

the hands of that distinguished committee, I think it is important that we have a proper succession machinery established before we vote on impeachment. I believe that this is a good bill which solves serious political and constitutional problems in the proper, democratic tradition.

But I am anxious to see thorough hearings at which the Judiciary Committee could hear the opinions of the best legal and constitutional minds in this country. Professor Berger and his Harvard colleague Prof. Paul Freund have both informed me that the concept of special elections lies on sound constitutional ground. If they and other experts offer improvements on this legislation, I for one would be more than happy to see the best thinking available to the Judiciary Committee used in preparing this legislation for enactment. I am anxious to see the Judiciary hear from the constitutional scholars of this country and this bill seems to me to be the best means of obtaining such hearings.

I therefore invite support for this legislation in a truly bipartisan spirit of returning the choice to the American

people and present it to my colleagues for their careful consideration.

H.R. 11214

A bill to amend title 3 of the United States Code to provide for the order of succession in the case of a vacancy both in the office of President and office of the Vice President, to provide for a special election procedure in the case of such vacancy, 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 19 of title 3 United States Code is amended to read as follows:*

“19. Vacancy in offices of both President and Vice President, officers eligible to act; special election

“(a) In any case of removal, death, resignation, or inability both of the President and the Vice President, the Speaker of the House of Representatives (or, in any case in which the office of the Speaker of the House of Representatives is vacant, the President pro tempore of the Senate of the United States) shall act as President until such inability is removed or a President is elected.

“(b) (1) In the case in which both the office of the President and the office of Vice President are vacant, the Secretary of State of the United States shall notify the chief

executive officer of each State with respect to such vacancy.

“(2) Except as provided by paragraph (3), electors of the President shall be chosen in each State on the first Tuesday after the first Monday in November following the date of notification under paragraph (1).

“(3) If there are less than two months between the date of notification under paragraph (1) and the first Tuesday after the first Monday in November, and if the terms of the most recent President and Vice President do not expire on the twentieth day of January next succeeding the date of such notification, then the Secretary of State shall specify in such notification that electors of the President shall be chosen on the first Tuesday after the first Monday in November in the calendar year next succeeding the date of such notification.

“(4) The electors (appointed or) chosen under paragraph (2) or paragraph (3) shall meet and give their votes on the first Monday after the second Wednesday in December following their selection.”

Sec. 2. The table of sections for chapter 1 of title 3, United States Code, is amended by striking out the item relating to section 19 and inserting in lieu thereof the following:

“19. Vacancy in offices of both President and Vice President; officers eligible to act; special election.”

## HOUSE OF REPRESENTATIVES—Thursday, November 1, 1973

The House met at 12 o'clock noon.

Rev. J. C. Odum, pastor, Long Avenue Baptist Church, Port St. Joe, Fla., offered the following prayer:

Almighty God, accept our grateful thanksgiving for the heritage of faith and freedom that is ours. We ask for Your blessings to continue upon our Nation. Help us to be true to those great ideals that have made our Nation great. We ask for providential guidance not only for our Nation, but for all nations and people of this world which You have created. Deliver us from all bitterness and misunderstanding.

Especially do we beseech Thee in behalf of those to whom You have committed the authority of Government. Grant unto them the wisdom of Your counsel in their work today. This we ask in the name of our Saviour and Lord, Jesus the Christ. 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.

### THE REVEREND J. C. ODUM

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the prayer in the House today was offered by the Reverend J. C. Odum, of the Long Avenue Baptist Church of Port St. Joe, Fla., in my congressional district. Reverend Odum has an enviable reputation for sound and constructive service in God's work over a period of many years.

Reverend and Mrs. Odum are visiting in the Nation's Capital with their son, Capt. David Odum of the Army, and their daughter-in-law and grandchildren. Reverend Odum's family are seated in the gallery at this time enjoying with us this special moment of dedication, which is always such an important part of the procedure of the Congress. I know the House joins me in a warm welcome to each of them.

### DISCHARGING COMMITTEE ON THE JUDICIARY FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 634, INQUIRY PAPERS IN CUSTODY OF SPECIAL PROSECUTOR

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of House Resolution 634 and that the resolution be laid upon the table.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLOSKEY. Mr. Speaker, I have requested the discharge of the Judiciary Committee from further consideration of House Resolution 634 by reason of the order of Chief Judge Sirica dated October 26, 1973, in which he orders court custody of the documents and exhibits in the possession of the Watergate special prosecution force. A copy of that order is set forth in full:

[U.S. District Court for the District of Columbia]

IN RE INVESTIGATIONS BY JUNE 5, 1972,  
GRAND JURY AND AUGUST 13, 1973,  
GRAND JURY—MISCELLANEOUS Nos. 47-73  
AND 108-73

#### ORDER

Upon consideration of the motion dated October 25, 1973, submitted on behalf of the

grand juries pursuant to Rule 6 of the Federal Rules of Criminal Procedure and 28 U.S.C. 1651, it is by the Court hereby

Ordered:

1. The transcripts of testimony taken before the above-captioned grand juries, all reporters' notes of such testimony, all exhibits introduced before the grand juries, and all writings, memoranda, notes, and other files containing information derived from such testimony or exhibits or secured pursuant to grand jury subp<sup>e</sup>na, and located within the office of the former Watergate Special Prosecution Force, 8th and 9th floors, 1425 K Street, NW, Washington, D.C., are declared to be in the custody of this Court.

2. The Administrator of the General Services Administration is directed to instruct all officers of the Federal Protective Service assigned to security functions at the above described offices of the foregoing provision and not to permit the removal of any transcripts, exhibits, memoranda, files, or other writings from those offices except in the possession of an attorney employed by the Watergate Special Prosecution Force as of the close of business on October 19, 1973. Except for personal papers, such attorneys may remove such materials only for the purpose of conducting legal proceedings, interviewing witnesses, or otherwise discharging their official duties. In addition, Henry E. Petersen, Assistant Attorney General in charge of the Criminal Division, may remove copies of such materials for the same purposes.

3. No materials shall be removed from the above described offices by any person unless a true and exact copy of all such materials is left in the customary file in those offices.

4. The provisions of this order shall remain in full force and effect pending further order of the Court, either on application of the movants, the Acting Attorney General, the Assistant Attorney General in charge of the Criminal Division, or upon the Court's own motion.

5. The United States Marshal for the District of Columbia is directed to serve forthwith certified copies of foregoing order and moving papers upon the Administrator of the General Services Administration, the Director of the Federal Bureau of Investigation, the Director of the United States Marshals

Service, or the Acting Assistant Attorney General for Administration, Department of Justice.

JOHN J. SIRICA,  
Chief Judge.

THREE NORTH CAROLINIANS WHO HAVE STOOD UP TO BE COUNTED FOR THE BILL OF RIGHTS

(Mr. HENDERSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.

Mr. HENDERSON. Mr. Speaker, on Thursday evening, October 18, 1973, a distinguished North Carolinian addressed the North Carolina Democratic Club of Washington, D.C.

He is Albert Coates, professor emeritus in the law school of the University of North Carolina and moving spirit behind North Carolina's Institute of Government.

The North Carolina Institute of Government is administered by the University at Chapel Hill and has become a model for other States to follow as a training facility for local government officials. Mayors and city fathers, county commissioners, law enforcement officers, and many others have received valuable training there. It has provided research and technical assistance to the North Carolina General Assembly.

Albert Coates is a modest man who would not boast of his own achievements, but he can rightfully take his place along with leaders like Dr. Frank Porter Graham and Senator Sam Ervin who have exemplified the spirit of the great University of North Carolina.

I want to share with my colleagues the following address delivered by Albert Coates to the North Carolina Democratic Club.

THREE NORTH CAROLINIANS WHO HAVE STOOD UP TO BE COUNTED FOR THE BILL OF RIGHTS—SAM SPENCER IN THE 1760'S; ZEB VANCE IN THE 1860'S; AND SAM ERVIN IN THE 1970'S

(By Albert Coates)

THREE NORTH CAROLINIANS AND THE BILL OF RIGHTS

I thank the leaders of the North Carolina Democratic Club in Washington for this opportunity to talk to you. There are many things I have wanted to say, and I cannot think of a better time and place to say them. I want to talk to you about the historic tradition of North Carolina and the Bill of Rights as we know it today.

If I had to pick out three North Carolinians who have stood up to be counted for the Bill of Rights at critical moments in our history, and limit the picking to three, I would pick out Sam Spencer of Anson County in the 1760's, Zeb Vance of Buncombe County in the 1860's, and Sam Ervin of Burke County in the 1960's. Let me tell you why.

Sam Spencer of Anson County

In 1788 in the Constitutional Convention in Hillsborough Courthouse:

Our rights are not safeguarded. There is no declaration of rights, to secure every member of society those unalienable rights, which ought not to be given up to any government. . . . I know it is said that what [power] is not given up to the United States will be retained by the individual states. I know it ought to be so, and should be understood; but, sir, it is not declared to be so . . . there ought to be something to confine the power of this government within its proper bound-

aries. . . . The government is proposed for individuals. The expression "We the People of the United States" shows that this government is intended for individuals. There ought therefore to be a Bill of Rights.

I. Sam Spencer

*Who was Sam Spencer?* He was born in Connecticut in 1738; graduated from Princeton University around 1758; moved to North Carolina and became Clerk of Court in Anson County in the 1760's.

*The Rule of Law and the Bill of Rights got into the mind of Sam Spencer* as he read and studied the Charter from the Crown in 1663, guaranteeing to settlers in the Province of Carolina, the rights and privileges of Englishmen living in England. As he learned that these rights and privileges had been spelled out in Magna Carta in 1215 and the Petition of Rights in 1628, and promised to "the free-men of England and their heirs forever." As he learned that they had been reaffirmed and expanded in the Declaration of Rights in 1689.

*They became more than words to him in the 1760's, 70's, and 80's and got into his bloodstream* as he saw the King and Parliament denying these elemental rights to North Carolinians—vetoing act after act of the Colonial Assembly in the growing conflict of interests between the Colony and the Crown. As he saw Cornelius Harnett lead five hundred angry citizens to the doors of the Governor's palace to protest against the Stamp Act. As he saw the Royal Governor flee the Colony to the protection of a British Warship in the Wilmington harbor in the 1770's. As he marched with the Anson County militia in the American Revolution and became their fighting colonel.

*He stood up to be counted for them* as a delegate to the Provincial Congress in North Carolina which drew up the Halifax Resolves, authorizing "the delegates for this colony in the Continental Congress to concur with the delegates of the other colonies in declaring independence."

The American historian, George Bancroft, wrote this about the Halifax Resolves: "The first voice for dissolving all connection with Great Britain came, not from the Puritans of New England, the Dutch of New York, or the planters of Virginia, but from the Scotch Presbyterians of North Carolina."

*He stood up to be counted for them again* as a delegate to the Convention which met at Halifax from November 12 to December 18, 1776, and wrote into the State's first Constitution the relevant rights and privileges of the people which had been spelled out in Magna Carta, the Petition of Right, and the Declaration of Rights.

To make assurance of these rights and privileges doubly sure, he was one of the delegates who added the provision: "That the Declaration of Rights is hereby declared to be part of the Constitution of this State and ought never to be violated on any pretence whatsoever."

*He stood up to be counted for them again* on the floor of the State Convention in Hillsborough Courthouse in 1788 as a delegate from Anson County, and refused to vote to ratify the United States Constitution, drafted in Philadelphia the year before, because it did not include a Bill of Rights, such as he had helped to write into the North Carolina Constitution in 1776.

Here is what he said in debate on the floor of the Convention in Hillsborough Courthouse:

"Our rights are not safeguarded. There is no declaration of rights, to secure every member of society those unalienable rights which ought not to be given up to any government. . . . I know it is said that what [power] is not given up to the United States will be retained by the individual states. I know it ought to be so, and should be understood; but, sir, it is not declared to be so . . . there ought to be something to confine the power of this government within its proper bound-

so . . . there ought to be something to confine the power of this government within its proper boundaries. . . . The government is proposed for individuals. . . . The expression "We the People of the United States" shows that this government is intended for individuals. There ought therefore to be a Bill of Rights."

He Foresaw

Sam Spencer did not share the view of James Madison and his associates, who believed the people could do no wrong, that the rights of the people were safe in the people's hands, and therefore did not need a Bill of Rights in the United States Constitution.

He foresaw the abuse and the dangers of raw power in *anybody's* hands. He foresaw the doctrine of Lord Acton that "All power corrupts and absolute power corrupts absolutely." And he might have had some sympathy for the latter day observation that it is "being out of power that corrupts absolutely."

