidelines.

Mr. COTTON. That is in the bill?

Mr. BEALL. It is in the amendment.

Mr. COTTON. I thank the Senator.

Mr. JAVITS. Mr. President, I, too, would urge the Senate to accept this amendment. It is consonant with the general spirit of the bill.

While I am on my feet, title II of the bill incorporates two measures which I introduced, one to establish the guideline concept, in the form of interior provisions according to the NIH guidelines, in view of our deep concern about the protection of human subjects, both in experimentation and such things as this amendment deals with. What the committee has done is to institutionalize the element of protection through the establishment of a Presidential Commission. The Presidential Commission having within its purview the identification of ethical principles which should underline the conduct of biomedical research involving human subjects and then develop policies and regulations to assure that such research is carried out according to the highest possible standards. The whole world is entering into not only psychosurgery but also organ transplants and so many other disease experimental treatment and diagnostic procedures, and the question of who shall live and who shall die, which doctors have to make and families have to make.

That, coupled with what we discovered about human subject experimentation in the Tuskegee syphilis study, induced me to introduce the legislation which in great measure is incorporated into the pending bill. Essentially, title II of this bill carries it through in three ways: the guideline concept; second, the interim provision until the commission actually operates, which was the subject of the bill I had introduced; and, third, the opportunity to establish in medical schools programs which would provide increased emphasis on the ethical social, legal, and moral implications of advances in biomedical research and technology. The third point was also included in the bill, S. 974, I introduced along with the Senator from New Jersey (Mr. WILLIAMS).

The bill is extremely desirable. I think it is indispensable for the reasons I mentioned, and also for the reasons I mentioned I favor this amendment which is proposed by the Senator from Maryland.

Mr. BEALL. I thank the Senator.

Mr. KENNEDY. Mr. President, I am ready to yield back the remainder of my time.

Mr. COTTON. Mr. President, will the Senator yield so that I may propound a question to the Senator from New York?

Mr. KENNEDY. I yield.

Mr. JAVITS. Of course.

Mr. COTTON. The Senator said that the matter of determining who shall live and who shall die shall be controlled. When it is the question of a chance to live a normal life as against spending one's life hopelessly confined in an insane institution, that is not exactly a question of whether one lives or dies, but whether the chance should be given.

It is my understanding that this bill and the amendment look forward progressively to what the medical profession, particularly the psychiatric portion of the profession, is approaching. I am not trying to turn back time but any Senator voting on this bill who has had someone near and dear to him able to spend 25 years in a home instead of 25 years in an insane hospital because of a partial—a lobotomy operation is what it was—it is difficult for me to start closing the door on that and permitting anyone to say people cannot have recourse in certain desperate cases to that kind of a risk, if there is hope for recovery.

I would like the Senator's comments on that.

Mr. JAVITS. I would like to take the last part first, if I may, because what the Senator said is touching and moves me so deeply. Of course, I cannot conceive the operation of this bill shutting off that opportunity to the family or the individual patient. The whole premise of the amendment is based heavily on the testimony of the Director of the National Institute of Mental Health. As shown on page 14 of the committee report, Dr. Brown testified that he considered it to be an experimental procedure which, if done, should only be done under the most well-controlled circumstances. He testified on the need for peer review to be sure that the quality of medical practice was consistent with the highest possible standards.

It has been mentioned here that what we are trying to curb, in the context of the protection of Human Subjects Act, is irresponsible use of experimental techniques, and the heavy emphasis is on the word "irresponsible." There is not the slightest desire nor any reason why there should be any inhibition imposed by law in such a situation or anything analogous to it.

Mr. COTTON. If the amendment of the Senator from Maryland is added to the bill, it would do that for 2 years.

Mr. BEALL. Only in Federal facilities.

Mr. JAVITS. Yes, only in Federal facilities. It gives us a chance to catch our breath and have a look.

The other thing about my statement on who shall live and who shall die had no relation to psychosurgery but only transplants. As regrettable as it is to all of us, we do not have enough hearts, kidneys, eyes, and other organs, so the doctor is placed in a terrible bind. The legislation I have introduced was in the hope of trying to find some answer.

Mr. COTTON. I thank the Senator.

Mr. JAVITS. I did not wish to be misunderstood.

Mr. COTTON. I agree with that.

The practice of surgical lobotomy in desperate cases is not a new experiment.

Mr. JAVITS. Not at all.

Mr. COTTON. It has been going on for many years. It is frowned upon. As I was advised by many doctors, before that risk is taken, the case must be hopeless in the sense of the patient being able to lead a normal life.

Mr. JAVITS. That is correct.

Mr. COTTON. And as long as that option is preserved, I am comforted to some extent, but it frightens me to think that that option might be taken away if the commission decreed it was bad medical practice and no surgeon would undertake it.

Mr. BEALL. It is not my intent as the sponsor of this amendment to foreclose any opportunity for a person to be made better through any surgical technique because I think we are going to broaden the opportunity to cure disease. I am concerned, and many of us learned during the testimony on the subject matter that although many of these operations are very successful, some not only were unsuccessful, but unnecessary.

All we want to make sure is that there are proper safeguards so that the responsible people are making the proper decisions and giving the proper advice in instances of this sort. Our objective is that there are some sort of guidelines established so protection is offered to the public.

Mr. COTTON. Established by whom?

Mr. BEALL. By the commission.

Mr. COTTON. By the commission.

Mr. BEALL. A commission made up of people who have competence in this field.

Mr. JAVITS. Mr. President, if I could have the attention of the Senator from Massachusetts, may I say to the Senator from New Hampshire I think it is fair to say the Committee on Labor and Public Welfare and its Health Subcommittee will be attentive to the work of this commission. What is made by law can also be unmade by law. Certainly there will be an adequate interval between the time the commission makes its recommendations and the promulgation of those recommendations in the binding way described by the Senator from Maryland.

I would like to give assurance to the Senator from New Hampshire that that procedure will be followed, so that we can all have a good, hard look at what the commission recommends, rather than have it, in some plenary way, installed and established as a matter of law. Our goal, if this bill should be passed, is to be sure, from the congressional point of view, that we are not locked in and have not given away our rights and privileges.

Mr. COTTON. May I say I appreciate the courtesy and patience of the Senators from New York, Maryland, and Massachusetts, in indulging me to the extent of this discussion. I feel comforted that this discussion establishes, in a sense, a legislative history and intent. It gives me some reassurance.

Nobody in the Senate could possibly feel more keenly about the dangers of this type of procedure, because 25 years ago I made an agonizing decision, and knew and was advised that I was running a terrible risk; but I was also advised by more than one doctor that it was the only chance. At that time I was aware of cases that had practically destroyed a person's cerebral capacity. It was because I have borne the scars of that all these years that I wanted to be sure about this bill.

I think the statements of the Senators from Massachusetts, New York, and Maryland as to the purpose of the bill and the legislative intent behind the bill are some reassurance to me, and again I thank them for their patience, because this is a rather emotional sub-

ject for me, and I appreciate their assurance.

Mr. BEALL. I thank the Senator for his support and also for making the clarification possible.

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

Mr. BEALL. I am happy to yield.

Mr. TAFT. I am not sure I understand the full import of this amendment. Does it relate merely to a study of psychosurgery, or does it prevent the use of psychosurgery in federally financed facilities?

Mr. BEALL. It prevents the use of psychosurgery for up to 2 years in Federal facilities or with Federal funds, while the Commission is establishing guidelines for the further use of psychosurgery techniques. Then, presumably, the Commission will establish its guidelines.

Mr. TAFT. I have tried to listen during the debate, and I share some of the concern of the Senator from New Hampshire. For instance, in certain cases in veterans hospitals, for instance, such as the one at Chillicothe which specializes in problems of mental disorders, the current medical practice may remain for considering psychosurgery. For these particular cases probably no other institution is going to be available.

I think we are sort of prejudging what the result is going to be in taking into our own hands and making a judgment as to what the proper medical technique is going to be, rather than turning that over to the Commission we are going to appoint, even though it is going to make the initial decision.

I have never been against a study. I think a study is desirable. But I wonder if the Senate or the Congress should take into its hands the decision as to what medical techniques are or are not going to be followed during the period this study takes place. It is all right to say we are not going to use Federal funds, but they can get it elsewhere, but as a practical matter, they may not be able to get it from their own resources. It may not be available to them. This remedy may be the one that a good deal of medical opinion would go along with, and the Commission might if the Commission were presented with the facts of the particular case.

I think the amendment perhaps goes too far in making that kind of judgment.

I particularly point that out because of something I want to get into in a few minutes, based on the provision that the Commission is prohibited from having more than five of its members be practicing physicians. This area, too, is on the fringes and bothers me considerably. I will go into that in a moment, but I do not want to distract attention from discussion of this particular amendment.

Mr. BEALL. The Senator from Ohio makes a good point. Some of these operations have been performed in veterans hospitals. I think approximately 16 operations of this type have been performed in Federal hospitals over the last several years. Perhaps, if it is the only procedure we would have to help a person under extreme circumstances, we should not completely ban it.

I would be willing to modify the amendment so as not to ban it altogether in Federal facilities, but perhaps allow them under the informed consent procedures already in the bill——

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

Mr. BEALL. I yield.

Mr. COTTON. I think certain modifications would assure the Senator from New Hampshire, too. For instance, as I understand the Senator's amendment, it does not confine it to new experiments. The matter of lobotomy operations is not new. It is as old as the hills. The medical profession, by and large, prefer the use of drugs and resort to this procedure only in extreme cases.

I cannot help but agree with the distinguished Senator from Ohio that for 2 years to say that this could not be done, unless they are wealthy enough to go ahead and have it done privately, is a little unfair. If it would confine itself to new and experimental procedures, it would not be bad.

Mr. BEALL. I am more interested in providing the kinds of safeguards so that there is informed consent, so that the people have all the options and the dangers explained to them. We have seen cases where people have had this operation performed at some public institutions without fully understanding the implications. Of course, many are not capable of giving consent. We have seen operations performed on such people when perhaps other techniques could have been used.