He foresaw what we have lived to learn in the hundred and eight-six years from 1787 to 1973: That the commonwealth may be plundered by favorites of the people as well as by favorites of the King. That to the victor belong the spoils may be the slogan of elected office holders as well as hereditary rulers. That shades of the ancient spoilsman may gather in the modern sheriff's eyes. That remnants of the divine right of kings may still crack down in a policeman's billy. That the aristocratic doctrine that some men are not as good as other men may be changed into the democratic doctrine that "every man is as good as every other man, and a damn sight better."

If he had lived a few years longer, he would have felt his foresight was vindicated when the General Assembly of North Carolina in 1807 tried to deny a seat to a duly elected member because he was a Jew, and this Jew saved his seat by invoking the provision of Sam Spencer had helped write into the Declaration of Rights guaranteeing to every citizen the "right to worship God according to the dictates of his own conscience."

So much for a thumbnail sketch of Sam Spencer of Anson County, how the Rule of Law and the Bill of Rights got into his mind and bloodstream, and why he stood up to be counted for them in North Carolina in the 1760's and thereafter.

Zeb Vance of Buncombe County

In 1862 in a letter to the President of the Confederacy on learning that forty citizens of North Carolina had been taken from their homes and put in prison without a hearing:

As Governor, it is my duty to see that the citizens of this state are protected in whatever rights pertain to them, and, if necessary, I will call out the State Militia to protect them and to uphold the principles of Anglo-Saxon liberty—trial by jury, liberty of speech, freedom of the press, the privileges of Parliament, habeas corpus, the right to petition and bear arms; subordination of military to civil authority; prohibition of *ex post facto laws*.

II. Zeb Vance

One hundred years later, in the 1860's, Zeb Vance stood up to be counted for the Rule of Law and the Bill of Rights in critical moments of its life in North Carolina.

Zeb Vance was born in Buncombe County in 1830, went to the University of North Carolina in 1850-51; practiced law; went to the State Legislature in 1852; went to the National Congress in 1854, at the age of twenty-eight; became Governor of North Carolina in 1862, at the age of thirty-two, while he was fighting in the Confederate Army; became Governor again from 1876 to 1878; went to the United States Senate in 1878, and stayed there until the 1890's.

The Rule of Law and the Bill of Rights got into Zeb Vance's mind while he was a

student at the University of North Carolina in the 1840's. He took a course given by David Lowry Swain, President of the University, and described the catalogue in these words:

"A regular course of lectures is delivered on the History of Constitutional Law, presenting an analytical review in chronological order, of the Magna Carta of King John; the Petition of Right; the Charters of Carolina; the Fundamental Constitutions (by John Locke); the Habeas Corpus Act; the Bill of Rights; the Declaration of Independence; The Articles of Confederation; the Treaty of Peace with Great Britain, and the Constitution of the United States."

In later years Zeb Vance wrote this description of one of President Swain's lectures in this course:

"I entered the University in 1851 and joined the senior class as an irregular. The first lesson was in Constitutional Law. A single general question was asked and answered as to the subject in hand and from these, [he] went back to the men and the times when the great seminal principles of Anglo-Saxon liberty were eliminated from feudal chaos, and placed one by one as stones polished by the genius of the wise, and cemented by the blood of the brave, in the walls of the temple of human freedom. He told us of the eloquence of Burke, of the genius of Chatham; he took us into the prison of Eliot and went with us to the deathbed of Hampden; into the closet with Coke and Seargent Maynard; and to the Forum where Somers spoke."

*If the Rule of Law and the Bill of Rights got into Zeb Vance's mind through his college course with David Lowry Swain, they got into his bloodstream in his fight against secession by the General Assembly of North Carolina in 1860 and 1861.*

*He stood up to be counted for them as Congressman in 1860.* Glen Tucker tells the story of a statewide rally of the Whig forces in Salisbury in 1860 to proclaim to the world "their stand for the preservation of the Union." Zeb Vance, a thirty-year-old Congressman from western North Carolina, "little known to the leaders of North Carolina politics . . . was called to the platform. . . Any sentiment for secession which might have prevailed in the large gathering was swept aside by the words which poured from this young man's lips, as he said: 'We fight for the Constitution, for the Union, and the Laws. We fight *within* the Constitution for the Union and the Laws. We will not be led off by seceders.' He went on to say that:

"If they [the people] choose to undo the work of their wise and heroic ancestors, if they choose to invite the carnage to saturate their soil and desolation to waste their fields, they cannot say their public servants precipitated them into it! The people must and should rule, but we must see to it that we do our duty in warning, instructing, and advising them."

Under this sort of leadership the people of North Carolina voted down even the suggestion that a convention be called to look into the advisability of secession. In his own words: "I was canvassing for the Union with all my strength. I was addressing a large and excited crowd . . . and literally had my arm extended upward in pleading for peace and the Union of our fathers when the telegraphic news was announced of the firing on Fort Sumter and the President's call for seventy-five thousand volunteers, and my arm fell slowly and reluctantly to the side of a secessionist."

*He stood up to be counted for them again as Governor in 1862.* Glen Tucker tells the story:

"General French moved into eastern North Carolina in the latter part of 1862 and officers under his command arrested forty citizens on the suspicion that they were disloyal and sent them to a military prison at Salis-

bury for safe keeping—without notice or a hearing."

Vance wrote to the President of the Confederacy in Richmond, saying that as Governor of North Carolina it was his duty to see that these citizens were protected in whatever rights pertained to them, and that if necessary, "he would issue a proclamation recalling the North Carolina soldiers from Virginia and call out the state militia to protect the liberty of its citizens" and to uphold "the principles of Anglo-Saxon liberty—trial by jury, liberty of speech, freedom of the press, the privileges of Parliament, the right to petition and bear arms; subordination of military to civil authority; prohibition of *ex post facto* laws."

"If, in short, the merest citizen in all the land cannot instantly command for his protection in the commonest, simplest personal right, the entire physical and moral weight of the Republic . . . then, indeed, it is no more entitled to your reverence and attachment than is the autocratic splendor of the Czar or the idle magnificence of the Grand Turk."

He advised President Davis to go slow in suspending the writ of habeas corpus, "before shocking all worshipers of the common law throughout the world by bounding free men into sheriffless dungeons for opinion's sake."

He knew what Sir Edward Coke meant when, in the debates involving the Petition of Right in 1628, he said that "the greatest inheritance that a man hath is the liberty of his person, for all others are accessory to it."

He knew that the writ of habeas corpus was the protector of other rights in the Constitution, and while it was suspended in Northern states by President Lincoln, and in Southern States by President Davis, Zeb Vance refused to suspend it at any time in the state of North Carolina.

*He stood up to be counted for them again on May 11, 1863,* when he issued a proclamation to militia officers "not to arrest any man as a conscript or deserter who had been discharged under a writ of habeas corpus issued by a Supreme or Superior Court Judge of the State" and to "resist any such arrest by any person not authorized by the legal order or process of a court or judge having jurisdiction of such cases."

#### His Proudest Boast

In later years he said that the "proudest boast" of his governorship was that "the laws were heard amidst the roar of cannon. No man within the jurisdiction of North Carolina was denied the privilege of the writ of habeas corpus, the right of trial by jury, or the equal protection of the laws, as provided by our Constitution and the Bill of Rights."

Sam Spencer would have thrilled to this record.

So much for this thumbnail sketch of how the Rule of Law and the Bill of Rights got into the mind and bloodstream of Zeb Vance, and why he stood up to be counted for them in the 1860's.

#### Sam Ervin, of Burke County

In 1973, in a speech to the student body of the University of North Carolina at Chapel Hill:

So long as I have a mind to think, a tongue to speak, and a heart to love my country, I shall deny that the Constitution confers any arbitrary power on any President, or empowers any President to convert George Washington's America into Caesar's Rome.

#### III. Sam Ervin

A hundred years later, in the 1960's, Sam Ervin stood up to be counted for the Rule of Law and the Bill of Rights in critical moments in the history of the United States.

I have talked about Sam Spencer and Zeb

Vance from a background of reading and research. I shall talk about Sam Ervin from a background of observation and experience. I have known him since college days at the University of North Carolina in 1914.

He was born in Morgantown, Burke County, North Carolina, in 1896; graduated from the public schools in 1913, and from the University of North Carolina in 1917; went from college campus to training camp and World War I in the spring of 1917; graduated from the Harvard Law School in 1922; began practicing law and went to the General Assembly of North Carolina in 1923; became judge of the Burke County Criminal Court in 1935; Judge of the Superior Court of North Carolina in 1937; Congressman in 1946; Justice of the Supreme Court of North Carolina in 1948; and United States Senator from North Carolina in 1954.

*The Rule of Law and the Bill of Rights got into Sam Ervin's mind* by way of his lawyer-father who put him to reading Blackstone's Commentaries on the Laws of England when he was fifteen years old, and by way of teachers in the University of North Carolina just before and after World War I.

In talking to the University faculty in Chapel Hill in the spring of 1973, here is what he said about Dr. de Rouilhac Hamilton's course in American Constitutional History: "He made it plain that if one is to understand the fundamental principles of the Constitution he must know the history of the events which brought those principles into being. I cannot over magnify the benefits which I received from his instruction." Here is what he said about Dean Luctus Polk McGehee's course in Constitutional Law: "Dean McGehee was one of the greatest lawyers as well as one of the greatest scholars I have ever known, and he emphasized above all things the necessity of being thorough in one's studies and endeavors, and being completely honest intellectually. I cannot adequately express my appreciation of the aid which his instruction has given me through all the intervening years."

*They become more than words to him as he sat in the assembly of students in Chapel Hill in the spring of 1917,* when college seniors were leaving the campus for the training camp in World War I, and President Edward Kidd Graham called the roll of great landmarks in this history of liberty—Magna Carta, the Petition of Right, the English Declaration of Rights, the Declaration of Independence, the United States Constitution, and the First Ten Amendments, and said: "Young gentlemen these are not empty phrases. Cut them and they bleed."

*He stood up to be counted for them in the 1950's* in speech on the floor of the United States Senate, involving a provision in the United States Constitution, saying, "that . . . for any speech or debate in either House [Senators and Representatives] shall not be questioned in any other place."

Senator Joseph McCarthy had been using this provision as a cloak of immunity from prosecution while he was smearing the reputations and characters of American citizens whom the Bill of Rights was designed to protect. Sam Ervin spoke in support of a Senate Resolution censuring Senator McCarthy for this abuse of a Senator's privilege. In my opinion that speech was his finest hour up to that time.

*He has stood up to be counted for the Rule of Law and the Bill of Rights again and again and again throughout the 1960's and 1970's,* as he has spoken out on the floor of the U.S. Senate:

In protest against a bill before the Senate permitting police to break into a man's house by day or night "without knocking," on mere suspicion that he had "dangerous substances" in his possession which he might destroy if he was not taken by surprise.

In protest against bills permitting the courts to deny the right of bail to persons whom police and judges "suspect" might commit new crimes while out on bail.

In protest against regulations of the Post Office Department that would permit the opening of sealed letters from abroad without notice to the writer or addressee, if it is "suspected" that the letters contain pornographic pictures, lottery tickets, or narcotics.

In protest against regulations of the Census Bureau and other government agencies permitting data collecting programs, sophisticated surveillance techniques, and the use of the computer and data banks in ways violating the individual's historic right of privacy.

In protest against regulations of government employment agencies permitting probing questions about religion, family, and sexual matters. Questions calling for the disclosure of personal finances and creditors of employees and their relatives. Practices coercing employees to buy bonds and support political parties and participate in community activities having nothing to do with their jobs, and to conform their personal behavior and associations outside the office to agency rules and a supervisor's whim.

In protest against activities of military agencies operating a data bank "collecting files on private citizens" and spying on the lawful pursuits of Americans in public and private assemblies throughout the country.

Reminding privileged students on college campuses, as well as the underprivileged inhabitants of slums and ghettos, that the freedoms guaranteed in the U.S. Constitution do not go so far as to provide a cloak of immunity for such crimes as "treason, felony, or a breach of the peace" committed by anybody, anywhere, at any time.

Sam Spencer and Zeb Vance would have thrilled to this record.

Sam Ervin and the Senate Select Committee in 1973

The portals of the National Department of History and Archives carry this legend: "What Is Past Is Prologue." "What does that mean?" asked a tourist of a taxi driver, and got this answer: "It means you ain't seen nothing yet." That legend is true of Sam Ervin today as he stands at the threshold of his greatest challenge and his greatest responsibility as Chairman of the Senate Select Committee, appointed on the fifth day of February 1973, "to conduct an investigation and study of the . . . illegal, improper, or unethical activities . . . engaged in by any persons, . . . in the presidential election of 1972, or any campaign, canvass, or other activities related to it."

North Carolina can take pride in the fact that one of her sons, coming to the United States Senate in 1954, in nineteen years of intimate association won the confidence of his fellow Senators in his ability, integrity, and fairness, to the point that the Senate Majority Leader, Mike Mansfield said in appointing him Chairman of this Select Committee, "We are looking for a good, fair, impartial investigation, and Sam Ervin is the only man we could have picked on either side of the aisle who would have the respect of the Senate as a whole."

This Senate Select Committee comes at a time when men who ought to know better believe that loyalty to a candidate for political office is more important than loyalty to the laws, the Constitution, and the Bill of Rights, and carries more weight than the ten commandments. At a time when men distort the Golden Rule into saying: "Do unto others what you think they are going to do unto you and do it first." "Thrice armed is he who feels his cause is just," these men are saying, "but thrice times three who gets his licks in first."

At a time when the Rule of Law and the Bill of Rights are being called into question

as never before in the twentieth century. Let me illustrate my meaning.

#### Old Liberties in New Settings

*The 39th Article of Magna Carta*, written in 1215, promised to "the freemen of England and their heirs forever", that:

"No freeman shall be arrested, or detained in prison, or deprived of his freehold, or outlawed, or banished or in any way molested . . . ; and we will not set forth against him, unless by the lawful judgment of his peers and by the law of the land."

This provision was brought forward in the Constitution of North Carolina in 1776, and in the Constitution of the United States in 1791. It takes on fresh and vivid meaning in the setting of 1973, as we listen to testimony that governmental agencies are being used to harass citizens by politically motivated audits, "quicke" investigations, and other tactics prostituting normal governmental activities to partisan political ends.

*The 40th Article of Magna Carta* reads like this:

"To no one will we sell, to no one will we deny or delay right or justice."

This provision was brought forward in the North Carolina and United States Constitutions. It takes on fresh and vivid meaning in the setting of 1973, as we listen to testimony about slowing down the processes of the courts in civil litigation, and suggesting a prestigious appointment to a judge while he is trying a criminal case—by an administration interested in the outcome of cases before the court.

*A provision in the Petition of Right* in 1628 reads like this:

"That no man be hereafter compelled to make or yield any gift, loan, benevolence, or tax, or such like charge, without common consent by act of Parliament."

This provision was brought forward in the Constitutions of North Carolina and the United States. It takes on fresh and vivid meaning in the setting of 1973, as we listen to testimony about political pressures for campaign gifts from competing corporations. Testimony about rulings increasing the price of products in return for campaign contributions. Testimony about shifting profits from producers to middle-men by withholding information about massive sellings in the offing. Testimony about mergers of business influenced by proffered donations to subsidize the site for political conventions.

*A provision in the Declaration of Rights* in 1689 reads like this:

"That election of members of Parliament ought to be free."

This provision was brought forward in the Constitutions of North Carolina and the United States. It takes on fresh and vivid meaning in the setting of 1973, as we listen to testimony about uncounted millions of dollars used to manipulate elections by the fraudulent devices of lying, concealment, and non-disclosure, and the calculated use of "dirty tricks" without stint or limit.

*A provision in the Declaration of Rights* in 1689 reads like this:

"That it is the right of the subjects to petition the King . . . and that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliaments ought to be held frequently."

This provision was brought forward in the Constitutions of North Carolina and the United States, and the first amendment to the United States Constitution guaranteed "the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

It takes on a fresh and vivid meaning in the setting of 1973, as we listen to testimony about military agencies operating data banks, collecting files, and spying on American citizens attending lawful assemblies.

*The fourth amendment to the Constitution of the United States* reads like this:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized."

It takes on fresh and vivid meaning in the setting of 1973, as we read of the practice of "no-knock" entries into homes to take the occupants by surprise, preventive detention of suspected persons, electronic surveillance, and burglaries of dwellings and business establishments, whenever possessors of "a little brief authority" request it.

#### Build-ups and Let-downs in the Flow of Freedom

The flow of freedom from the Establishment to the People throughout the centuries has not been uniform or smooth. It has been irregular and disjointed. Many times it has gone under in the undertow, and later come to a new advance with a returning wave—adding a new beachhead to the main, and expanding our liberties by slow and gradual accretion. Let me illustrate my meaning:

On April 19, 1783, the Governor of North Carolina wrote to members of the North Carolina General Assembly that:

"His Britannic Majesty having acknowledged the United States of America free, sovereign and independent . . . Nothing now remains but to enjoy the fruits of uninterrupted Constitutional freedom, the more sweet and precious as the Tree was planted by virtue; raised by the toil and nurtured by the blood of Heroes."

With this invitation to rest on their oars, thirteen "free and independent" states began withdrawing from each other. They withdrew long enough to find that they could live in liberty but they could not live on it, long enough to find that they could not "go it alone," long enough to find that every state could not do as it pleased and let every other state do as it pleased, long enough to understand that they must pull together "in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty for ourselves and our posterity."

This experience of build-up and let-down has been repeated throughout our history. The let-down followed Magna Carta, and the build-up came with the Petition of Right. The let-down followed the Petition of Right, and the build-up came with Declaration of Rights. The let-down followed the Charter from the Crown, and the build-up came with the Declaration of Independence.

This let-down and build-up in the flow of freedom from one generation to another is a little like the flow of oil in a pipe line—starting out strong, and slowing down almost to a stop from the friction and erosion of the surrounding pipe, until a booster station pumps new life and vigor into the flow. It was in this way that Magna Carta, the Petition of Right, the Declaration of Rights, the Charter from the Crown, and the Declaration of Independence became "booster stations" in the flow of freedom. And so with the 13th, 14th, and 15th amendments in the 1860's, the Segregation Decision in the United States Supreme Court in 1954 and the decisions triggered by it, the Civil Rights Act of 1964 and the Voting Rights Act of 1965 in the United States Congress.

Flowing through the centuries like some magic gulf stream these historic documents have changed the climate and tempered the habits, customs, and manners of men wherever the current has gone. They are joints in the backbone of our liberties. The fluid in the spinal column. The marrow in the bones. The spark of life in the customs, laws, and Constitutions of North Carolina and the United States. Let the spark of life go out of the human body and the human body

goes to rot. Let that spark of life go out of our customs, laws and constitutions, and our customs, laws and constitutions go to rot.

I believe it was a vivid awareness of this tragic flaw of build-up and let-down in human nature and in the body politic which caused Sam Spencer and his associates to write Section 35, Article 1, into the North Carolina Constitution in 1776, saying: "That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty."

I believe it was this vivid awareness which caused them to follow up Section 35 of Article I with another provision, saying that the North Carolina Declaration of Rights is "hereby declared to be part of the Constitution of this State and ought never to be violated on any pretense whatsoever."

Revelations going on around us today demonstrate with all the stinging freshness of demonstrated truth that "a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty." This is simply another way of phrasing the well-worn observation that "eternal vigilance is the price of liberty."

The task of the Senate Select Committee is both simple and profound. It is (1) to find the facts, (2) inform the people, and (3) recommend laws and procedures to correct the evils they uncover.

It is well on its way to finding the facts, and it will keep on going until it finds them. It is well on its way to informing the people, and it will keep on going till it informs them. It will then propose legislation to strike at the roots of the evils it uncovers.

I do not know how many paragraphs and pages it will take for the Senate Select Committee to spell out the grievances of the people in 1973, as the predecessors spelled out the grievances of the people in 1215, 1268, 1688 and 1776. But I do know that its report must begin with a reaffirmation of the "ancient rights, liberties and inheritances," promised by Magna Carta to "the freemen of England and their heirs forever." Reaffirmed and expanded in the great historic documents which have punctuated the flow of freedom from one generation to another throughout our history.

If the Senate Select Committee draws up a document reaffirming and expanding our "ancient rights and liberties and inheritances," in this day, as their predecessors have done before them.

If it strikes at the roots of our grievances today, as its predecessors struck at the roots of the grievances of their day.

It will give the American people something to celebrate as the 200th anniversary of American Independence arrives in 1976; something above and beyond anything that any Bicentennial Commission is likely to propose; something that will help to turn "the Watergate Affair" into another "booster station" in the flow of freedom from the Establishment to the People.

#### What Will the People Do?

Mary McCarthy, writing in the New York Review of July 19, 1973, says this of Sam Ervin and his leadership of the Senate Select Committee: "It is the old America which Senator Ervin believes in. This house, he feels, can be cleansed, and restored to its semi-pristine condition. That is why he is stubbornly convinced that the hearings will arrive at their destination—the truth."

"But if it doesn't come out that way," I said to him. "If they fail? Just take it as a hypothesis." "I refuse to entertain the thought," was Sam Ervin's answer. "As though the thought was a felon seeking entry into his mental house. He is becoming a folk hero, because of that stout old-fashioned attitude."

Mary McCarthy goes on to say:

"I hope that Senator Ervin is right, but if he is right and nothing happens—a strong

possibility—then we are worse off than we were before. If we know, that is, and don't act, can find no frame for action, then the powers that be, knowing that we know and won't do anything, will have nothing more to fear."

Sam Ervin is old fashioned enough to believe that the people will act. He knows that "the boughs of the Tree of Liberty have been swayed this way and that" throughout our history. He knows that "their strength to withstand the wind comes from the depth and toughness of their roots in the past. He knows that "the greatest danger to the people is that they themselves may erode these roots by forgetfulness and indifference—the slow smokeless burning of decay."

He also knows that in 1973, the people are seeing these revelations of what has been going on around them—revelations on their television screens by day and by night, reading about them in their morning and afternoon papers, and talking about them wherever they are. They are becoming as much aware of the pollution in the body politic as they are aware of the smog which obscures the sun and the waste which fouls their streams. As much aware of the gradual erosion of their liberties as they are aware of the general erosion of their top soil and the blighting of their landscape. Aware of the smug and arrogant complacency of a witness under oath recognizing their erosion and bragging about his part in it.

He is old fashioned enough to believe that a self-respecting people will not listen to seductive and self-serving cries from those who would stop the hearings before the truth comes out, any more than he believes that a self-respecting dentist will put a cement filling in a decaying tooth before rooting out the rot. He does not believe the American people are willing to be a party to the stultifying process of covering up the cover up".

#### Common Sense and Mother Wit

I think there may be something to Mary McCarthy's suggestion that he is becoming a folk hero because "of his stout old-fashioned attitudes." There are in him qualities giving color of title to his talk.

He is himself and nobody else. He moves in his own orbit, along inner directed courses. He is full of common sense and mother wit. Whether he is quoting the Bible or the Constitution he is illustrating his own philosophy and religious thinking and beliefs. He is all of a piece—not a lot of planks nailed together, but a growing tree with the sap of life flooding through it.

#### A Great Compassion

It surfaced at a hearing of the Senate Select Committee the other day, in saying that the Watergate affair may turn out to be a greater tragedy than the Civil War. Ed Yoder points out in the Greensboro *Daily News* that Sam Ervin is using "tragedy" in its precise and classical meaning:

"Those who recall its ancient resonances, as discussed by Aristotle, may feel that it fits the Watergate matter very precisely. Tragedy, said Aristotle, is the calamity of the man of overwhelming pride, neither exceedingly good nor exceedingly bad, who is betrayed by a tragic flaw and punished for his lapse by the gods. In King Oedipus the flaw was anger; in some of the Watergate principals—one thinks, for instance, of former Atty. Gen. John Mitchell—it was a dangerous mixture of cynicism and arrogance; in others, a misplaced, almost mindless, loyalty. . . .

"When one feels, as Senator Ervin seems to feel, that the frailty of pride has undone the men of Watergate, and reflects that this frailty is universal, the natural response is indeed pity and fear—or what we mean when we think, "there but for the grace of God go I." One may not agree with the Senator that Watergate, in the scale of delinquency or present retribution, rivals the Civil War. But

both, equally, were collisions of arrogant men "dressed in a little brief authority" that constitutes tragedy.

Senator Ervin, as usual, has defined the matter with a precision his critics do not grasp."

In the twisted lives and tortured reputations of witnesses unfolding in succession before the Senate Select Committee, Sam Ervin has seen and heard and felt the "still sad music of humanity, not harsh nor grating, but with ample power to chasten and subdue."

He knows what the Grecian poet was talking about twenty-five hundred years ago when he wrote of the "God whose law it is that knowledge comes through suffering. . . ." How "Sorrow falls, drop by drop upon the heart, until, against our will, and even in our own despite, comes wisdom to us by the awful grace of God. . . ."