I am more interested in having effective guidelines rather than preventing surgery if the surgery is deemed to be needed.

Mr. President, I expect to make a modification in my amendment that will satisfy both Senators, if the Senator from Ohio will allow me a few minutes.

Mr. TAFT. I will be glad to do that. I think, in the interest of expediting the procedure, if it is agreeable with the able manager of the bill, perhaps I could ask unanimous consent if I could talk out of order on the amendment, but on another aspect of the bill at this time.

Mr. KENNEDY. Mr. President, I have no objection. I would yield the time on the bill.

Mr. TAFT. Mr. President, I thank the Senator from Massachusetts.

The point that I want to talk about at this time relates to section 1201 of the bill. We find on page 28 that there is established in the Department of Health, Education, and Welfare the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

I certainly concur very strongly with that objective. I worked in the committee and attempted to make the bill as feasible and as workable as possible so as to achieve that goal. I am concerned, however, as to the particular makeup of the Commission.

It is stated that it shall be composed of 11 members who shall be appointed by the President. They are to be members appointed from the general public and from among individuals in the fields of medicine, law, ethics, theology, biological science, physical science, social science, philosophy, humanities, health administration, government, and public affairs.

While there is mention here of the field of medicine and biological science, there is no requirement that any member of the Commission be in effect a physician or one experienced in the field of biological science involving research on human subjects. I think this is a mistake.

It seems to me that while the committee report seems to indicate this, it certainly intends that there should be physicians on the board.

I do not see any requirement that there be any. As a matter of fact, even in subsection (d), I note that there is a requirement that says that of the 11 members of the Commission, not more than 5 members shall be appointed who are or who have been engaged in biomedical or behavioral research involving human subjects.

It does not require that these individuals or any member of them be physicians. There is no requirement, therefore, that there be physicians on the Commission.

Further, under section (c)(1) it states that the President shall appoint, by and with the advice and consent of the Senate, one of the members to serve as chairman and one to serve as cochairman each for a term of 4 years at the time of appointment.

It further states:

> Of the persons designated under section (c)(1) at least, but no more than, one shall have conducted biomedical or behavioral research involving human subjects.

Again there is no requirement that the individual be a physician. It seems to me that we are downgrading what I believe must be the leading role from a technical point of view, of the field of physicians in making the decisions here involved.

I am not saying that others should not be on the commission. I feel very strongly that in making the ethical judgments and in making the standards desired to be applied on the commission, there should be others than physicians on the board.

However, I feel that the tenor of section 1201(a) right through section 1201(d) is somehow against the inclusion of physicians on the commission and against physicians having a primary role in the decisions from a technical point of view as to the decisions and standards the commission might apply.

I would like to ask the distinguished Senator from Massachusetts, the manager of the bill, if he would comment on the matter of whether he feels there might be some way in which we could assure ourselves that responsible physicians would be included on the commission. I do not know whether physicians are included in biomedical or behavioral research involving human subjects. I presume they are. However, could they appoint physicians not restricted by subsection (d)?

Mr. KENNEDY. Mr. President, I am glad to have the opportunity to clarify the impact of the particular provisions mentioned by the Senator from Indiana.

The provisions of section 1201(d) state

that not more than five members of the commission shall be appointed who are or who have been engaged in biomedical or behavioral research involving human subjects. That is not an attempt to try to say that there will be five or less members of the commission who are doctors, but not more than five who have actually done biomedical or behavioral research involving human subjects.

The basis for that was the testimony of Dr. Jay Katz, Dr. Bernard Barber, and others, recognized experts in the field, that the commission should have a majority of individuals who had not conducted such research. We have tried to provide the broadest possible participation in the development of the commission. Saying that not more than five members of the commission shall be appointed who are or who have been engaged in biomedical behavioral research involving human subjects does not limit the number of physicians. It is possible that all 11 members may be physicians. The prohibition is on researchers. We want to be sure to balance the views of those whose primary concern might be the research and not the research subject.

Mr. TAFT. In other words, the Senator does not feel that the standard of training of a physician, which does involve various other practices, does not in his mind in the language of the bill call for biomedical or behavioral research involving human subjects?

Mr. KENNEDY. The Senator is correct. Under that interpretation. Obviously in the training of doctors one would hope these issues are routinely discussed.

But there is a difference between the practice of medicine and the conduct of research. This structure for the commission is a reflection of a feeling by some of our consultants that the majority of commissioners should not be individuals actually conducting biomedical research involving human subjects. This bill would permit the Secretary to appoint five members, almost a majority, from that category. It would preserve, however, the opportunity for the inclusion of other disciplines.

Mr. President, I welcome the opportunity to point out that it is entirely possible that every member of the commission would be a doctor. He may be a doctor trained in ethics, administration, law, or any one of the other mentioned sciences here.

Mr. TAFT. Mr. President, does the Senator feel that perhaps we might include some type of provision that at least a certain number should be physicians?

Mr. KENNEDY. We are trying to leave that open to the discretion of the Secretary, based again upon the recommendations of our consultants.

Prior to this exchange, I was reviewing in my own mind whether there should be a designation of three or four. I would expect that the Secretary would probably appoint five or, perhaps, even six members of the commission who are physicians. However, I would rather not write that in. I would expect that many members would have a combination of training both in medicine and in these other areas.

I am somewhat reluctant to say that at least five members of the commission shall be individuals trained in medicine. I would rather leave it to the discretion of the Secretary

I prefer not to tie his hands. I would certainly expect, however, that five or six members would have as a kind of basic training, training in the medical sciences.

Mr. TAFT. I thank the Senator for his explanation.

The PRESIDING OFFICER. Who yields time?

Mr. BEALL. Mr. President, is the pending order of business my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BEALL. Mr. President, may I alter my amendment at this time?

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that the amendment be modified by deleting section (2) and renumbering section (3) accordingly.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. BEALL's amendment, as modified, follows:

On page 33, between lines 13 and 14, insert the following:

"(c) (1) In addition to its other duties, the Commission shall conduct a study and investigation of the employment of psychosurgery with a view to determining the number and types of cases, during the five-year period ending December 31, 1972, in which psychosurgery has been performed in all private and public hospitals in the United States, and of compiling an analysis, on a case-by-case basis, of a sufficient number of such cases (together with followup information thereon) to provide the basis for an objective scientific evaluation of psychosurgery performed during such period with regard to the types of psychosurgery so performed, the conditions for which it was performed, and the results thereof. The Commission shall, not later than two years after the date of enactment of this subsection, complete such study and investigation and shall, on the basis of the information gained therefrom, establish policies indicating the circumstances (if any) under which the performance of psychosurgery is appropriate.

"(2) As used in this subsection, the term 'psychosurgery' means brain surgery on (A) normal brain tissue of an individual, who does not suffer from any pathological disease, for the purpose of changing or controlling the behavior or emotions of such individual, or (B) on diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure, or ameliorate the effects of epilepsy; nor shall such term be construed to include electric shock treatments.

Mr. BEALL. The effect of this amendment would be to have it apply to HEW, as does the whole bill. We avoid thereby the jurisdictional problems involved in having it cover the Department of Defense, the VA, or other governmental agencies.

I would like to say I have talked with the distinguished Senator from California (Mr. CRANSTON) about this matter, and he has indicated that the Veterans' Affairs Committee, of which he is a member, would, at the first opportunity, consider this matter in connection with appropriate legislation so that the same kind of safeguards may be applied to veterans' hospitals.

I think he also indicated that it was fair to point out to those who administer the veterans' hospitals that, though they are not covered by this legislation, it is the hope of those of us who sit in the legislative branch of the Government that they would voluntarily exercise the same kind of safeguards we are asking other institutions around the country to exercise with regard to this kind of surgical technique.

Mr. KENNEDY. Mr. President, I thank the Senator from Maryland for this modification. I think the amendment thereby is made to conform with the basic thrust of the legislation. I, for one, share the feeling of the Senator from Maryland that when this commission becomes established and earns, justifiably, the confidence of researchers throughout this country, and has the kind of membership that I think all of us believe it should have and can have, that then the guidelines which are developed will apply to the other agencies as well.

Let me remind the Senator from Maryland that we had a joint hearing of the Veterans' Subcommittee and the Health Subcommittee one day on the question of psychosurgery in the VA, and learned that the VA has developed some new guidelines themselves over the period of the last year and a half or so. That underlines the point, I think, of the Senator's comments; that we have one set of guidelines for the VA, another for HEW, and others for other agencies.

So we are very hopeful, or at least I am, that as the commission develops and gives these matters the kind of deep and thoughtful study that it should, it will be a guide for the other agencies as well.

I welcome the modification. I think it is desirable, and I urge, if there be no further comments, that the amendment as modified be accepted by the Senate.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. BEALL. Yes, I thank the Senator from Massachusetts.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HELMS). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Maryland, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 35, line 7, insert the following:

"PROHIBITION OF RESEARCH

"SEC. 1205. The Secretary may not conduct or support research or experimentation in the United States or abroad on a living human fetus or infant, whether before

or after induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant."

Renumber subsequent sections.

Mr. BUCKLEY. Mr. President, the amendment is offered on my own behalf and on behalf of the Senator from Oregon (Mr. HATFIELD), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Iowa (Mr. HUGHES), the Senator from Nebraska (Mr. CURTIS), the Senator from North Carolina (Mr. HELMS), the Senator from Delaware (Mr. ROTH), and the Senator from Kansas (Mr. DOLE).

The version of this bill as passed by the House has a provision comparable to the amendment I now offer. It was introduced by Representative RONCALLO of New York and was carried by the overwhelming vote of 354 to 9. My amendment is animated by the same spirit that prompted Representative RONCALLO to offer his, although the wording in some respects are different and, I believe more precise. Representative RONCALLO'S office assures me that it is fully in keeping with the intention of his amendment.

My amendment provides:

The Secretary may not conduct or support research or experimentation in the United States or abroad on a living human fetus or infant, whether before or after induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant.