#### A Mighty Heart

Along with these qualities of common sense, mother wit, and compassion, he brings to the leadership of the Senate Select Committee another all important quality—which was pointed out in a Memorial Day address in 1884 to Union Veterans of the Civil War, by Mr. Justice Holmes: "Above all, we have learned that whether a man accepts from Fortune her spade, and will look downward and dig, or from Aspiration her axe and cord, and will scale the ice, the one and only success which it is his to command is to bring to his work a mighty heart."

In a speech on the Senate floor supporting the resolution to censure Senator Joseph McCarthy in the 1950's, Sam Ervin said in answer to a question, that if his name was called in question as Senator McCarthy's was, then if the Potomac was a river of fire instead of water he would somehow cross it to appear in defense of his name.

I call your attention to the fact that Sam Ervin said he would walk through fire. He knew he could do this, because he had done it before when he belonged to Company I of the 28th Infantry, selected as the first regiment of American troops to go "over the top" at the Battle of Cantigny—the first engagement fought by American troops in World War I. His part in the battle is described as follows: "Private Samuel J. Ervin, with exceptional courage and perseverance, led a carrying party through heavy fire; he made several trips from the rear to the front until he was wounded."

In the Battle of Soissons, on the 18th day of July, the 28th Infantry was halted by machine gun fire from an emplacement one hundred yards ahead. Most of the officers of the Company had been killed. At this point, twenty-two year old Sam Ervin called for volunteers to help silence the enemy gun. Four men responded and they charged the gun. Here is an affidavit of one of those men: "One man was mortally wounded. Another was killed. Ervin was knocked down by a shell fragment in front of the gun. The two remaining reached the machine gun, killed its crew, seized the gun," and the troops went on to victory.

The affidavit goes on to say: "We went back to Ervin and bandaged his wounds to stop the flow of blood and wanted to carry him back to safety, but he refused to be assisted and told us to go back and join the other soldiers if we could."

"It was only due to Ervin's initiative and gallantry that the gun was captured. Throughout the engagement he directed the fire upon the machine gun, and after being wounded he urged us to capture the gun and showed himself unmindful of his own safety. Though wounded so severely he was unable to walk, he refused to go to the rear, but crawled back and organized an advance automatic rifle post where he remained on duty until all danger of a hostile counter attack was over."

In speaking to five thousand students at the University of North Carolina in Chapel Hill some days ago, Sam Ervin said: "As long as I have a mind to think, a tongue to speak, and a heart to love my country, I shall deny that the Constitution confers any arbitrary power on any President, or empowers any President to convert George Washington's American into Caesar's Rome."

Anyone who knows Sam Ervin knows that he will live and die fighting on this front—fighting with his face to the enemy and with his wounds to the fore. Anyone who knows Sam Ervin knows that in 1973 he is doing this as instinctively, as deliberately, and as knowledgeably as he charged the machine gun firing on his comrades in the Battle of Soissons on the 18th day of July, in 1918.

#### A Love Letter to Sam Ervin

When I read what I had written up to this point to my wife, she said, "It reads like a love letter to Sam Ervin." As indeed it is. Let me tell you how we came to know Sam Ervin.

He was in the Class of 1917 and I was in the Class of 1918, in a University with thousand students who knew each other—always by sight and nearly always by name. We felt the accuracy with which he was characterized in the college annual by one who knew him: "Everything he meets responds, and at once a sympathetic friendship ensues. Like Midas, he has that magic touch that makes everyone he meets his friend; and consequently he is liked by all."

He became a dramatic figure in the eyes of my wife and myself when the classes of 1917 and 1918 held a joint reunion in June 1929. This incident occurred as one returning alumnus after another stood up around the table giving his name and telling what he was doing in post-war years—until a ten-year-old boy was introduced as the son of Oliver Ransom of the Class of 1917.

At this point in the proceedings, my wife saw a tall and slender young man, elegant in dress and bearing, come to his feet in tribute to this ten-year-old boy's father, and the spirit that had moved him to . . . pour out the red, sweet wine of youth; Give up the years to be of work and joy. And that unhoisted serene that man call age.

My wife had come to Chapel Hill from Virginia as a bride the year before, and had never seen Sam Ervin until that night. She marvelled at his power to stir a cynical post-war generation in 1929 with the poetry of Rupert Brooke—until I told her that Oliver Ransom was Sam Ervin's friend and classmate, who had gone to war with him in the spring of 1917, and was killed in action early in the War and left behind him a bride who had become a wife, a widow, and a mother within a year, and this ten-year-old boy was the son that Oliver Ransom had never seen.

We followed Sam Ervin's career in the years after this 1929 reunion as the morning paper brought to our breakfast table the news of his election as Congressman, his appointment and election as Superior Court Judge, Supreme Court Justice, United States Senator. Each time my wife and I have interrupted our breakfast to call him on the phone to tell him of our delight and to wish him well.

We have voted for him in successive elections, not because of how he stood on any one particular issue—we never asked him—but because he was the sort of man he was; and we knew without his telling that he would vote and act from forces welling up within him and not from any outside force or external pressure, and because we felt he was headed in the general direction we wanted to go.

We have never had any fear that he would get lost along the way. There is a story told to us by Miss Beatrice Cobb, editor of his hometown paper, that Sam had been reported "missing in action" in World War I

and continued on the missing list for a long time. When he finally turned up the whole worried community came together in a sigh of relief that "little Sam" had been found. "I was never lost," he told them. "I knew where I was all the time." And so it has been from that day to this. Sam Ervin is all there, all at once, and all the time.

Let me bring this love letter to a close by saying that my wife has read all that I have written, and begs exemption from the common-law doctrine that man and wife are one and the man is the one, long enough to sign her own name to this letter.

#### The Great Tradition

I have heard it said from boyhood days that one could up a seashell, hold it to his ear and hear the sound of ocean waves beating upon the shore. Not long ago I ran across this notion in a poem:

The hollow sea-shell, which for years hath stood  
On dirty shelves, when held against the ear  
Proclaims its stormy parent, and we hear  
The faint, far-off murmur of the breaking flood.

This poetic folklore is a matter of fancy rather than of fact, but I have no doubt that imagination may call up the "far-off murmur of the breaking flood" to ears familiar with the sea.

As North Carolinians, we can take pride in the fact that when our freedoms have been in danger here in North Carolina, there have been among us men who have held the historic documents of our liberties to their ears and heard their music and gone into battle in their defense.

Sam Spencer in the 1760's, Zeb Vance in the 1860's, and Sam Ervin in the 1960's and 70's take their places in the great tradition of Stephen Langton and his associates in the Magna Carta, Sir Edward Coke, Sir John Elliot and John Somers and their associates in the Petition of Right, and the Thomas Jefferson, in writing the Declaration of Independence in 1776; James Madison and his associates in drafting the First Ten Amendments to the U.S. Constitution in 1791. Men who stood up to be counted for the Rule of Law and the Bill of Rights. Men who were, in Stephen Spender's words:

Born of the sun, [and] traveled a short while toward the sun,  
And left the vivid air signed with their honor.

#### PERSONAL STATEMENT

Mr. BOLAND. Mr. Speaker, through some mistake, I am recorded as having voted "no" on rollcall No. 474.

I did not intend to vote "no." I supported the measure under consideration and wish to make my support clear. If the rules would allow, I would ask unanimous consent that the printed recording of my vote in the permanent RECORD be changed.

Mr. Speaker, rollcall No. 474 concerned final passage of H.R. 9256 to increase the contribution of the Government to the costs of health benefits for Federal employees. I have consistently supported legislation benefiting Federal employees. My first committee assignment upon being elected to Congress was on the Committee on Post Office and Civil Service. My service on that committee and my continuing service in the Congress reflects my constant interest in, sponsorship of legislation and support of all proposals improving the lot of Federal employees.

#### PERMISSION FOR JOINT COMMITTEE ON ATOMIC ENERGY TO FILE A REPORT ON H.R. 11216

Mr. PRICE of Illinois. Mr. Speaker, I ask unanimous consent that the Joint Committee on Atomic Energy have until midnight tonight to file a report on H.R. 11216.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

#### PRESIDENT NIXON SHOULD SUBMIT HIS RESIGNATION

(Mr. RIEGLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. RIEGLE. Mr. Speaker, I rise today to ask President Nixon to submit his resignation from office, to take effect on the date that Vice-President-designate GERALD FORD is officially confirmed in his new post.

Only the most hardened Nixon partisans still believe the incredible deceptions, self-justifications, diversions, and excuses coming from the White House.

Who can believe the latest tale of the disappearing tapes? Well, I do not believe it. I think the White House is lying and that the tapes have been destroyed or hidden to protect the President.

The fact that they have the gall to try to foist this latest deception on us shows that the President takes the Congress and the country for a bunch of fools.

We are witnessing the destruction of our Nation's ethics right before our eyes.

This Congress must summon the courage and moral strength to insist on a new President, a President with integrity and a clean record. Only then can we begin the process of rebuilding citizen faith in Government.

#### SMALL BUSINESS AND METRIC CONVERSION

(Mr. THOMSON of Wisconsin asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMSON of Wisconsin. Mr. Speaker, metric conversion is a topic that has been in the air for a considerable number of years. Yet there has been little public discussion and understanding of the purposes and implications of "going metric."

Considering the Congress may soon be required to vote on this far reaching proposal virtually without the benefit of constituent views, I would commend to the Members an enlightening position paper published by the National Federation of Independent Business. This paper was prepared by Mr. John Motley earlier this month for a World Trade Institute seminar in New York:

#### SMALL BUSINESS AND METRIC CONVERSION

Although there has been some uncoordinated and widespread movement toward increased metric usage within the small business community over the past few years, the National Federation of Independent Business

believes that the present attitude of the nation's independents can best be described as apprehensive and cautious. In other words, we feel that most small businessmen are not anxious to switch from their present system of weights and measures to metric. They simply do not see any pressing need for the proposed change over.

Metric conversion will have a widely diverse impact upon the various segments of the small business community. It will have little or no effect upon some small firms, like those in the pharmaceutical and chemical industries, because they have already converted to metric, but it will have a greater and more trying impact upon others, especially those dealing in consumer orientated products such as packaged goods and clothing. In general, though, systems of measurement play a much more critical role in manufacturing and electronics. Standards, dies, machinery and technical diagrams must all be accurately changed or converted within a specified period of time—a monumental task for a small firm. One slip, one time consuming mistake could irreparably damage its competitive position.

Small firms with measurement sensitive operations are faced with a similar problem. Because of their highly competitive nature, they must be thoroughly prepared to convert whenever their materials and designs are changed to metric. Reluctance or hesitation on their part could cause them to lose valuable contracts. Engineering and architectural firms and all types of building contractors would be included in this category.

Consumer orientated service and retail firms face a somewhat different situation. Their main problem is one of education. Auto mechanics, TV repairmen and a host of others will have to learn to use new tools and terminology to work on and with metrically designed products. Wholesalers and retailers will have to rely on a comprehensive educational program to overcome consumer reluctance and combat employee ignorance. Such programs could prove very costly and even financially impractical for many small firms.

The diverse nature of the small business community makes it extremely difficult to determine and present a cohesive position of an issue as complex as metrification. Because of this, the federation has spent a good deal of time and money over the last seven years trying to gauge its reaction to the proposed change over.

During this period NFIB polled its membership twice on metric conversion. It also participated, at the invitation of the department of commerce, in the metric feasibility study conducted by the national bureau of standards. If nothing else, these surveys showed that the small business community is deeply divided and not overly anxious to change its traditional system of weights and measures.

The Federation's first mandate poll on this issue was conducted in 1965. It showed 41 percent of the responding members in favor and 54 percent against metric conversion. The remaining 5 percent were undecided. Metrification was polled again during February and March of this year. The results denote a shift in opinion to 51 percent in favor and 46 percent opposed.

While these polls indicate a trend in favor of metric conversion, the Federation does not feel that a 10 percent shift over a seven year period is dramatic enough to warrant its unequivocal endorsement of the change over. To the contrary, we feel that this shift is so slight, and the percentage opposed so large, that it reflects a deeply split small business community and re-emphasizes the need for continued caution.

The air of apprehension or reluctance that we have noted here is reinforced by closely examining the findings of the 1970 survey NFIB conducted for the metric study group

(National Bureau of Standards). It surprisingly showed that only 6 percent of the respondents were then using metric, with the largest group of users being professionals. It also indicated that there had not been and probably would not be any rapid movement to metric by the small business community. Just 5 percent of the responding firms noted recent changes in the measuring systems used in their industries, while only 3 percent answered that they intended to switch to metric in the future. Clearly, contrary to what seems to be a rather widely held and popular belief, there has been no significant shift to metric by the business community. Nor does it appear that we can expect any widespread voluntary conversion in the near future.

There are several very sound reasons why small, independent business embraces this cautious and reluctant posture. And, most of them are based on the cost-benefit ratio of conversion.

The strongest and soundest argument used by the proponents of metrification deals with and plays upon the current unstable position of the United States in the international market place. The world is going metric and the U.S. must protect itself by adopting the same course. If it does not, its ability to influence international standards and to increase, or even maintain, its present share of the world market will be greatly impaired. While this argument is valid, it is advanced on behalf of and would benefit only a very small portion of the American business community. This select group would consist mainly of our major exporting firms, many of whom are large multinational corporations.

The export trade of the United States is dominated by big business—by conglomerates that have the market knowledge and the resources needed to compete on the same level with foreign cartels and government supported industries. Trade statistics show that only 4 percent of the Nation's 5.4 million firms are engaged in exporting and according to the evidence gathered by the House Select Small Business Committee less than 12,000 small manufacturers out of the more than 300,000 with export potential are involved in sending goods abroad. Although over 90 percent of all U.S. manufacturers are small, they account for less than 10 percent of the country's exports, a fact that clearly shows the dominance of our large firms in international trade.

Small business has and probably will continue to concentrate its efforts on our domestic market. Because of this, it would gain little from metric conversion, the cost of which would far outweigh any benefits it might receive.

The vast gulf that exists in the resources available to big and small business to finance the costs of conversion is another reason why independents have maintained a wait and see attitude toward metrification. Most small firms are well aware that they will need help to complete a successful changeover, while this is not generally true of their larger competitors.

Large corporations have the ability to convert to metric without encountering significant economic dislocation. Small firms, on the other hand, simply do not have the dollars needed to obtain the technical, financial and administrative expertise necessary to make an unassisted and successful changeover. Most multinationals and many of our larger domestic corporations have already given considerable thought to metrification, and they are preparing to face the challenges and opportunities it presents. Unfortunately, the nature of small business does not allow it this type of luxury.

Unassisted, forced conversion to the metric system could prove the difference between success and failure for many small firms that do not have the capital or the expertise to make the transition. If big business is al-

lowed to dictate the timing and terms of the changeover, many small firms could be placed in an extremely vulnerable position vis-a-vis their larger competitors. This would be especially true of small manufacturers, who must sometimes employ used machinery in their operations. They simply could not make the transition to metric as inexpensively, as quickly and as easily as a General Motors or an IBM.

The American consumer is a whimsical individual and the small businessman must be ever conscious of his likes and dislikes. Since most small firms are controlled by market forces, constantly changing consumer tastes and attitudes are factors that cannot be taken lightly or ignored. Any faltering in demand or lag in sales might have a potentially harmful impact upon a small company.

The small businessman is simply not convinced that his customers approve of or understand the need for metrification, and this appraisal is backed by the findings of the metric study group. Its investigation found that only 40 percent of the individuals questioned knew anything about metric units and that only half of these were familiar with the relationship between traditional units and their metric equivalents. The small businessman sees this lack of knowledge about the metric system as an indication of possible consumer resistance to conversion. He feels that many people will be reluctant to study a new system that will challenge the security of present life styles and alter familiar habits. And, he seriously doubts that they will be willing to spend the time and effort needed to learn a system that seems to be imposed from above for the benefit of large multinational corporations. In short, his apprehension and caution about metric conversion is nothing more than good, sound business sense.

A common thread—cost—has run through everything that I have said so far about the apprehensive and cautious attitude of small business toward metrification. The exact dollar figure and the amount of economic dislocation involved in conversion are very controversial topics and have been the subject of a long and heated debate, but no matter whose estimate is used the fact remains that there will be substantial costs resulting from any change over to metric, and it is time for us to take a brief look at where these costs will impact within the small business community.

In a recent article in the Texas Business Review, Mr. J. Bryant Adair, a staff member of the Bureau of Business Research at the University of Texas, estimates that metric conversion will cost Texas business \$449 million. He breaks down and distributes this figure into nineteen separate SIC code categories, in which soft manufacturing ranks first at \$101 million, wholesale fifth at \$30 million and retail sixth at \$22 million. Nearly three quarters of the American small business community is concentrated within these three SIC categories, which means that there would be a very heavy burden placed on our smallest firms.

The Federation's 1970 Survey for the Metric Study Group determined that the average estimated cost per firm would be approximately \$11,700. The distribution of these costs varied from \$1,000 in the O-3 employee size category to over \$26,000 in the 50 or more employee group, and from a low of \$600 in the financial and real estate industries to a high of almost \$42,000 in manufacturing. The most surprising figure was an estimated average of over \$17,000 by responding professional firms.

These costs must be viewed in the context of the present operating environment of small business. A myriad of costly congressional enactments, including consumer, job safety and environmental laws, have had a negative impact upon certain segments of the small business community. Recent restrictive credit policies, an ever increasing fed-

eral paperwork burden and the pressures and uncertainties of phase IV have only posed additional restraints. The cost of metric conversion, added to these, would strain the financial resources of many small businesses to the breaking point and NFIB sees no immediate justification for exerting this unnecessary pressure.

Small business would oppose a completely voluntary conversion plan that would let the costs fall where they may. In short, this would be suicidal. Unassisted, voluntary conversion would place the reins of decision firmly in the hands of big business, a situation that could pose a very real threat to many small firms that are vulnerable to this type of competition. The financial resources and expertise available to big business give it an edge in conversion—an advantage that would be used by some corporations against their smaller competitors.

In its 1970 metric study survey, NFIB asked its advisory council members to select the metric conversion plan they thought would be best if Congress decided the change over should be made. They were given a choice between a voluntary plan and a nationally coordinated program, and 67 percent of those responding preferred the latter. Their comments indicated that they heavily favored a nationally coordinated program because it emphasized education—an absolute necessity in their eyes.

If metrification becomes inevitable, small business would strongly prefer a well defined and coordinated conversion program, stretching over a number of years and emphasizing intensive educational preparation. It would also favor federal government aid, in the form of long term, low interest loans, to those small firms that need it. This is in keeping with its long established position that government has an obligation to assist small business when it could be injured by federal enactment of this type. But, small business is by no means convinced that conversion to the metric system is necessary, and if it had a choice it would, at least for the time being, leave well-enough alone.

#### LEGISLATIVE PROGRAM

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute.)

Mr. ANDERSON of Illinois. Mr. Speaker, I wonder if we can from the majority side of the aisle have the program for the coming week.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I am happy to respond to the gentleman from Illinois.

There is no legislative business for today and on the announcement of the program for next week I will ask unanimous consent to go over until Monday.

The program for Monday is as follows: On Monday we will have the Consent Calendar, and under suspensions there are no bills.

On Tuesday we will have the Private Calendar, and under suspensions we will have 10 bills as follows:

House Joint Resolution 755, Iranians at U.S. Naval Academy;

H.R. 10369, travel expenses for certain crew members;

H.R. 10366, Reserve officers active duty requirement;

H.R. 10367, assignment of certain reserve members;

H.R. 9075, office equipment disposal; H.R. 10840, Library of Congress police salaries; H.R. 3490, referees in bankruptcy salaries; H.R. 5874, Federal Financing Bank Act; H.R. 8219, Organization of African Unity; and H.R. 10937, Watergate grand jury extension.

On Wednesday we will have House Joint Resolution 542, the vote on overriding the veto on the War Powers; and, subject to a bill being reported and a rule being granted, we will have the bill on the Social Security Act amendments.

On Thursday and the balance of the week we will have H.R. 9142, Northeast rail transportation, subject to a rule being granted; and H.R. 10265, audits of the Federal Reserve Board, also subject to a rule being granted.

Mr. ANDERSON of Illinois. I thank the gentleman from Indiana.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I would ask the acting majority leader in this rush for adjournment whether the plans for the Thanksgiving recess have been finalized.

Mr. BRADEMAS. Mr. Speaker, if the gentleman from Illinois will yield, I may say that the plans have not been made final. However, as the majority leader has already said on the floor we will probably be in recess from November 15 until Tuesday, November 27.

Mr. GROSS. I thank the gentleman.

#### ADJOURNMENT UNTIL MONDAY, NOVEMBER 5, 1973

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday, November 5, 1973.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### THE CASE OF DR. BENJAMIN SHAPIRO

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, although con-

sideration of the trade bill and the Mills-Vanik amendment has been temporarily postponed, we must continue to realize the plight of Soviet citizens who have applied for emigration permits and experienced great difficulty as a result of their applications.

Consider the case of Dr. Benjamin Shapiro and his family. He is from Belgorod in the Ukraine, and until July 1972 taught chemistry at the University of Belgorod. In 1967, his entire family applied for emigration visas to Israel. Dr. Shapiro's parents were permitted to leave, and departed for Israel with the assurance that their son, his wife and child would soon be issued permits.

Six years and five more applications later, Dr. Shapiro remains in the Soviet Union, fired from his job at the university and existing only on minor work.

Mr. Speaker, these have been 6 years of frustration and of financial strain on the Shapiro family. But their case is not unique. I met hundreds of Soviet Jews on a recent trip to Schoneau and Israel—virtually all of whom confirmed the existence of cases such as these.

Obviously the Congress must act on the trade bill at an appropriate time and undue delay could have thousands of Soviet Jews in daily jeopardy.

#### THE MISSING TAPES

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, after a constitutional crisis threatened to bring down the Government—after the public's confidence has been eroded, perhaps beyond repair—after months of agonizing courtroom proceedings—we now learn that certain conversations with two key aides are not available.

And, we are asked to put faith and confidence in that revelation.

But, we are reminded of the paper shredders used all too frequently to destroy evidence.

We are reminded of the instructions to a key White House aide to "deep six" pertinent data.

We are reminded of the burning of documents by the Acting Director of the FBI.

How can the American people help but reflect a cynical attitude?

Mr. Speaker, a special prosecutor who is obliged to the central figure in the Watergate scandal cannot gain the trust of the American people. He cannot serve two masters—he cannot serve both the law and the accused.

To restore faith in our system of government; to restore confidence that all the facts will be revealed—we must enact a law such as House Joint Resolution 784 which will allow the court to appoint a special prosecutor. We must take this out of the hands of those who have lost the people's confidence and place the matter before the courts with an objective prosecutor who is working for justice.

## THE WAR POWERS VETO—ARTICLE BY REPRESENTATIVE LES ASPIN

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Washington Post for October 31 published a superb article by our colleague, Representative Les Aspin, concerning the War Powers Act and the importance of overriding the President's veto. Representative Aspin had no difficulty in dismissing the inaccurate claims by the President in his veto message as to the extent to which the bill would hamper the conduct of foreign affairs by the President. Anyone who reads the bill carefully can see that the President's assertions are simply without foundation.

More important, Mr. Aspin points out how the act would bring about major changes in the way in which decisions are made in the executive branch with respect to the commitment of troops to hostilities. Because the bill requires notification to the Congress within 48 hours of any such act and a decision by Congress within 60 days, the President, as Mr. Aspin points out, will be forced to consider very carefully what is in store for him if he decides to initiate hostilities and will be forced to require his counselors to present him in advance with the justification he will have to make to the Congress.

Mr. Aspin points out that the Pentagon papers show how eager the Johnson administration was to avoid debate on our Vietnam policy. The War Powers Act would guarantee such debate in similar circumstances. This in itself would add an important check on the President's warmaking.

The full text of Mr. Aspin's article follows:

## THE WAR POWERS VETO

(By LES ASPIN)

On November 5, 1964, Assistant Secretary of State William Bundy wrote a paper on how to handle world and public opinion if the President decided to escalate the war in Vietnam. He didn't expect it to be hard:

"Congress must be consulted before any major action perhaps only by notification, . . . but preferably by talks with . . . key leaders . . . We probably do not need additional congressional authority even if we decide on very strong action . . . A Presidential statement with the rationale for action is high on any checklist. An intervening fairly strong presidential noise to prepare a climate for an action statement is probably indicated and would be important . . ."

Had the War Powers Resolution then been law, Bundy would not have been able to dismiss congressional and public opinion quite so easily.

Next week the House will vote on whether to override Mr. Nixon's veto of the compromise bill which requires that the President consult with Congress before committing U.S. forces to hostilities abroad and report to Congress within 48 hours his reasons for doing so. At the end of 60 days, he must withdraw American forces unless Congress votes to allow him to continue the commitment. The deadline could be extended for up to 30 days to permit the safe withdrawal of the troops.