The purpose of the amendment is very simple and straightforward, and, indeed, for the most part self-explanatory. It would prohibit the Department of Health, Education, and Welfare from funding in whole or in part, in the United States or abroad, any research or experimentation to be performed on a living human fetus or infant prior to, during, or after an induced abortion. The amendment is limited in its application to the induced abortion situation, for in that situation there is simply no way to obtain the kind of informed consent that ethical medical practice would normally require. The fetus or infant is, of course, incapable of providing the requisite consent; and where the mother has already consented to the killing of her unborn offspring, it seems to me that she has already abrogated any right she might otherwise have to consent to any medical procedure to be performed on her child.

I would like to make clear, Mr. President, that this amendment has nothing to do with the merits of the abortion controversy itself.

As Representative RONCALLO remarked on the floor of the House, for the purpose of this amendment, it matters not how the unborn child comes into the hands of the would-be experimenter. What matters is the limitation on the nature and purpose of the medical practitioner's procedure. If the research or experimentation be for the purpose of insuring the survival of the fetus or infant, then it would not be prohibited. Such a purpose, of course, is scarcely imaginable in a situation where the mother has consented to the killing of the unborn child, but I do not want to preclude in any way the possibility of some attending physician taking steps to save the life of such a child, however improbable it might be under the contemplated circumstances.

By limiting the application of this amendment to the induced abortion situation, we shall reach the overwhelming majority of those noxious experiments which have so outraged millions of Americans in recent weeks and months. It is the children who are aborted in the elective abortion situation who constitute the largest class of human guinea pigs now given over to the practitioners of the black arts of a perverted science. Condemned to death by their mothers, removed by physicians from their life-support systems, such children are now being subjected to the inhuman indignity of becoming grist for the experimenter's mill.

Some of this grisly research, I am sorry to say, is being funded by the American taxpayers. No one knows for sure the extent to which such research now goes on. Some months ago, officials of the Department of Health, Education, and Welfare were stoutly insisting that "to the best of their knowledge" no such research was being funded. Subsequent investigation has turned up a number of instances in which these officials were proved wrong. According to the Washington Post of April 15, 1973, the NIH has financially supported one Dr. Robert Schwartz, chief of pediatrics at Cleveland Metropolitan Hospital, in research on living aborted human fetuses. Dr. Schwartz's technique is to remove tissues and organs from the fetus while its heart is still beating. Shock at this exposé pales, however, when we note the work of Dr. Peter A. J. Adam, associate professor of pediatrics at Case Western Reserve University, who reported recently that in collaboration with Finnish doctors he had performed an experiment involving the severed heads of 12 fetuses obtained by abdominal hysterotomy.

It is worthy of note, Mr. President, that fetuses aborted by hysterotomy are always alive at the time they are removed from their mother's body, unless the child has died as a result of the abortion procedure itself or as a result of extraneous causes. Dr. Adam's work, shocking though it may be, and even though it is morally repugnant to millions of our citizens, is nonetheless being funded, at least in part, by Federal funds. Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks the Washington Post article and a description of Dr. Adam's work recently published in the Medical World News for June 8, 1973.

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

[See exhibit 1.]

Mr. BUCKLEY. Mr. President, it is time to bring a halt to this sort of experimental medicine, at the very least that part of it which the American taxpayer is now being required to fund. The Supreme Court has said that the unborn child is not a person within the meaning of the Constitution. I disagree most strenuously with that decision, and as Senators know, I am now seeking by constitutional amendment to reverse the incalculable damage being done to the moral and legal fiber of the Nation by the Court's action. But whatever the Court may have said about the legality of the abortion decision, nothing in that opinion or in any other provision of law requires us to say that these poor children, so callously condemned to die by their mothers, must also become human guinea pigs. Let them, I say, die in peace, unmolested by the prying hands, electrodes, and chemicals of those who would play God in the laboratory.

It is a measure of our humanity, Mr. President, how we shall choose to treat those who are about to die. It is in a very real sense we who are on trial, we who shall be judged by the verdict of history. Whatever one's findings about the matter of abortion itself, surely we can all agree that the unfortunate and helpless victims of abortion should be treated with the same respect that ought to be accorded to any other members of the human species at the hour of their death. The House revealed just such an agreement when it voted so overwhelmingly to Representative RONCALLO'S amendment. The size of that vote suggests, how deeply felt and how widespread is the revulsion against this sort of experimentation, and how deeply felt and how widespread the sentiment to prohibit Federal funding of this mortally repugnant research. I would hope that the Senate would do no less.

May I say in closing, Mr. President, that I have followed closely the work of the subcommittee as it has probed into the abuses now so widely evident in the area of human experimentation. The time for reform is long overdue. I congratulate the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), my senior colleague from New York (Mr. JAVITS), the Senator from New Jersey (Mr. WILLIAMS), and other Senators who have helped to bring this bill before the Senate.

Their obvious and sincere concern with the problem of human research and experimentation so much recently in the news has enlightened all of us, and I congratulate them for their fine efforts. The Commission proposed by this bill is, I believe, a badly needed first step in the right direction; and I pray that the Commission will give its most serious attention to the possible adverse effects of the medical research that is now taking place. We have already, I fear, gone too far down the road toward what some have described as "the new medical ethic," one in which the alleged "social utility" of certain medical procedures takes precedence over the moral and legal rights of the patient on whom the procedure is to be performed.

It is my profound hope that the Commission proposed under this bill will take a long, hard look at how far we have already come and, without diminishing some of the marvelous life-enhancing discoveries of medical science, recommend appropriate ways in which this Nation in the future may benefit morally as well as scientifically. The duties being imposed on the Commission are great,

just as the problems to which it must address itself are complex. I have every hope that the Commission will judiciously discharge its mandate.

Mr. President, my amendment is predicated on the fact that whether or not it is endowed with constitutional rights, a human fetus is in fact a human being. This essential humanity is strikingly described in two articles entitled, respectively, "The Foetus as a Personality" and "World of the Unborn Child." I ask unanimous consent that they be printed in the RECORD.

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

EXHIBIT 1

[From the Washington Post, Apr. 15, 1973]

SCIENTISTS AND FETUS RESEARCH

(By Victor Cohn)

An intense scientist named Dr. Jerald Gaull in period trips to Finland injects a radioactive chemical into the fragile umbilical cords of fetuses freshly removed from their mothers' wombs in abortions.

The fetus in each case is too young to survive, but in the brief period that its heart is still beating, Gaull—chief of pediatrics research for Basic Research in Mental Retardation on Staten Island—then operates to remove its brain, lung, liver and kidneys for study. First, he emphasizes, he severs the nervous connections that link the brain to the body "to make sure the fetus will feel no pain."

Dr. Robert Schwartz, chief of pediatrics at Cleveland Metropolitan General Hospital, goes to Finland for a similar purpose. After a fetus is delivered, while it is still linked to its mother by the umbilical cord, he takes a blood sample. Then, after the cord is severed, he "as quickly as possible," he states, operates on this aborted being to remove other tissues and organs.

The fetuses in these cases are so small and undeveloped that their lungs are not fully formed. They cannot breathe, and their brains undoubtedly die within a matter of minutes, though their hearts beat much longer.

But if Schwartz continues to perform his procedures in advance of brain death, while the fetus by all definitions is still alive, he will be violating a new rule just pronounced by the scientifically powerful National Institutes of Health.

Last Thursday the NIH stated: "We know of no circumstances at present or in the foreseeable future which would justify NIH support of research on live aborted human fetuses." Schwartz is an NIH grantee who will have to abide by this rule if he is to get future support.

Yet, he and many other Americans who, according to good medical sources, go to other countries to get access to fetuses, all believe passionately that what they are doing is of crucial importance in learning to understand infant development.

"What needs to be said," said Gaull, "is that we need to get information that will help the unborn who are going to be born, not aborted. Rather than it being immoral to do what we are trying to do it is immoral—it is a terrible perversion of ethics—to throw these fetuses in the incinerator as is usually done, rather than to get some useful information."

This position was quickly rejected last week as Roman Catholics and top NIH leadership reacted to the first public report that NIH for more than two years has been considering the matter of guidelines for scientists who study live, aborted fetuses.

No vast number of American scentists do these operations. However, a large number are interested in the possibility, and others like Gaull and Schwartz have been going abroad for various studies, or at least removal of fetal samples.

There is "a relatively minimal amount" in the United States, according to Dr. Kurt Hirschhorn of New York's Mount Sinai Medical School. Scientists say they can get access here to only "a very small number of fetuses" for two reasons:

There is emotional objection to even removing fetal samples by many American doctors as well as much of the public. And the main U.S. methods today of abortion—suction removal early in pregnancy and, later, injection of saline solution ("salting out")—produce only fragmented or dead fetuses.

Only in nations that abort many babies in mid-pregnancy by caesarean section, because doctors there consider "salting out" too risky to mothers, can researchers get easy access to the whole, at least recently thriving fetus.

"I have gone to Helsinki for three or four weeks," said Gaull in one of a series of interviews last week, "and I have been able to do five or six procedures a day there. I'm interested in the fetus' biochemical development. We must know much more about normal development for intelligent genetic counseling.

"My co-workers and I have even studied the whole, intact fetus, injecting radioisotopes and following certain chemical reactions. We have in Europe studied the transfer of amino acids"—body building blocks—"from mother to fetus while the umbilical cord was still intact.

"We also maintain our own bank of fetal tissues. Banks like these ought to be established everyplace so these tissues can be distributed to investigators instead of being thrown away."

There are other Americans doing this sort of thing in Denmark, Sweden, Japan and Britain, scentists report. And some at least are either doing so with federal funds or bringing tissues back in federally funded programs.

This seems obvious despite a NIH memorandum furnished to The Washington Post after a NIH computer search in midweek. "We . . . find no documentation in current NIH research grants or contracts reflecting the use of live fetuses as a research tool," the memo said.

Schwartz, however, works with NIH funds. Gaull works abroad with his own money, he reports, but in the United States funded mainly by New York state with help from a NIH grant held by Mount Sinai Medical School, of which he is a faculty member.