The criticism of the measure from the right is predictable enough. It was summed up in the President's veto message by his

(inaccurate) claim that the bill was unconstitutional and deprived the President of the powers necessary to act decisively in times of crisis. In fact the bill's intent is simply to restore to Congress a little of the share in the warmaking process with which the Framers endowed it and which successive Presidents have since arrogated to themselves.

The events of the last week, which the President himself described as the greatest international crisis since 1962, give the lie to his objections to the bill. Had the War Powers Resolution already been law, it would not have prevented Mr. Nixon from replenishing Israel's supplies, and it would not have prevented him from calling a worldwide alert of U.S. forces as he did at 3 a.m. on Thursday morning. It would not have stopped him from sending any of the firm notes he says he sent to Mr. Brezhnev; it would have done nothing to limit the scope of the diplomatic triumph he says he achieved. It would have meant simply that, had he decided to commit the alerted troops, he would have had to explain his actions rather more fully than Secretary Kissinger chose to do on Thursday.

The liberal objections to the bill are more serious and more complicated. They are, first, that the bill will actually extend the President's warmaking powers, giving him authority he does not now possess to make war anywhere in the world for 60 days and second, that even then Congress is most unlikely to stop him. It is said that the President will identify the struggle with flag and with honor and that Congress will almost inevitably rubberstamp it.

Both these objections carry weight—the bill is far from perfect. But they ignore not only that the President already acts thus, whether he has the legal authority or not, and that Congress is already a rubber-stamp. They also miss the less obvious but more fundamental benefit of this bill. Besides its direct impacts (the 48 hour report, the 60 day approval, etc.) which do have drawbacks, the bill will have an indirect effect which is altogether beneficial. This is in the enormous impact which it will have on the decision-making process of the executive branch.

When the President considers sending troops into hostilities—even in support of a treaty commitment or to defend U.S. forces—he and his advisers will know that an affirmative decision will invoke an intense debate which, unlike today, will focus on a concrete decision to be made by Congress within 60 days. Congressmen will hold hearings, editorial writers will write editorials, columnists will construct columns, Meet the Press and Face the Nation will cross-question government spokesmen, there will be network specials, demonstrators will demonstrate, and most important, constituents will write mail—telling congressmen whether they should say *yea* or *nay* to the President's action. This foreknowledge is bound to strengthen the hand of those in the President's council who might otherwise find it more politic to muzzle their dissents.

Congress's ultimate verdict is not the most important factor. What is important is that the President and the men around him will know before he takes his decision that the scrutiny of his policy is likely to be far more consistent and purposeful than it is today. He will be much less inclined than he is today to embark upon an adventure unless he has a very good case to support it.

The real point about the War Powers bill is not that it gives the President power to go to war for 60 days (his lack of that power now doesn't limit him) nor is it that Congress is likely to force him to pull the troops out (it may well not). The bill's value, which far outweighs these defects, is that it will force the President to consider very carefully what is in store for him if he decides to make war. This is so because there will be a solid, practical reason for his more cautious counsellors to present him in advance

with the arguments he will have to answer within 60 days.

The Pentagon Papers demonstrates how anxious the Johnson administration was to avoid a great national debate on its Vietnam policy. The War Powers bill not only guarantees that there will be such a debate, it will also compel the President to take public opinion into serious account when he makes his decision. In fact, it may well be not so much the debate itself but the agonizing prospect of it that will act as the most effective check on the President's warmaking. A President who rejects the bill does so only because he is concerned that his case for making war might not always be very convincing.

## OUR FORM OF GOVERNMENT IS AT STAKE ON THE WAR POWERS VETO VOTE

(Mr. MELCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, the failure of Congress to override President Nixon's numerous vetoes has discouraged the American people's faith in effective, representative government.

The required two-thirds vote to override a veto has been beyond the grasp of Congress, which is desperately attempting to assume needed leadership to handle national domestic crises.

On Wednesday of next week the House will face the test of this century in defense of the constitutional rights of people on the most basic of issues—the power to declare war for the Nation.

For a generation we have floundered in an atomic era misconception that has permitted the office of the Presidency to act single-handedly on this most grave proposition—the commitment of our Nation's youth and vigor and wealth to foreign wars, not in our own national defense, but the brutal warfare of other nations.

We have had the youth of the country trapped by forced drafts, draining their very zeal and patriotism for their country, to settle Asian conflicts over political ideology. We have drained our economy, causing us to lose our competitive position in world trade, forcing dollar devaluations and resulting in inflation that has sapped the security of our elderly and all others living on a fixed income, to participate in others wars. From crib to crypt, all ages of Americans have suffered, they suffer now, and will suffer in the future for a misguided, miscalculated, miserable policy of warmaking which benefits only those whose fortunes are geared to war materials, armament, and keeping multimillions of Americans in uniform.

After admitting our previous errors in the Southeast Asian involvement, the current administration, which rightfully disclaims responsibility for the start of our involvement in Vietnam and claims plaudits for its conclusion, confronts us with a Presidential veto of a mild bill to limit a President's ability to plunge our Nation into another war.

At no better time than now, with the Mideast stoker again belching flames of periodic strife, could the Congress of the United States speak on behalf of the

people to the President—now and to those who will be Presidents in the future—"this is the way, and the only way, Mr. President, that this country will go to war."

Congress must determine that war is in our national defense.

You, Mr. President, will not have your hands tied in case of attack, but you will have to answer to the American people for all military actions. You will have a 90-day period to seek and obtain the support of the people's representatives, or you will desist, Mr. President, because the U.S. Constitution places the power to declare war, not in your hands, but in the people whose representatives are the Members of Congress.

At no time has the need for a strong, straight-talking Congress been needed more to preserve this country's Government than now. A return of confidence in our national Government demands that Congress respond to the people's concern and rightful expectation that Congress reassert its power under the Constitution to commit, or refuse to commit, our country to war.

How much more usurpation of power must this country endure before Congress makes it clear that we will engage in war, not on the decision of just one man, but only after the people have made a collective judgment through their elected representatives in Congress?

A vote to override the President's veto of the war powers bill is a vote for the American concept of representative government.

To fail to override the President's veto would be a failure to uphold the people's rights under the Constitution to be protected from the whims of a single man by the requirement that all of their representatives participate in any decision so momentous—a decision which, in this atomic age, may involve the lives of all of us.

#### MATERNITY LEAVE OF ABSENCE— A FIRST FOR THE HOUSE

(Mr. GROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, the House of Representatives has just heard the Speaker request a leave of absence for one of our distinguished Members for maternity reasons.

This is an historic first in the House of Representatives, and I want to extend my congratulations to both parties, both to the Member and the Speaker of the House.

#### IS AMERICA OVERBURDENING ITS INSTITUTIONS?

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, in the sophisticated world of modern technology, our scientists and engineers have developed early warning devices—little red lights flashing or buzzers sounding—to warn of

overloads and pending malfunctions, allowing immediate action to save the whole of the system and to avert a larger crisis.

If we were able to devise a system of giving us early warning on pending overloads of our political, economic, and social systems, we would have lights flashing and buzzers sounding all about us today. Fuel shortages. Food shortages. Inflation. Watergate. Confiscatory taxation. Huge deficits. Welfare abuses. Work quality. Corruption. Crime. Promises exceeding deliveries. Centralization of power. Special interests. Uncontrolled spending. But, these are the results of our crisis, not its causes.

Each in its own way is a warning to us, as a result of the overloading of our institutions with demands which exceed their capabilities for performance.

#### THE ROLE OF INSTITUTIONS

Our institutions serve as the backbone of the "body politic." They are the mechanisms through which a culture transmits its values and establishes the norms of human interaction and conduct. They are the lengthened shadows of man, bringing cohesion of process and purpose to the extensions of time, serving as the threads which weave together the fabric of society. Upon their collective continuity rests the continuity of society and government and of the foundation stones upon which common consent rests. Institutions may be practices, or relationships, or processes, or organizations, or structures, but the common denominator of all is that they serve as the dispassionate devices through which people and groups, in agreement or in disagreement, act and react with one another.

Institutions do not arise simply and solely from the genius of man. They are, through the ceaseless learning processes of a people and a nation, hammered out upon the anvil of human experience. They are tried. They are tested. They are proved. And through all of this, adjustments are made, carefully here, prudently there. But in the long run, they provide the procedural mechanisms through which human conduct can be self-regulating by common agreement and perception, and, when necessary, by force of law.

It takes no specialist in institutional dynamics to conclude with a reasonable degree of certainty that we, as a nation, are placing ever greater burdens upon our institutions. It is not demagoguery to question the ability of our institutions to meet adequately the demands now being placed upon them.

We are, in my opinion, overloading our institutions with demands that exceed our human capacity to perform, and this gap between expectation and performance widens daily. Unless this trend is reversed, our institutions may be destroyed, our leaders overwhelmed, and our free society radically altered.

#### WHY OUR INSTITUTIONS ARE BEING OVERBURDENED

In order that we might better learn from the past, it is appropriate to inquire: How has our society moved so far and so dramatically toward an overburdening of its institutions?

There is no wholly adequate single answer to this query, for the reasons are several and interrelated. The answer lies in a combination of tendencies or propensities which became more acute during the past decade but which only collectively brought about the present crisis. I speak, principally, of these:

First, the failure of elected officials in general to demonstrate both by word and deed the qualities of leadership which engender respect both for our system and the principles on which it is based, and their seeming willingness to follow the uneven and often self-contradictory tides of public opinion in contrast to conscious efforts to make public opinion on issues of enduring concern.

Second, the failure of our leaders and our people to ascertain sharply the differences between realities and the appearance of realities—between substance and rhetoric—between substantive goals and procedural tactics.

Third, the inability of our institutions to keep performance abreast of expectations—to match delivery and anticipation—an unavoidable consequence of promises being made upon inadequate premises.

Fourth, the search for single answers to major problems with infinite variations, which search has contributed mightily to a concentration—rather than diffusion—of power in the upperstrata of decisionmaking, whether in government, or in business, or in labor, or in whatever. Such efforts tend, on the whole, to lessen the intellectual capabilities of a free and diverse people to resolve their own individual problems, leaving it instead, to self-professed problem-solvers who urge government expansion and intervention as the only solution.

Fifth, the inherent necessity of the news media focusing upon the problems of our society, instead of the time-proved, day-to-day occurrences which constitute the overwhelming bulk of human action, experience, and hope—"inherent" because, by definition, the news focuses on obvious aberrations from moral standards and normative states.

While understandable, this, unfortunately, distorts our view of the world, focusing that view upon the unusual, the tense, the conflicting aspects of human conduct, rather than upon the majority of human events which will go forever unnoticed in the public annals of our times. In short, there has been a neglect of our history as a nation and those real life examples which help us shape standards of the humanly possible.

Sixth, the inevitable frustration which builds within the people when the mandate of public elections is frustrated by unaccountable bureaucracy, unrestrained special interests, and divisive forces within the society. There cannot be a continuing faith in the electoral process, when the ballot box is frustrated by forces not accountable to the people.

Lastly, the understandable tendency of the public to be overwhelmed by the very visible effects of the breakdown in our institutions—to be overwhelmed by the sheer gravity of our times.

## THE QUALITIES OF LEADERSHIP

Mr. Speaker, in his now classic work of 1922, "Public Opinion," Walter Lippmann noted that where the true qualities of leadership are absent, elected public officials simply follow public opinion; they do not help to mold it. Lippmann characterized these officials, no matter how lofty their stations, as opinion reflectors, not opinionmakers.

It is not an easy task, within a free society and within a republican form of government, to determine the proper balance between an official molding public opinion on one hand and merely following the perceived opinions of his constituency on the other hand. Such a search for balance will take one headlong into the ageless debate over whether an official is elected to exercise his own judgment in behalf of his constituency or simply to follow the majority opinion within that constituency on each and every issue. I do not intend to join that issue here, except to state that it is not an abridgement of the principles which buttress freedom for learned men in elected positions to exercise their own intellectual and political capabilities to positively influence the attitudes and perspectives of the electorate. It is in furtherance of the concept of the responsibility of leadership to impart wisdom and facts to those who will be effected by decisions arising from the judgments of those leaders to follow such a course of action.

The testing of leadership is acute today, made more so by the ever-shortening time frame within which astute judgments must be made and implemented, for every problem, every decision, and every judgment can now be brought into immediate question, on a nationwide scale, through instant communications. And, the perceived intensity of the problem to be solved governs the immediacy of its resolution.

A major problem of leadership today is the wide and deep scope of issues which must be joined and resolved. As a nation, we have concentrated, both knowingly and yet unwittingly, power into the hands of a diminishing number of leaders, giving each greater influence over our lives yet less time with which to deal adequately with the question. Because of their number, key questions must be delegated for resolution, at best reserving for the leader only a last moment "veto" privilege over the nature and implementation of the decision. Only the most major of issues can today receive the personal attention of national leaders, and then there is no surety that all points of view will be adequately expressed and alternative courses of action weighed either by him or those to whom he has delegated responsibility. In short, the supposed decisionmaker becomes little more than a mediator among competing constituencies or special interest groups within the nation, weighing the consequences of his action most heavily upon the voting booth and not upon the rightness of his judgment or decision. When we give to one man or one agency of government the power to effect an entire sector of the economy and millions of people, is there little wonder that we have

thrust at him or that agency an opportunity for the abuse of power?

And in giving such major personal and institutional responsibility to the President and to his agencies, has not the Congress shirked its own constitutional and moral responsibilities to make such decisions—in essence, "passing the buck" and all the temptations for malfeasance which arise therefrom? And who is to blame: The man who had to make the specific decision, or those who placed that decisionmaking capacity solely in his hands?

The role of the conscientious critic is an important one, particularly within a free society, but so too is the role of the positive advocate. Our society has developed a tendency of late to criticize so quickly and so acutely the actions of its leaders, that it often makes them prone not to make decisions at all or, at best, to seek the paths of least resistance by "hedging the question." This is a tendency antithetical to true leadership. As then-Vice President Theodore Roosevelt declared in 1899:

Far better it be to dare mighty things,  
To win glorious triumphs,  
Even though checkered by failure,  
Than to take rank with those poor spirits  
Who neither enjoy much nor suffer much,  
Because they live in the gray twilight  
That knows not victory nor defeat.

Our leaders should aspire to these words, to dare to do great and meaningful things, with their feet planted squarely upon the ethical foundations of truth and reason.

## SUBSTANCE VERSUS RHETORIC

Mr. Speaker, we are a society and a world turned topsy-turvy by the rhetoric of an age in which the maximum degree of a man's or a nation's focus is often upon a minimum of genuinely important concerns. While on the one hand we have seen in our lifetime accomplishments which rank easily among the most notable of man's achievements, we have on the other hand seen the apparent degeneration of the spirit and soul which hold men's minds intact and civilizations together. Of what do I speak?

In the name of "peace," men wage war.

In the name of "love," men foment hatred and violence.

In the name of "liberation," one-half of the world's people has been subjugated.

In the name of the "quality of life," our courts sanction the destruction of human fetuses.

In the name of "preserving free enterprise," government regulation threatens to destroy it.

In the name of "controlling inflation," government abets it.

We move ever closer to the slogans of George Orwell's "1984"—"War Is Peace," "Freedom Is Slavery," "Ignorance Is Strength." And yet we live not within the pages of a novel about future civilizations.

This, then, becomes a task incumbent upon every citizen: To perceive the difference between the appearance of reality on one hand and reality itself on the other. They are often worlds apart. Aimless rhetoric has obscured the substantive

issues with which we must, as a people, come to grips. We have lost our hold on substance by grasping at the shadows of rhetoric. We have made truth an elusive fact.

In the jargon of our times, the admonitions that, "you've gotta tell it like it is," or "gotta keep your eye on the ball," seems most appropriate for the seventies. We must all train our minds to be ever vigil upon the substance of our times. It is substance—not rhetoric, not procedure—upon which our mind's eye must be focused. It is not an easy task.

As President Kennedy declared in 1962:

The great enemy of the truth is very often not the lie—deliberate, contrived, dishonest—but the myth—persistent, persuasive, and unrealistic.

We must move on now from the reassuring repetition of stale phrases to a new, difficult, but essential confrontation with reality.

And the German dramatist, Johann Goethe, writing in 1828, summarized the imperative this way:

The truth must be repeated again and again, because error is constantly being preached round about us. And not only by isolated individuals, but by the majority. In the newspapers and encyclopedias, in the schools and universities, everywhere error is dominant, securely and comfortably ensconced in public opinion which is on its side.

Every public leader, elected or otherwise, has a specific, affirmative obligation to tell the people the truth, not just what they perceive the people might want to hear. The time has come to tell the people the whole truth, no matter how much that may be in disagreement with prevailing public opinion and no matter how much the telling of the truth may hurt at the voting booth. We can no longer afford superficial solutions and foolish promises which can neither be fulfilled nor are expected to be fulfilled by those who make them. Words and promises are not deeds.

There are no painless nor cheap solutions to defeating inflation, providing adequate energy resources, restoring our environment, providing an adequate national defense, helping to assure peace. Promises made in a vacuum resolve none of our Nation's ills. Truth alone provides the premises upon which real world answers can be espoused and effectuated.

## EXPECTATIONS VERSUS CAPACITIES FOR DELIVERY

Mr. Speaker, we are all, today, seeing too much of too little of the stage upon which all of us stand. Our concentrated focus on the problems and weaknesses of our system is misleading us into thinking we are looking at the cause of our ills. We are not; rather, we are looking at the results.

It must not be assumed that if capacity for increased performance lies latent in our society, we can continually increase our demands on our institutions, or that performance will automatically rise to the levels of demands. When you raise the ante, you do not improve the cards.

Yet the notion that in raising the ante one improves the cards is the central fallacy of our times. It is responsible in large

part for our economic chaos, our over-committed foreign policy, our overextended leaders. It is responsible for the dampening of our spirit.

We have not yet learned that the improvement of institutional and individual performance takes much effort over a considerable time. Demands for instant performance that ignore the time scale required lead to false judgments about our moral purpose and our social concern. It becomes easy to believe that only human depravity stands between the dream and the fact of heaven on Earth. Such a conclusion can be both false and dangerous.

One dangerous consequence of this distortion of demand and performance is only now coming into focus; namely, the downgrading of the whole profit sector of our life, both in its educational, social, and religious modes and in its entrepreneurial aspects.

The reason the private sector is in trouble is that increasing demands on our institutions have advantaged the public sector with its powerful levers of police, taxing, and spending powers. The private sector is under the pressure of demand also, but its limits of action are established by the levels of voluntary support. The Government's share of the wealth is interfering with our private enterprises' ability to produce the wealth so necessary to advance our society.

Some are only now beginning to fully appreciate the retarding influences generated by government taking ever greater shares of the people's money. In the New York Times of Friday, October 5, 1973, Robert B. Anderson, former Secretary of the Treasury, made the point graphically:

More capital is a necessary steppingstone to further advances in our standard of living. The higher American standard of living as compared with other countries is a direct outgrowth of higher levels of capital investment per worker. America's ability to combat inflation at home and to meet foreign competition is in direct proportion to her ability to accumulate larger capital resources.

In the area of expanding employment opportunities we must be equally aware of the demands for more and more capital. Frederick B. Dent, Secretary of Commerce, recently cited the staggering figure that each new industrial job created in this country requires an average capital input of \$25,000. Since my tenure at the Treasury Department we have also witnessed an increase in the demand that our economic system provide the answers for such valid national goals as clean water, pure air and better land use. Americans must realize that how we legislate or control our national stock of capital directly affects our standard of living, our jobs, our environment and our ability to fight inflation.

Unwise tax policies that discourage savings and dampen the psychological climate for investment have an adverse effect on our total national well-being and on all segments of our society. There can be no more important national objective than to increase our capital resources. But we see instead under the guise of tax reform renewed attacks on the sources of capital accumulation.

Mr. Speaker, if we are coming to the point where it is widely believed that only those on the public payroll can work in the public interest, this endangers our free society. If we ever come to the point where we rely on others to make decisions

on issues which directly affect us, our free society will be doomed.

Virtually every institution is being overburdened today. Greater and continued reliance upon government, as an institution, has placed its capacities to deliver effectively at a breaking point. Our colleges and universities are overburdened with enrollments, and the quality of education given to the quantity of students has noticeably declined. The President, as an institution, is given massive responsibilities of judgment over issues with which the other branches are unwilling to grapple; I have already commented in depth on this phenomenon. Our Congress is asked by every special interest group or constituency conceivable to act in its interest, often obscuring both our capability to work for the whole of the commonwealth and our capability to deliver. Our churches, as institutions, are overwhelmed with the depth of the moral crisis and moral dilemmas of our age, and the absolute and unflexible standards so necessary to our ethical system. The private sector is overburdened because the increasing demands on our institutions have advantaged the public sector with its powers of regulation, tax, and purse, and the capacities of the private sector to deliver through profit incentives and volunteer efforts are being restricted by government intervention and usurpation.

And if we do not believe that this body stands guilty of adding to this widening gap between expectation and capacity to deliver, look at the recently quoted words of the distinguished chairman of the Committee on Appropriations (Mr. MAHON):

We're not stingy, we just don't have the money available. Full funding of all bills with specific dollar authorizations would have added \$50-billion to last year's budget.

There is nothing wrong with proposing a solution to a problem: That is the exercise of a responsibility of office. What is wrong, however, is proposing a solution when one knows that it will only increase the hopes of those whose problems would be partially or wholly alleviated thereby but stands no realistic chance of enactment and implementation. We must be ever on guard against this natural tendency within the political process, for in the long run it endangers the very system we seek to preserve.

#### SIMPLE ANSWERS ARE NO ANSWERS

Mr. Speaker, the search for single answers to major problems with infinite variations has contributed to a concentration of power in the upperstrata of decisionmaking, particularly in Government.

Our Nation has moved to the implicit belief that it is possible to tamper indiscriminately with our system, making patchwork adjustments here, and imposing controls there, without affecting our productivity and standard of living. I believe that we have reached the point where we can no longer afford this view.

It is difficult to avoid the conclusion that the rapidly expanding role of government, if not reversed, will fundamentally change the nature of our system.

Our difficulties stem from the tend-

ency these days to identify the source of our problems, real or imagined, with the functions of our system. Some government control or government program is then immediately advocated to come to grips with the supposed problem.

On the other hand, if there is anything that history teaches, particularly the contemporary history of midtwentieth century America and Western Europe, it is that symptom-fighting solutions are inherently self-defeating in a complex, interrelated structure. There are secondary and tertiary effects from all government actions. Problems do not disappear through government action, they are merely displaced.

Examples of the failure of institutions lie all about us, particularly in the area of government programs.

The war on poverty, heralded in 1964 upon its proclamation as "the answer" to America's economic and social ills, produced few meaningful alleviations of poverty, benefiting those most who served as full-time salaried employees within the poverty consultant complex.

The massive Federal efforts for low-income housing are generally conceded now, by liberals and conservatives jointly, to have been terrible failures, benefiting almost everyone except those for whom the benefits were intended.

The federally sponsored urban renewal program was never able to address itself fully to the real causes of urban blight and, in summary, simply moved a problem from one urban area to another, or from an urban area to a suburban area.

Government attempts to allocate scarce resources have not only failed to develop additional resources with which to overcome such scarcities but have also often resulted in worsened shortages. The energy crisis has been brought upon us, in no small measure, by government regulatory schemes and disincentives created thereby. Disincentives to exploration and artificially established wellhead prices have led to the shortage of natural gas—the cleanest of all our major fuels. Disincentives to exploration have resulted in rapidly declining searches for crude oil. Concerns, no matter how well intentioned, over potential, rather than proved, environmental impacts have stopped the trans-Alaskan pipeline, offshore exploration, et cetera. The food shortages being faced by the consumer today are similarly a result of misdirected government policies.

Most economists now agree that the attempts by Government to regulate prices as a means of controlling inflation have resulted, in a wide variety of instances, in higher prices than those which would have resulted if left to the free market and its principles of supply and demand.

A broad principle embodied in our Constitution gives an answer to these problems that has preserved freedom thus far, though it has been violated repeatedly in practice while proclaimed as precept.

The principle is that government power must be dispersed. If government is to exercise power, better in the county than in the State, better in the State than in Washington. If one does not like what his community is doing, he can move to

another community, and though few may take this step, the mere possibility acts as a check. If one does not like what his State does, one can move to another. But if one does not like what Washington does, we have few alternatives in this world of jealous nations.

The great tragedy of this drive to centralization, as of the drive to extend the scope of government in general, is that it is mostly led by men of good will who will be the first to rue its consequences.

Prof. Milton Friedman, former president of the prestigious American Economics Association, summarized these concerns:

The preservation of freedom is the protective reason for limiting and decentralizing governmental power. But there is also a constructive reason. The great advances of civilization, whether in architecture or painting, in science or literature, in industry or agriculture, have never come from centralized government. Newton and Leibnitz; Einstein and Bohr; Shakespeare, Milton, and Pasternak; Whitney, McCormick, Edison, and Ford; Jane Addams, Florence Nightingale; not one of these opened new frontiers in human knowledge and understanding in response to government directives. Their achievements were the product of individual genius, of strongly held minority views, of a social climate permitting variety and diversity.