Dr. David Gitlin of the University of Pittsburgh Children's Hospital is another NIH grantee. "We used to do research on the intact fetus," he said. "Now we take tissues—the brain has stopped functioning but the tissues are still alive. I very frequently go to friends in Scandinavia. Without them I couldn't work."

Other scientists do not believe some tissues are really "alive" enough if the brain has stopped working. "We have to take some tissues within the first few minutes," said Schwartz. "It depends on what one is studying. After separation from the mother, certain processes deteriorate very rapidly."

This is one reason some scientists have preferred to work while the fetus is still attached to the mother.

"I did work in Finland. I last went there four years ago," said Dr. Abraham Rudolph of the University of California in San Francisco. While the mother-to-fetus link was still intact—after many studies in animals to make sure the mother would not be harmed—he injected radioactively labeled plastic microspheres into the fetus to study blood circulation. In this way, he said, he gained important knowledge of fetal circulation.

"However," he added, "we are not doing any work in human fetuses now. We feel that there are enough serious concerns on the part of people, including research people, that until there is a better clarification of the matter we will avoid any more attempts."

Just how much of this kind of research is really going on?

"Dozens of people have done it as part of their projects," one scientist asserted, "though they might not use their NIH funding for this part."

"It is difficult to tell just how much there is," said Dr. Andre Hellegers of Georgetown University, who sat—a minority member—on an NIH study section that suggested in late 1971 that "techniques used for temporary maintenance of functional integrity of isolated organs" should be "applicable without further restriction for terminal studies of the abortus."

In plain English, this would have meant keeping a fetus alive for at least three or four hours by artificial means.

"I oppose this," Hellegers said. He is both a professor of obstetrics at Georgetown and director of its Kennedy Institute for Study of Human Reproduction and Bioethics.

"We can all agree on the use of the fetus in research," Hellegers continued. "I am not opposed to the removal of tissues under proper safeguards from a dead fetus. But I am against the use of the live fetus, whether it is inside or outside the uterus.

"I do know that NIH has funded such work in Sweden, at the famous Karolinska Institute, by a well known Swedish scientist. But if there has been such work funded recently, one can't simply blame the federal government. NIH has no way of knowing everything that is being done under training grants or institutional grants."

In fact, Hirschhorn complained, there has recently been a lull in human fetal research by U.S. scientists both in the United States and abroad, just as "the work was getting off the ground" and "investigators were at the beginning" of some important developments. He blamed both the lull and other recent "roadblocks" on the lack of any dialogue between citizens and scientists on this issue, and on what might be permitted.

The only U.S. dialogue until last week was a non-public one, inside NIH confines.

The first recent NIH document was the September, 1971 study section report developed by a non-federal advisory group—mainly university doctors and scientists. It recommended "planned scientific studies" of the fetus under acceptable and "carefully safeguarded" formats.

Any fetuses studied, it added, should be positively "non-viable," fetuses that could not live to develop into full-term babies under any circumstances. This was defined as those no older than 20 weeks, no more than 1.1 pounds in weight and no longer than 9.8 inches, or meeting at least two of these rules.

This recommendation was then considered by the National Advisory Council on Child Health and Human Development, also a non-NIH group, though chaired by Dr. Gerald D. LaVeck, director of NIH's National Institute of Child Health and Human Development.

This group merely decided in March, 1972, that acceptable guidelines "must be developed." But it clearly included studies on aborted fetuses by specifying that hospital review committees should "insure that the investigator shall not be involved in the decision to terminate a pregnancy the product of which is intended for study within his own research grant or authority."

"Please make it clear," said one scientist last week, "we never would consider having a pregnancy ended just so we could obtain the fetus."

In Britain in 1972 there was a wave of anger over the disclosure that some researchers were both buying aborted fetuses from some unscrupulous doctors and keeping them alive by artifical means for up to 15 hours or more.

In May, 1972, a government-appointed commission called for strict controls on such research, while agreeing that it was so important to future generations that it should continue.

It has continued in Britain; without much more fuss. This will apparently not be the case here.

Last Thursday, Dr. Robert Berliner, deputy director for science, said NIH "does not contemplate approving the support of such research." A committee is still working on its recommendations for NIH policy, he noted, but it is expected that this committee will agree.

What is more, said Berliner, a respected scientist, "there is no scientific justification" for work on living human fetuses because "you can do the same studies with animals."

Here, developmental specialists like Hirschhorn, Gitlin and Gaull take violent issue. As much as possible can and should be studied in animals, they concede, but, as Gaull put it, "Our understanding of human development must be based on understanding of human tissues rather than monkey or rat or rabbit."

Ethics, Hirschhorn argued, are not violated because a nonviable fetus, one that cannot live, "is one that cannot in any way be made into a child."

That is wrong, maintained Hellegers in a view similar to one stated last week by many Roman Catholic groups. "I include the live fetus inside the human race whether it is inside or outside the uterus."

Besides, he said, guidelines so far proposed call for "informed consent" of appropriate parties to such research. "Who are you to ask?" he said, the fetus that cannot give consent, or a mother who has already consented to the fetus' destruction?

"What I fear," said Dr. Robert Jaffe of the University fo Michigan—a member of the group that suggested the September, 1971, guidelines—"is that the new NIH action may make the situation so rigid that all research in this area may now be foreclosed."

That, said NIH's Dr. Charles Lowe to nearly 200 concerned Roman Catholic students Thursday, is exactly what NIH intends as far as live fetal research is concerned, even though there is nothing to legally prevent any such research with non-federal funds. "In practice," he assured the students, "what we have set becomes common currency."

This could well make scientists like Hirschhorn ask, "When was there any public-scientist dialogue?"

EXHIBIT 2

[From the Daily News, July 2, 1973]

ONLY HUMAN—WORLD OF THE UNBORN CHILD

(By Sidney Fields)

Until ten years ago the unborn child was a mystery to its mother and even to the doctor. The mystery always heightened fears for herself and her child. If she was told anything it was that the fetus is surrounded by a protective sac of amniotic fluid, something like a space capsule, which keeps the baby warm, insulates it against shock and feeds it.

But the relatively new science of fetology, the study and treatment of the unborn child, has unshrouded much of the mystery.

"By tapping the amniotic fluid we can now tell the sex of the fetus and get a lot of clues about its growth, health and deficiencies," said Dr. Sheldon Cherry, one of the pioneers in fetology. "We know that it feels, reacts to pain, hears, swallows and even hiccups. By humanizing the unborn baby the mother becomes a participant rather than a victim of reproduction."

Dr. Cherry, 39, from Brooklyn, where his parents ran a clothing shop, has written some 15 papers on the subject. He teaches obstetrics and gynecology at the Mt. Sinai School of Medicine and is an attending obstetrician at the Mt. Sinai Hospital. He got involved in fetology back in 1962 when he read of the work of a Dr. A. W. Liley in New Zealand. After analyzing the amniotic fluid of a woman and finding that her baby was anemic because of RH disease, a substance in the mother's blood that was destroying the baby's blood, Dr. Liley inserted a needle through the mother's abdomen and into the body of the child and performed the first intrauterine blood transfusion. In 1964 Dr. Liley came here and Dr. Cherry learned the technique from him.

Two years ago he had a patient with RH disease and established a first of his own. Working with Dr. Karlis Adamsons of Mt. Sinai, he carefully lifted out the head of the unborn child from the mother and performed a blood transfusion through the carotid artery in the neck.

"It showed that fetal surgery was possible for many other things," Dr. Cherry said. "Small consolation to the mother. She lost the baby. But we're working on uterine rejection now."

A lab analysis of amniotic fluid can now diagnose any of 45 different genetic and enzymatic defects and help take care of at least ten obstetrical problems like RH disease, toxemia, maternal diabetes. Fetology has contributed to a 20% reduction in the mortality of unborn babies.

"But unless it's medically indicated we do not do an amniotic tap," Dr. Cherry said.

One of his patients, Mrs. Barbara Kelley, an editor at Bobbs-Merrill, asked a lot of questions about fetology when she was pregnant, then persuaded him to write "Understanding Pregnancy and Childbirth." Published last week, it's the first book covering a specific medical area which made a Book-of-the-Month Club selection.

His friend and mentor, Dr. S. B. Gusberg, obstetrician and gynecologist-in-chief at Mt. Sinai calls it, "A superb presentation of modern obstetrical knowledge in a style that is a model of comprehension and clarity." It's complete, humorous and includes everything a woman should know before and after childbirth. Dr. Cherry removes all the fears and doubts about pregnancy and makes it a thing of joy and wonder.

When a patient asks him what she should do to have a boy instead of a girl he lists all the suggested methods, explains that none are scientifically valid, then adds, "You might as well try them. It's a lot of fun trying but you shouldn't ask me. I have four daughters."

They range in age from 4 to 14. His wife, Gloria, is a lawyer, whom he met when he was at Columbia. She was at Barnard and is a graduate of Columbia Law. He took his M.D. at the Columbia College of Physicians and Surgeons. When his wife was pregnant with their first child his mother-in-law warned her, "Don't lift your hands above your head. You'll choke the baby." At the time he was a resident in obstetrics and was hearing all the other persistent myths: Don't swim, ride a bike, play tennis. Eat. You're eating for two.

"Many people still think that pregnancy is an illness and the pregnant woman an invalid," Dr. Cherry said. "That's nonsense. She's healthier when pregnant than unpregnant. The more activity the better. If she ran a mile before she can run a mile after she becomes pregnant. I would not recommend that she take up skydiving after becoming pregnant. She might break a leg."

Among his patients are water and snow skiers and ballet dancers. One ballerina danced up to the ninth month of her pregnancy. She's 42 years old.

But there are things a pregnant woman should avoid: Excessive doses of aspirin, X-rays for diagnoses, certain tranquilizers, the ubiquitous antibiotic, tetracycline, and smoking, which is associated with premature birth and hence potentially dangerous. How about booze?

"In moderation it's relaxing, especially for the pregnant woman's husband."

When one pregnant woman asked him recently, "Can I fly?" Dr. Cherry assumed his most professional face and replied, "Yes. But be sure you use an airplane."

Mr. BUCKLEY. Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

I share the very deep and sensitive concern of my friend and colleague, the distinguished Senator from New York (Mr. BUCKLEY), on this particular matter, which is of great importance and consequence and which is the subject of his amendment. One of the central issues raised by the amendment is the matter of determining whether there can be informed consent in a situation where the parent has decided to abort the fetus, who can uphold and speak for the rights of that fetus? This is a very complicated and involved question. It is just the kind of question on which we are hopeful that the Commission itself will be able to guide us, to inform us, and to lead us during the years ahead.

Part of the problem that is suggested by the amendment of the Senator from New York is its restrictive nature. Scientists are on the verge of some important breakthroughs in the area of genetics. These breakthroughs will have the potential to correct genetic defects affecting thousands of our citizens. Cures for diseases such as sickle cell anemia, diabetes, Tay-Sachs, several forms of mental retardation, and PKU may depend on this kind of genetics research.

So I would like to ask my friend from New York if he is not concerned by the limitation on the possibilities for research in these particular areas which offer very great opportunities to try to provide relief for children yet unborn in these areas and in other genetic areas.

If the amendment is accepted, then what we will be doing will be effectively to prohibit the research community from pursuing these vital questions.

I was, therefore, wondering, in the Senator's research, how he thought we could best cope with that?

Mr. BUCKLEY. Mr. President, I am as desirous as the Senator from Massachusetts for progress in learning how to cure some of the diseases he has mentioned.

Let me say that my amendment is not all-inclusive. It is of a restrictive nature and limits itself to those children removed from their mothers by virtue of an elective abortion where, by ordaining the killing of the unborn child, the mother has forfeited her natural right to speak for it.

The acceptance of my amendment does not preclude or rule out any research in this field, as long as it is performed within the confines of ethical medical prac-

tice, which means: First, that there must be consent given by the appropriate party; and second, that the procedure be performed for the benefit of the patient on whom it is performed.

It would, yes, limit the available class of human guinea pigs, but the problem of consent is all-important. Human experimentation ought properly to be limited by informed consent, either the consent of the person on whom the experiment is to be performed, or where that consent is not possible, then the consent of the natural guardian. In the situation of a fetus lifted out of the mother in an induced elective abortion procedure, the fetus is not in a condition to give consent. And as I say, the mother has clearly abrogated hers.

But the principle of protecting human dignity and human rights is far more important than might be a slowing down in some areas of potentially beneficial, research, if such research involves one human being for the benefit of another. Of course, the whole thrust of this legislation is based on an understanding that there are high ethical considerations that override social convenience, that override the right of the Government to conduct, for example, experiments on syphilitics because it might help somebody else.

One of the primary rules of medicine is that the doctor is entitled to work on a given human body only in the interests of that human being.

Mr. KENNEDY. The problem we are facing is illustrated by one of the arguments the Senator from New York is making; his concern about the question of consent for the fetus. The mother says, "I do not want the child"; therefore, we do not want to give her the right to okay research on that child. But who can speak for that child? Can anyone give consent? Is the only alternative death with dignity? These are the very questions that the Commission, and not the Senate, should decide on the other hand the Senator would allow research in cases of a spontaneous abortion.

I hope the Senator is interested in the rights of the child. I thought that was the ethical question—the right of the child. It seems to me that the Senator has lost himself in the circle. If we say at first that we are not going to permit research on the child because the mother does not have the right to give away the consent of the child to be a research subject, then how do we go ahead and say that in a natural abortion the mother does have a right to give it away?

I do not think we ought to be drawing up those different provisions on the floor of the Senate. That is why we are establishing the Commission, so that they can make the recommendations and they can spend the time to get the people dealing with theology, religion, medicine, and research to sit down and spend hours and days thinking about those various problems. That is what we are attempting to do. It is difficult to see how we can be expected to write this kind of prohibition here.

This is analogous to the amendment of the Senator from Maryland, which says that psychosurgery is pretty bad too, so we are going to ban that but only until the Commission can establish policy. That is what we should do here.

The point is that we are trying to let the Commission develop the guidelines. They can promulgate these guidelines, after a good deal of time and consideration. If those guidelines are not satisfactory or adequate and a sense of outrage about this issue develops, Congress can always act. But for us to try to decide those profound theological and religious questions here, really defeats the principal thrust and purpose of the legislation.

Let me remind the Senators that one cannot draw a distinction and say that you are going to be able to do the research if you have a natural abortion, but not if there is a voluntary one. The one issue is far more complex. It involves the rights of the fetus. I don't know the best way to handle that. Neither do others—it is a matter for commission study.

I think we ought to be able to foresee the circumstance that perhaps in ten years it may be possible to abort a child and then raise the child 4 months, perhaps, outside the womb. Some researchers think that is quite conceivable, quite possible, to be able to preserve the life in those instances. We find fetuses being aborted at the present time, just being lost, which I know offends the deep sensibilities of many people in this country, and the research by which it would be possible to preserve that life might very well be frustrated by this amendment. This factor must be weighed. If we could save this unwanted fetus it would become analagous to current adoption problems.

These are at least some of the questions and issues that are raised. I am hopeful that we will be able to treat this amendment the way we treated the psychosurgery amendment: to ban the research until the commission has a chance to develop the guidelines on this matter, and to implement those guidelines. Then, if necessary, the Senate can act. We can act very quickly. This afternoon, the amendment of the Senator from Minnesota with respect to the increase in the cost of living and social security was disposed of with 2 minutes of debate.

This matter affects the sensibilities and the ethics of the people of this country. It seems to me that, rather than our defining this, it would be much wiser to give the chance to the Commission to examine it and to give it full consideration.

I am extremely sympathetic with what the Senator from New York is attempting to accomplish. It concerns me that in the attempt to achieve perhaps one goal, about which I know he feels strongly—and I respect those views and in many instances share them—we are not going to take a step forward but may very well be taking two or three steps backward in terms of the preservation of life and in protecting the fetus. That is why I have some concern about this amendment.

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

Mr. KENNEDY. I yield.

Mr. BUCKLEY. I should like to make one thing very clear, and that is that I am not personally passing judgment on whether or not a mother should be able to consent. I am merely saying that the amendment I have offered does not preclude the availability of such consent where hospitals, normal medical procedures, or municipal regulation find the circumstances or the situation acceptable in the case of a naturally aborted child. I am merely saying that in the case of induced elective abortion, there shall not be human experimentation, because, however problematic may be the case of maternal consent in the case of natural abortion, the one case that is clear is that the mother who is willing to kill her child in abortion is not the proper party to consent to any experimentation.

With respect to the comments of the Senator from Massachusetts as to the Commission and awaiting its findings, as I indicated in my remarks earlier, I find the appointment of this Commission to be most constructive; and I, for one, will be eagerly awaiting its recommendations in any number of areas.

But this body has a responsibility to act now, in the light of what has been discovered as to the misuse of Federal funds in helping to finance some research. I believe we have a responsibility and must make our own judgments, as imperfect in form as they may be, in order to call a halt to this experimentation.

Two years hence, or whenever the commission has completed its work, when it reports back to the Senate, the Senate can always change its mind. As my senior colleague from New York pointed out a few minutes ago, that which the Senate enacts today, it can abolish tomorrow. And as the distinguished Senator from Massachusetts pointed out, the Senate can act very rapidly.

So I suggest that we ought to do the right thing as we see it now; and if the commission should have a contrary recommendation 2 years hence, then we can judge the arguments, determine whether or not we agree with its contrary recommendation, and then if necessary modify the law we enact today.

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

Mr. BUCKLEY. I yield.

Mr. KENNEDY. We are acting now. I am hopeful that the Senator would agree with the amendment which would ban the research now—immediately—until we get the commission's recommendations. We will act today. I am quite prepared to follow the same kind of procedure we followed with respect to the Senator from Maryland's amendment, which would permit reasonable time for the commission to respond on this matter; that we wait until they have had a full opportunity to consider it. We act today, we act now, as the Senator from New York would like to do. Then we get the recommendations of the commission. But on the one hand the Senator from New York is saying he is interested in the commission going forward, but he proposes to ban one area of its potential jurisdiction.

It seems to me that we can do what the Senator is concerned about by acting now; banning it now until we have the best minds of this commission give it full consideration. Then, on the basis of their judgment they will act. If the Senate wishes to act at that time, I would give assurances to the Senator from New York that he will have every opportu-

nity to come before our committee and be given full consideration. I do not think it does any good to talk about these issues that really require more careful, longtime considerations, and are subject to a variety of interpretations.

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

Mr. KENNEDY. I yield.

Mr. BUCKLEY. The Senator said we are dealing with something that is subject to a wide variety of interpretation. Would the Senator consider that the fact of the unborn child's humanity is subject to a wide variety of interpretation?

Mr. KENNEDY. No. I was listening to the argument on informed consent that the Senator from New York was making. I do not follow the Senator's logic when he says he is not concerned with the fetus naturally aborted. I fail to find logic in the reasoning of the Senator.

Mr. BUCKLEY. I believe I stated clearly that I am not passing personal judgment but I believe there are a number of procedures affecting a mother's right to speak on behalf of a child, which is relied upon not only in the medical profession but also in our hospitals.

Mr. KENNEDY. Can the Senator tell us what those normal procedures are? You cannot? That is the point I was making. The Senator does not know what they are, and I do not know what they are, nor does anyone in the Senate know what they are. The medical profession does not know. It feels more time and thought are needed. That is why we have this bill before us.

Mr. BUCKLEY. That is why I have so restricted the effect of the amendment to limit it to that situation where the decision has already been made to end the life of the child by abortion. Only in that situation would the amendment be effective. In the case of a spontaneous abortion, I am content for the present, however dissatisfied I may be with present procedures, to leave that matter to the Commission. If the Senator from Massachusetts is not prepared to accept my amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I am prepared to yield back my time.

Mr. BUCKLEY. Then, the chairman is not going to accept the amendment?

Mr. KENNEDY. No, I am going to offer a perfecting amendment.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. Does the Senator from New York yield from his time for a quorum?

Mr. BUCKLEY. Yes. I withdraw my request for the yeas and nays until I hear the perfecting amendment.

Mr. KENNEDY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is it appropriate at this time to offer an amendment

The PRESIDING OFFICER. It is not appropriate until the time is yielded back on the pending amendment.

Mr. BUCKLEY. Under the circumstances, I reassert my call for the yeas and nays.

The PRESIDING OFICER. Is there not a sufficient second.

Mr. KENNEDY. I would be glad to ask unanimous consent that it be in order to consider my amendment at the present time without the Senator from New York losing his rights.

Mr. BUCKLEY. That is satisfactory.

Mr. KENNEDY. Mr. President, I send to the desk a perfecting amendment.

The PRESIDING OFFICER. Is there objection to the Senator from Massachusetts offering his amendment at this time? Without objection, it is so ordered.

The amendment will be stated.

The amendment was read as follows:

After Sec. 1205 insert the following: Until such time after certification of Institutional Review Boards has been established and the Commission develops policies with regard to the conduct of research on the living fetus or infants.

The PRESIDING OFFICER. Is there amendment there will be 15 minutes to a side.

Mr. KENNEDY. Mr. President, this is an amendment to the amendment of the Senator from New York. The amendment would ban any of these research funds that come through HEW for research in this area as defined by the Senator from New York, but it does so only until the Commission has established the various review boards and establishes policies and procedures to govern the conduct of this research. This is the same procedure we have just followed in the matter of psychosurgery. I think the points raised by the Senator from New York are extremely important. They are of great significance and extraordinary consequence.

There are many difficult questions for the Commission to consider. These include: When can a child give consent? Who should be permitted to give consent for him and under what conditions? Who can give consent for the comatose patient? We have heard these issues, which involve an enormous degree of complexity, discussed before our committee by theologians, philosophers, and researchers in the area.

The Senate would be acting much more responsibly if we banned the use of any kind of funds only until we were able to get some kind of guidelines from the Commission.

This is the kind of issue which this Commission should consider and on which they should guide us.

I would be hopeful that the Senator from New York would be willing to accept the perfecting amendment. I value very highly his sense of concern on this whole issue and all of us know of that concern. He has given the matter a great deal of thought.

I believe this offers the fairest opportunity to protect the kinds of rights the Senator is concerned about and will provide the most responsible action we can take.

Mr. BUCKLEY. Mr. President, I deeply appreciate the effort of the Senator from Massachusetts to come to an accommodation which at least for 2 years would accomplish what I propose in this amendment. I wish I could accept it but I cannot. I say that reluctantly.

One of the things that concerns me with respect to our thinking about medical ethics in recent years has been the effect on our moral sensibilities and on society if we start downgrading the value of human life and upgrading all kinds of subsidiary considerations that are offered in the interest of social utility.

For us to accept the amendment offered by the distinguished chairman of the subcommittee would be, however subtly, to give some sort of tacit senatorial approval to the idea that it might be someday appropriate to permit these experiments on the child the mother is trying to destroy. I believe these subties are terribly important in the present environment.

I believe that what this body does sets a moral tone and has an influence on society at large. If we complete this legislation, and then a medical debate starts on the proprietry of certain questionable procedures, as in the case of the doctor who worked with the Finnish physician to take off the heads of 12 living fetuses—if we, in effect, condone this kind of debate, if we approve it by adopting the perfecting amendment, then we may be conceding a fatal premise and we may do a disservice to the moral climate of this country.

It could well be that the commission will come forward with a very forceful argument that may cause some of us to change our position, although I will submit I find myself rather set in my own feelings in the matter. But I believe that the Senate should speak its mind as the House did and put the burden on the commission to recommend to the contrary if that is its finding.

I therefore urge, Mr. President, that the perfecting amendment not be accepted.

Mr. KENNEDY. Mr. President, I do not accept the suggestion of the Senator from New York that we are giving any kind of stamp of approval in this area. What we are doing is setting up a procedure and establishing a commission to try to devise guidelines and directives in an extremely difficult and complex area.

The Senator from New York is carving out a small area and saying the commission shall not deal with that. What we are prepared to do is let them make further research into this area until the commission has time to develop its recommendations and policies. This is a very complex matter. If we are taking off one portion of commission jurisdiction, then why not ban the commission from determining how to treat elderly persons who are in a coma or in a terminal illness? Are we going to start imposing particular viewpoints and say, therefore, we are not going to let the commission deal with that, either, because we want to be sure that they are either going to be

kept alive or die? What we tried to do was not involve ourselves in particular segments of difficult ethical and moral questions. We are trying to set up a procedure by which we can be guided, always reserving our right in the Senate or the Congress to act if some time in the future it should be so desired.

I think the amendment offered protects the principal concern of the Senator from New York. I was hopeful he would accept it.

Mr. President, I am prepared to yield back the remainder of my time and to vote on the amendment.

Mr. President, I suggest the absence of a quorum, the time to be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. Yes.

Mr. BUCKLEY. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts to the amendment of the Senator from New York. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Utah (Mr. Moss), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

The result was announced—yeas 53, nays 35, as follows:

[No. 389 Leg.]

YEAS—53

Abourezk	Eastland	Mathias
Aiken	Fong	McGee
Bayh	Gravel	McGovern
Beall	Hart	McIntyre
Bellmon	Hartke	Mondale
Bentsen	Hathaway	Montoya
Brooke	Hollings	Muskie
Burdick	Huddleston	Nelson
Byrd, Robert C.	Humphrey	Nunn
Cannon	Inouye	Packwood
Case	Jackson	Pastore
Church	Javits	Pell
Clark	Kennedy	Ribicoff
Cranston	Magnuson	Saxbe
Eagleton	Mansfield	Sparkman
Stafford	Symington	Tunney
Stennis	Taft	Williams
Stevenson	Talmadge	

NAYS—35

Allen	Dole	McClellan
Baker	Domenici	Metcalf
Bartlett	Ervin	Pearson
Bennett	Fannin	Percy
Biden	Griffin	Proxmire
Brock	Gurney	Roth
Buckley	Hansen	Schweiker
Byrd, Harry F., Jr.	Haskell	Scott, Pa.
	Hatfield	Scott, Va.
Cook	Helms	Stevens
Cotton	Hruska	Thurmond
Curtis	Hughes	Tower

NOT VOTING—12

Bible	Goldwater	Moss
Chiles	Johnston	Randolph
Dominick	Long	Weicker
Fulbright	McClure	Young

So the Kennedy amendment to the Buckley amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY), as amended.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the Chair on his efforts to enforce the rules and maintain order in the Senate, and I hope he will persist.

The PRESIDING OFFICER. The Chair thanks the distinguished Senator.

Who yields time?

Mr. KENNEDY. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. Does the Senator from New York yield back his time?

Mr. BUCKLEY. I yield back my time.

The PRESIDING OFFICER (Mr. HELMS). All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY), as amended. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK) would vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[No. 390 Leg.]

YEAS—88

Abourezk	Ervin	Montoya
Aiken	Fong	Muskie
Allen	Gravel	Nelson
Baker	Griffin	Nunn
Bartlett	Gurney	Packwood
Bayh	Hansen	Pastore
Beall	Hart	Pearson
Bellmon	Hartke	Pell
Bennett	Haskell	Percy
Bentsen	Hatfield	Proxmire
Biden	Hathaway	Randolph
Brock	Helms	Ribicoff
Brooke	Hollings	Roth
Buckley	Hruska	Saxbe
Burdick	Huddleston	Schweiker
Byrd, Harry F., Jr.	Hughes	Scott, Pa.
	Humphrey	Scott, Va.
Byrd, Robert C.	Inouye	Sparkman
Cannon	Jackson	Stafford
Case	Javits	Stennis
Church	Kennedy	Stevens
Clark	Magnuson	Stevenson
Cook	Mansfield	Symington
Cotton	Mathias	Taft
Cranston	McClellan	Talmadge
Curtis	McGee	Thurmond
Dole	McGovern	Tower
Domenici	McIntyre	Tunney
Eagleton	Metcalf	Williams
Eastland	Mondale	

NAYS—0

NOT VOTING—12

Bible	Fulbright	McClure
Chiles	Goldwater	Moss
Dominick	Johnston	Weicker
Fannin	Long	Young

So Mr. BUCKLEY's amendment, as amended, was agreed to.

Mr. KENNEDY. Mr. President, I send to the desk two technical amendments. They are corrections in the bill necessitated by typographical errors. They relate to a change of reference in the bill from one section of the Public Health Service Act to another. They are strictly technical in nature. I ask that the amendments not be read but that they be printed in the RECORD.

The amendments ordered to be printed in the RECORD are as follows:

On page 22, line 24, strike out "winds" and insert in lieu thereof "kinds".

On page 35, strike lines 4 through 6 and insert in lieu thereof the following:

(b) The provisions of this section shall not be construed as superseding the provisions of section 401 of the Health Programs Extension Act of 1973.

Mr. KENNEDY. I yield back the remainder of my time on the amendments.

Mr. JAVITS. I yield back the rest of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The committee amendment is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment of the amendment and the third reading of the bill.

The amendment was to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. HUGHES. Mr. President, I want to commend the distinguished Senator from Massachusetts (Mr. KENNEDY) and the staff of the Subcommittee on Health for their work on H.R. 7724, amending the Public Health Service Act to establish a national program of biomedical research, fellowships, traineeships, and training, and establishing a Commission for the protection of human subjects of biomedical and behavioral research. I am especially appreciative of the consideration given to the concerns which I expressed with respect to title II of the bill, which is the "Protection of Human Subjects Act."

I am convinced that title I, relating to the financing of biomedical research and training is urgently needed. We cannot permit the Administration to dismantle research and research training programs which are absolutely essential to the continued progress of biomedical and behavioral research.

Mr. President, my reservations with respect to the Protection of Human Subjects Act should not be interpreted as indifference to the present lack of clear ethical standards for research financed with public funds. Indeed, no one who has listened in recent months to the stories of inadequately considered psychosurgery, the uncontrolled use of drugs to modify the behavior of children, the performing of surgical sterilization without the informed consent of the patients, or the long-range tragedy of the patients in the Tuskegee study can be indifferent.

The bill seeks to fill a vacuum in the application of ethical standards to research projects involving human subjects, and certainly that vacuum must be filled. It goes a long way toward clarifying the meaning of "informed consent," and it would write into law the essential protections of policies, both personal and institutional, which are based on religious or moral principles.

My concern, Mr. President, has not been directed toward the purposes of this legislation, but instead toward the mechanisms it establishes for identifying ethical principles and translating them into appropriate governmental regulations.

The Commission created by the bill must perform both a long-range and a relatively short-range task. It is expected first to undertake a comprehensive investigation and study to identify relevant basic ethical principles. This study will inevitably require the exploration of extremely complex philosophical issues relating to the meaning and quality of life, the employment of science and technology in the service of man, the nature of our society and our aspirations for its future, and perhaps ultimately, the relationship of the individual to his God. These are problems with which mankind has grappled throughout recorded history. A comprehensive investigation is a long-term task requiring some of the Nation's best minds.

The Commission's second task is to develop and implement policies and regulations which will assure that research is carried out according to the ethical principles identified and articulated by the Commission.

This second phase of the Commission's work entails not only a high degree of sensitivity to ethical standards but also the technical skills and experience needed to devise appropriate, detailed regulations which must govern a wide variety of research projects.

Mr. President, I am not entirely convinced that a single commission, even with a staff of experts and consultants, can perform both tasks. It may well be that two separate commissions should be created composed of men and women with different qualities of mind and with different education and experience. Otherwise, we may find that the immediate task of devising appropriate standards and regulations will take precedence over the longer term intellectual exploration which could ultimately be far more significant.

An additional problem with which I am concerned is the grant of authority provided to the Secretary of Health, Education, and Welfare in section 1203 of the bill. Section 1203 gives the Secretary authority to apply the policies and procedures developed by the Commission for research programs to the maximum extent feasible to the delivery of health services in programs funded in whole or in part by the Department of Health, Education, and Welfare. Since the Department now funds such programs as community mental health centers, migrant health services, family planning services, and drug and alcohol treatment programs, it is obvious that the policies and procedures developed by the Commission might ultimately be applied to large numbers of patients who are not the subjects of research. The effect of this provision could be beneficial, and, of course, it is intended to be. However, it seems to me that we are giving the Secretary very substantial authority before we even know what standards and regulations are to be devised and how they might affect agencies which are engaged in the delivery of health services rather than in research.

Mr. President, in spite of the concerns I have expressed, I have concluded that on balance H.R. 7724 should be passed. I am assured both by leaders in the various biomedical and behavioral research disciplines and by religious leaders that they do support title II and are convinced that it is a significant step in solving the problems which now arise from the absence of any clear policy with respect to ethical standards in the conduct of research involving human subjects.

Mr. WILLIAMS. Mr. President, the health needs of the United States demand a continued level of excellence in medical research so that we can continue the progress that we have made in bringing about the best possible medical care for all the American people. Over the past years much of this progress has come as a result of federally supported scientific and medical research and the continued viability of the Federal biomedical and behavorial research effort demands the availability of excellent scientists, a network of institutions capable of producing superior research personnel, and the direct Federal support of the training of scientists for careers in biomedical and behavorial research.

Unfortunately, during the last few years, the administration has attempted to dilute these efforts. The President's fiscal 1974 budget request proposed an end to the important NIH fellowship and training grant program. This proposal sent shockwaves through the Nation's biomedical research community and because of such united opposition to that position, the administration announced on July 16 that it would not terminate the program but rather recommended a half-hearted and wholly inadequate fellowship and training program.

It is the first objective of this bill to restore Federal support for research training programs and to improve upon existing efforts by giving them more administration flexibility and consolidating research training and fellowships into a single national research service award program. This bill: First, eliminates the preexisting dual class system of fellowship and training grants and replaces them with a single national research service award to be administered out of the Office of the Director of the National Institutes of Health; second, such awards can be granted either directly to the individual applicant or to an accredited institution at which programs for research or training of recipients of the awards are conducted; and third, as a condition of receipt of such an award, this bill requires that the awardee pay back his time by engaging in health research or teaching at an accredited institution. If such an option is not possible, an awardee may pay back his service either by participating in the National Health Service Corps, a prepaid group practice, or in private practice in his speciality in an area which is unserved or underserved in that speciality.

The enactment of these provisions should, in my view, assure a continuing supply of well-trained researchers in the biomedical and behavioral area, and continue to make real this Nation's commitment to superior medical care for its citizens.

Mr. President, the second title of this bill deals with a more complex and yet equally important concern—the protection of human subjects of biomedical and behavioral research. Early this year, the Subcommittee on Health of the Committee on Labor and Public Welfare embarked on a lengthy series of hearings because of its concern that the human subjects of biomedical and behavioral research were often not fully protected during the course of such experiments. The testimony presented to the committee provided us with information about some shocking abuses and raised profound ethical questions which must be resolved. As a result of this investigation, the committee reported legislation establishing a National Commission for the Protection of Human Subjects of Medical and Behavioral Research. This 11-member Presidentially appointed Commission is charged with undertaking a comprehensive study to identify basic

principles and specific guidelines which underlie the conduct of biomedical and behavioral research involving human subjects. Once those principles have been identified, the Commission is charged with developing and implementing policies and regulations to assure that all such research funded through programs and activities defined in the Public Health Service Act, the Community Mental Health Centers Act and the Developmental Disabilities Act, is carried out in accordance with the principles and guidelines established by the Commission.

The bill further provides that once such policies and regulations are established, the work of the Commission will be carried out through the mechanism of institutional review boards to be established wherever biomedical and behavorial research involving human subjects is conducted. These institutional review boards should assure that subjects in any given institution are protected to the same extent as subjects in any other institution.

In addition, this bill establishes interim controls on the protection of human subjects and requires that all human subjects of such research be provided with precisely defined "informed consent" protections.

Mr. President, as I said at the outset, this is indeed a very difficult and complex area which raises the most profound questions regarding human rights. The lengthy hearing record developed by the committee makes clear that no human being should be unprotected if he submits himself to experiments for the purpose of advancing biomedical and behavorial research. At the same time, however, and precisely because of the complexity of these issues, it was the committee's feeling that the guidelines, policies, and regulations, established by the Commission should first be applied to research supported by HEW health programs, and one of the first duties which this bill vests in the Commission is to develop and recommend to the Congress within 1 year an appropriate mechanism to broaden the scope of its authority. Thus, while there may be complex difficult legal and ethical questions which need to be resolved, it is my belief that we must work swiftly toward the time when all human subjects of biomedical or behavorial research are given the fullest possible protection.

Mr. President, both elements of this bill are critical to the ongoing success of health research and health care in America. The bill in my view reinforces the commitment that we have made to assure the highest quality medical care for all of our citizens, and that is a commitment which we must never forsake.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time on the bill.

Mr. JAVITS. I yield back the rest of my time.

The PRESIDING OFFICER. All remaining time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) and the Senator from Louisiana (Mr. LONG) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. DOMINICK) and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas 81, nays 6, as follows:

[No. 391 Leg.]

YEAS—81

Abourezk	Fong	Muskie
Aiken	Gravel	Nelson
Allen	Griffin	Nunn
Baker	Gurney	Packwood
Bartlett	Hansen	Pastore
Bayh	Hart	Pearson
Beall	Hartke	Pell
Bellmon	Haskell	Percy
Bentsen	Hatfield	Randolph
Biden	Hathaway	Ribicoff
Brock	Hollings	Roth
Brooke	Huddleston	Saxbe
Buckley	Hughes	Schweiker
Burdick	Humphrey	Scott, Pa.
Byrd, Harry F., Jr.	Inouye	Scott, Va.
Byrd, Robert C.	Jackson	Sparkman
Cannon	Javits	Stafford
Case	Kennedy	Stennis
Church	Magnuson	Stevens
Clark	Mansfield	Stevenson
Cook	Mathias	Symington
Cranston	McClellan	Taft
Dole	McGee	Talmadge
Domenici	McGovern	Thurmond
Eagleton	McIntyre	Tower
Eastland	Metcalf	Williams
Ervin	Mondale	
	Montoya	

NAYS—6

Bennett	Curtis	Hruska
Cotton	Helms	Proxmire

NOT VOTING—13

Bible	Goldwater	Tunney
Chiles	Johnston	Weicker
Dominick	Long	Young
Fannin	McClure	
Fulbright	Moss	

So the bill (H.R. 7724) was passed.

The title was amended so as to read: "An act to amend the Public Health Service Act to establish a program of National Research Service Awards to assure the continued excellence of biomedical and behavioral research and to provide for the protection of human subjects involved in biomedical and behavioral research and for other purposes."

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. NUNN) appointed Mr. WILLIAMS, Mr. NELSON, Mr. KENNEDY, Mr. MONDALE, Mr. HUGHES, Mr. CRANSTON, Mr. PELL, Mr. EAGLETON, Mr. JAVITS, Mr. DOMINICK, Mr. SCHWEIKER, Mr. BEALL, and Mr. TAFT conferees on the part of the Senate.

Mr. KENNEDY. Mr. President, I wish to make some very brief acknowledgments and express thanks to the members of the Subcommittee on Health and the Committee on Labor and Public Welfare for their support, interest, and participation in the development of this legislation. First, I wish to mention the ranking minority member of the full Committee on Labor and Public Welfare, the Senator from New York (Mr. JAVITS), and commend him for his work.

A number of provisions in this legislation were the result of his interest and his involvement. The Senator from Maryland (Mr. BEALL) also participated very actively. The Senator from Minnesota (Mr. MONDALE) has been interested in this whole area of the impact of scientific advances on the society. He has been very much involved in the development of the legislation as well.

I also wish to give special commendation to Dr. Larry Horowitz, of the Senate staff, to Lee Goldman, of the majority staff, and Jay Cutter of the minority staff. I also wish to acknowledge the work done by Dr. Jay Katz, of the Yale Law School, Dr. Bernard Barber, of Columbia, Dr. Robert Cook, vice president for medical affairs at the University of Wisconsin; and also my sister, Eunice Shriver, who has taken a deep personal interest and who attended the early meetings for the development of the legislation and who has also been very much involved in a number of steps along the way.

I want to acknowledge and thank these individuals, plus the many other members of the staff and the witnesses for their support and help in developing the legislation.

Mr. President, I yield the floor.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 11, 1973, he presented to the President of the United States the following enrolled bills:

S. 1165. An act to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar," and for other purposes; and

S. 1672. An act to amend the Small Business Act.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now

be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes.

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 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.

UNANIMOUS-CONSENT AGREEMENT ON CONFERENCE REPORT ON H.R. 8070, VOCATIONAL REHABILITATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having cleared this request on the other side of the aisle, and at the suggestion of my distinguished senior colleague (Mr. RANDOLPH) and also at the suggestion of the distinguished Senator from Vermont (Mr. STAFFORD), that at such time as the conference report on H.R. 8070, vocational rehabilitation, is called up before the Senate, there be a time limitation thereon of 40 minutes, to be equally divided between Mr. RANDOLPH and Mr. STAFFORD, and that there be a time limitation on any debatable motion, or appeal, of 20 minutes, to be equally divided, in accordance with the usual form.

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

UNANIMOUS-CONSENT AGREEMENT ON MILITARY CONSTRUCTION AUTHORIZATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having been authorized to do so by the distinguished majority leader, for a time limitation on two bills which will be coming before the Senate shortly. These requests have been cleared with the leadership on the other side of the aisle, with the managers and the ranking members of the committees in both instances, and with other Senators.

I ask unanimous consent that at such time as the military construction authorization bill is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour, to be equally divided between Mr. SYMINGTON and Mr. TOWER; that the time on any amendment be limited to 30 minutes; that the time on any debatable motion or appeal be limited to 20 minutes; and that the agreement be in the usual form.

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

UNANIMOUS-CONSENT AGREEMENT ON H.R. 8916, STATE-JUSTICE APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 8916, the bill making appropriations for the Departments of State and Justice, is called up before the Senate, there be a time limitation thereon of 2 hours, to be equally divided between Mr. PASTORE and Mr. HRUSKA; that time on any amendment thereto be limited to 1 hour; that time on any amendment to an amendment, debatable motion, or appeal be limited to 30 minutes; and that the agreement with respect to division and control of time be in the usual form.

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

ORDER FOR RECOGNITION OF SENATOR HUMPHREY ON MONDAY NEXT, AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND THE CONSIDERATION OF H.R. 8916

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, September 17, following the recognition of the two leaders or their designees under the standing order, the distinguished Senator from Minnesota (Mr. HUMPHREY) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes; at the conclusion of which the Chair lay before the Senate H.R. 8916, the State-Justice appropriation bill.

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

ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON VOCATIONAL REHABILITATION AND MILITARY CONSTRUCTION AUTHORIZATION BILLS ON THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, September 13, at conclusion of morning business, the Chair lay before the Senate the conference report on vocational rehabilitation, H.R. 8070, and that upon disposition of that conference report, the Chair then lay before the Senate the military construction authorization bill.

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

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 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 CONSIDERATION OF CONFERENCE REPORT ON INTERNATIONAL ECONOMIC POLICY ACT OF 1972, AS AMENDED, S. 1636

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished chairman of the committee, the Senator from Alabama (Mr. SPARKMAN), and the distinguished ranking minority member of the Senate Committee on Banking, the distinguished Senator from Texas (Mr. TOWER). It has also been cleared with the distinguished Senator from Illinois (Mr. STEVENSON), and it has been cleared with other Senators on each side of the aisle.

I ask unanimous consent, subject to the approval of the distinguished Senator from Florida (Mr. CHILES), that at such time as the conference report on S. 1636, the International Economic Policy Act of 1972, as amended, is called up before the Senate, there be a time limitation thereon of 2 hours, to be equally divided between and controlled by the Senator from Alabama (Mr. SPARKMAN) and the Senator from Texas (Mr. TOWER); that time on any debatable motion or appeal be limited to 30 minutes, to be equally divided in accordance with the usual form, with the understanding that the usual form provides that, if additional time is needed on any debatable motion or appeal, time will be yielded from the time on the conference report by the managers thereof.

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, a conference report is a privileged matter and can be called up at any time. It is to be hoped that the time agreement will meet with the approval of the Senator from Florida (Mr. CHILES). If it does, it would then be the intention of the Senator from Alabama (Mr. SPARKMAN) to call up the conference report tomorrow following the vote on the nomination of Mr. Arnett.

Mr. President, I will say that I have put the agreement on a conditional basis because it is hoped by the leadership that the conference report could be disposed of under the consent agreement so as to permit the Senate at a reasonably early hour tomorrow to proceed to the consideration of the consumer product warranty bill. It is not a desirable thing on the part of the leadership to ask for unanimous-consent agreements and make them subject to the approval of Senators who are not on the floor at a particular time. However, this has been done occasionally when the circumstances have been extenuating, as is the case here.

The Senator from Florida (Mr. CHILES), it seems to me, wrote me a letter some time ago and asked to be contacted before any agreement was entered into on this conference report. I, therefore, feel obligated to the Senator from Florida (Mr. CHILES) to put the request in a conditional context. So, on tomorrow we will know whether the agreement meets with the approval of the Senator from Florida.

ORDER FOR THE SENATE TO PROCEED TO THE CONSIDERATION OF EITHER S. 1636 OR S. 356 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the unanimous-consent time agreement on the conference report meets with the approval of the Senator from Florida (Mr. CHILES), that immediately upon the disposition of the nomination of Mr. Arnett on tomorrow, the Senate return to legislative session and proceed to the consideration of the conference report on S. 1636, and that upon the disposition of that conference report, the Senate then take up the bill with reference to consumer's product warranty, S. 356, or, in the alternative, if the agreement as to time is not agreeable to the Senator from Florida, the Senate then proceed as under the previous order to take up S. 356 upon the disposition of the nomination of Mr. Arnett.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, of course, if the time agreement does not meet with the approval of the Senator from Florida (Mr. CHILES), and is thus voided, it is understood that the Senator from Alabama (Mr. SPARKMAN) or any other Senator, under the rule, can call up the conference report at any time subject only to the limitation of the order entered which calls for the bringing up of S. 356 immediately upon the disposition of the nomination of Mr. Arnett. I ask the Chair if my understanding is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 10 a.m. tomorrow morning. After the two leaders or their designees have been recognized under the standing order, and at no later than the hour of 10:05 a.m. tomorrow, the Senate will go into executive session to consider the nomination of Mr. Alvin J. Arnett, of Maryland, to be Director of the Office of Economic Opportunity.

There is a time limitation on that nomination, and the vote will occur on the confirmation of the nomination at the hour of 12 o'clock noon.

That will be a yea and nay vote. And upon the disposition of the nomination, the Senate will then either take up the conference report on S. 1636, the International Economic Policy Act of 1972, as amended, or S. 356, a bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes depending upon the approval or disapproval of the Senator from Florida (Mr. CHILES) with respect to the agreement in connection with the aforementioned conference report.

There will be a yea-and-nay vote on the confirmation of Mr. Arnett. There will be yea-and-nay votes presumably on amendments to S. 356, if such amendments are offered. It is to be assumed that there will likely be a yea-and-nay vote on the passage of that bill, and if and when the conference report on the International Policy Act of 1972, as amended, S. 1636, is called up, there may be a yea-and-nay vote on any motion with respect thereto, and possibly with respect to the adoption of the conference report.

So, there will be yea-and-nay votes on tomorrow.

On Thursday, the military construction authorization bill will be taken up. There will be yea-and-nay votes on the passage of that bill and amendments thereto, if amendments to the bill are offered.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 5:48 p.m., the Senate adjourned until tomorrow, Wednesday, September 12, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 11, 1973:

DEPARTMENT OF JUSTICE

Harold S. Fountain, of Alabama, to be U.S. marshal for the southern district of Alabama for the term of 4 years, reappointment.

John H. deWinter, of Maine, to be U.S. marshal for the district of Maine for the term of 4 years, reappointment.

Marvin G. Washington, of Michigan, to be U.S. marshal for the western district of Michigan for the term of 4 years, reappointment.

Robert G. Wagner, of Ohio, to be U.S. marshal for the northern district of Ohio for the term of 4 years, reappointment.

Charles S. Guy, of Pennsylvania, to be U.S. marshal for the eastern district of Pennsylvania for the term of 4 years, reappointment.

Leonard E. Alderson, of Wisconsin, to be U.S. marshal for the western district of Wisconsin for the term of 4 years, reappointment.

INTERNATIONAL MONETARY FUND

Arthur F. Burns, of the District of Columbia, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years, vice John N. Irwin II.

INTERNATIONAL BANKS

William J. Casey, of New York, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank, vice John N. Irwin II.

HOUSE OF REPRESENTATIVES—*Tuesday, September 11, 1973*

The House met at 12 o'clock noon.

Rabbi Arnold G. Fink, Beth El Hebrew Congregation, Alexandria, Va., offered the following prayer:

O, Source of all being and guardian of our destinies—You are the ultimate mystery of the universe before whom all our endeavors are as naught. Yet, You have made man a partner in the process of unfolding life—of eternal creation. You have shaped his restless spirit that he might search for an elusive truth.

You who has shown Your will of old in the strivings of prophets and sages, we pray that You will make Yourself manifest this day in the assemblage of men and nations. May the dream of a better world permeate even the most common task. Inform the human heart that we may cause righteousness to spring forth from the earth and peace to descend from on high.

We praise You, O Lord, who sanctifies life with sacred promise. 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 agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1672) entitled "An act to amend the Small Business Act."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 386. An act to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to House Resolution 536, agreed to on September 10, 1973, he did on that day make certification to the U.S. attorney for the District of Columbia as required by House Resolution 536, of the refusal of George Gordon Liddy to be sworn or to take affirmation before a duly authorized subcommittee of the Committee on Armed Services on July 20, 1973.