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Government can never duplicate the variety and diversity of individual action.

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There are only two ways of coordinating the activities of millions. One is central direction involving the use of coercion. The other is voluntary cooperation of individuals—the technique of the market place.

The existence of a free market does not of course eliminate the need for government. What the market does is to reduce greatly the range of issues that must be decided through political means, and thereby to minimize the extent to which government need participate directly in the game. The characteristic feature of action through political channels is that advantage of the market, on the other hand, is that it permits wide diversity. It is, in political terms, a system of proportional representation.

The fundamental threat to freedom is power to coerce. The preservation of freedom requires the elimination of such concentration of power to the fullest possible extent and the dispersal and distribution of whatever power cannot be eliminated.

The use of political channels, while inevitable, tends to strain the social cohesion essential for a stable society. The strain is least if agreement for joint action need be reached only a limited range of issues on which people in any event have common views. Every extension of the range of issues for which explicit agreement is sought strains further the delicate threads that hold society together. If it goes so far as to touch an issue on which men feel deeply yet differently, it may well disrupt the society. Fundamental differences in basic values can seldom if ever be resolved at the ballot box; ultimately they can only be decided, though not resolved, by conflict.

The widespread use of the market reduces the strain on the social fabric by rendering conformity unnecessary with respect to any activities it encompasses. The wider the range of activities covered by the market, the fewer are the issues on which explicitly political decisions are required and hence on which it is necessary to achieve agreement.

A good society requires that its members agree on the general condition that will

govern relations among them. No set of rules can prevail unless most participants most of the time conform to them without external sanctions; unless that is, there is a broad underlying social consensus.

The need for government in these respects arises because absolute freedom is impossible.

The major problem in deciding the appropriate activities of government is how to resolve such conflicts among the freedoms of different individuals.

The paternalistic ground for government activity is in many ways the most troublesome to a liberal; for it involves the acceptance of a principle—that some shall decide for others—which he finds objectionable in most applications and which he rightly regards as a hallmark of his chief intellectual opponents, the proponents of collectivism in one or another of its guises.

#### THE FOCUS OF OUR ATTENTION

Mr. Speaker, as I pointed out earlier, there is an inherent necessity of the news media focusing upon the problems of our society, instead of focusing on the time-proved day-to-day occurrences which constitute the overwhelming bulk of human action, experience, and hope. This is an inherent characteristic because, by definition of its role in society, the news-gathering and news-reporting institutions must focus upon the aberrations from moral standards and normative states. That is what makes the news the "news." Yet this necessity has created some intense problems within our society, primarily by, first, leaving the impression that the aberrations are the norms, and, second, by dampening the spirit of the people and their hope and feelings of well-being. We now constantly feel that "something is wrong with America," when that which is reported and which leads us to that conclusion is but an aberration, a distinct minority of human action.

Thankfully, this phenomenon has not gone unnoticed.

The noted scholar, historian, and Director of the National Museum of History and Technology of the Smithsonian Institution, Daniel J. Boorstin, has summarized his concerns:

One of the most effective weapons that can be used against a nation is to persuade it that it is suffering from incurable illnesses of some kind. I have been dismayed in talking recently to some politicians in Washington who refer casually to the "national decadence." I suggest that the best way to make a nation decadent is to persuade people to talk about its decadence.

I don't suggest that the press and television give up their critical roles. That's very important. But I think they should give more of their attention to exploring the achievements that justify our society and its inhibitions. Unless they do that, the weight will go increasingly on the side of destruction, dissent, and discontinuity. It will depreciate more and more the gifts of tradition and civilization which are enormous and which are greater in the United States today than they have ever been anywhere before.

We have lost interest in the real examples from the human past which alone can help us shape standards of the humanly possible.

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When we allow ourselves to be imprisoned in the present, to be obsessed by the relevant, we show too little respect for ourselves and our possibilities.

A man who comes from the media industry itself, Mr. Bruce Herschensohn, an Academy of Motion Picture Arts and

Sciences Oscar winner, for the USIA film, "Years of Lightning, Days of Drums," has set this phenomenon into perspective:

This generation has been witness to life and age and death in new time-zones and it has created the young-generation-in-a-hurry. Television has brought this generation a feeling of urgency towards life.

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Television has had a tremendous effect upon all of us and upon the way we live our lives.

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All those lenses, viewfinders, turrets, cranks and buttons have been made to preserve the visible on film or tape or for live transmission. But that assumes the visible is the truth. It's not. The invisible is the greatest truth.

What is so important that's invisible? Everything that's truly important. Peace is invisible, freedom is invisible, love is invisible, faith is invisible. Even the motivation behind political decisions is largely invisible.

The camera, unable to record the invisible, not only focuses on the visible, but it lives with an inborn prejudice. It ignores the visually dull and records the visually interesting. And most often the visually dull is the more vital hint of the invisible truth.

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Peace is simply a visual bore. War isn't. Put television cameras in choice positions around An Loc during a battle. It will be watched. Put the same cameras around Ann Arbor to watch the peace. It will be dull and boring.

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Because of the immediacy of television, Americans and citizens of other sophisticated countries of the world have become news oriented. There is a great deal of difference between fact orientation and news orientation. Many say this generation knows more information than any generation before it. The truth is it knows more news than any generation before it. But news by itself can be misleading if not put in context with facts which are not news.

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Television has been guilty of educating the younger generation in half-truths and non-truths. The six o'clock or seven o'clock or eleven o'clock news is accepted as truth. It is truth—but news programs by their very nature must present the truth of abnormality.

A riot? News. No riot? That's not news. A murder? News. A life continuing from Monday to Tuesday. No news. A baby found in Appalachia with a distended stomach? News. Millions of well fed babies? No news. No story. Not interesting. Not visual. Dull. Boring.

And so night after night all those little segments of news build up a composite and grand visual picture entitled: "The United States of America".

But it isn't.

The fact that riots and murders and poverty are news is a virtue and not a vice. It attests to their abnormality. If they were normal they would not be news.

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Even in terms of dissent versus support, the dissent is visible in masses protesting and demonstrating, whereas support generally comes in the words of letters and telegrams.

It is entirely possible that we can no longer fight wars in a visual age. This would surely be a great advance if it were true for the entire world. Unfortunately, the rule only applies to a free society. In closed societies they see what the government wants them to

see. In short, the visible becomes the invisible.

Television images can mean life and death to someone. In a larger sense, those images can mean life and death to nations. Those images can be more powerful than a thousand armies—because armies can only scorch the skin but television can scorch the mind.

Mr. Speaker, these words were not intended by Mr. Herschensohn to be "anti-television" or "antimedia." They could be taken that way only superficially or in an overreactive defense of the media. Rather, they call graphically to our attention the way in which the viewer, because he does not frequently think about the abstract character of that which he is viewing, can be unwittingly a party to viewing the "news" as the entirety of a day's events—viewing the aberration as the normal.

Coupled with the other tendencies of our age, this phenomenon adds to our seeming incapabilities to deal adequately with real world problems and to view them in their proper perspective.

#### FRUSTRATION OF MANDATES

Mr. Speaker, the frustration of mandates given to the programs of elected leaders by the people is nothing new to our system or to our Nation, yet it has been accentuated in recent years.

Consider what happens with most Federal programs today. The Congress levies taxes and authorizes expenditures, but the crucial operating decisions are often made by anonymous bureaucrats who are directly accountable neither to elected officials nor to the public at large.

Government talks more and taxes more, but too often it fails to deliver. It grows bigger and costlier, but our problems only seem to get worse. The result has been a widening frustration in America and the mounting fear, as I have pointed out in the entirety of these remarks, that our institutions will never again be equal to our needs. This must not be allowed to continue.

The people work and vote for a candidate pledged to a change in the direction of programs. The people, by majority vote, give to that candidate a mandate for such change. He comes to office and strives to achieve his plurality-endorsed mandate, but too often nothing, or little, happens.

The American people perceive the ways in which bureaucracy committed to old programs and special interests, committed to their own particular interests, often over and against the interests of the whole, are able to frustrate their—the people's—intent, expressed through the ballot box.

There can be little wonder why these frustrated voters often call into question the capacity of government to perform. One answer lies in making the structure and people within the government more accountable. An additional answer lies in removing from government the power over people's lives, so that they may, individually and collectively, make the decisions which affect them most directly.

#### IN CONCLUSION

Mr. Speaker, the time has come for a reassertion of genuine leadership in

America. Misdirected programs—resting upon ill-conceived or inadequately documented premises, arising from the central yet fallacious notion that government alone can perform best for the people—have contributed mightily to the breakdown in our institutions, public and private. We see daily manifestations of this breakdown, but they are the results, not the causes, of our problems and of my concern.

Abraham Lincoln, before he came to the Presidency, lamented:

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.

I think we, who look coldly at the truths of history and their relationship to our present crisis, know exactly where we are and where we should tend. I think it is time for this Nation and Members of this body to give to the Nation the quality of leadership which it and its institutions now require.

#### CAN DÉTENTE WORK?

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 10 minutes.

Mr. MEZVINSKY. Mr. Speaker, recent Soviet actions in the Middle East raise serious questions as to the Soviets' conception of the détente negotiated with the United States. At the outset of the war in the Middle East the Soviet Government publicly encouraged uninvolved Arab States to join Egypt and Syria in their war with Israel. Despite United States' calls for restraint, the Soviets immediately began massive airlifts to the Arab nations, thus insuring an escalation and prolongation of the bloodshed in the Middle East. Finally, the Soviets ominously threatened to send troops into the area. The President reacted by placing American Armed Forces on a military alert. Although both powers wisely backed away from a confrontation, it is this kind of confrontation which presents a clear threat to world peace.

Détente cannot work if the Soviets are allowed to believe that they can encourage warmaking and military confrontation abroad and practice brutal repression at home. Yet this is the course which the Soviets are continuing to pursue. Internally, they continue to oppose emigration of Jews and various other ethnic groups desiring to join relatives elsewhere. Most of those denied exit visas have lost their jobs and are forced to support themselves through manual labor and help from friends abroad. They are subject to constant harassment and arbitrary arrest.

The U.S. Congress is attempting to exert economic pressure on the Soviets to ease these severe emigration restrictions. Legislation which I am cosponsoring attempts to exert pressure by withholding MFN status. Similar efforts are being made to withhold credits and credit extensions. The Soviets have branded these efforts a grave threat to détente.

But it is not economic pressures which menace world peace and threaten détente. True threats to world peace are

posed by actions which intensify international tensions and invite military confrontation—actions such as those of the Soviets during the Middle East conflict.

In light of these considerations we surely must reassess the nature of the détente that has been negotiated with the Soviet Union. We must continue to work with the Soviet Union toward world peace. But let us make certain that the détente negotiated is détente by mutual consent and not détente under Soviet terms.

#### CONGRESSMAN DRINAN SPEAKS ON IMPEACHMENT, THE CONFIRMATION OF GERALD FORD, AND THE NECESSITY OF A SPECIAL WATERGATE PROSECUTOR

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, well over 3,000 persons have written to me during the 10 days following the "Saturday night massacre." All but 80 of these letters have called for the impeachment of the President. The authors of the communications also express their grave misgivings with respect to the confirmation of GERALD FORD as Vice President and their reservations concerning the appointment by the President of a special Watergate prosecutor.

Mr. Speaker, I want to give my viewpoints on these crucial questions both for my constituents and my colleagues.

#### HOW MANY IMPEACHABLE OFFENSES ARE NEEDED

On July 31, I filed the very first resolution of impeachment in the 93d Congress. I scrupulously avoided mentioning any possible offense of the President related to the Watergate crimes. I noted that impeachment is a noncriminal and non-penal proceeding. I carefully noted that all of English and American legal tradition confirms the fact that impeachment is a proceeding of a purely political nature. Impeachment is not designed to punish the offender but simply to divest him of his political capacity and office.

On July 31, I mentioned—without excluding others—the following impeachable offenses. First, the secret bombing by the President of Cambodia over the period of 14 months between March 1969 and May 1970. Second, the clandestine taping of all conversations in the White House—an act which might well be a violation of existing Federal statutory law. Third, the fact that the President continues to impound billions of dollars—despite the fact that at least 21 Federal court decisions have denied the administration the right to continue this unconstitutional practice. Fourth, the establishment of a supersecret security force within the White House itself in derogation of the statutory duties of the FBI and the CIA.

The nature of impeachment as it has been understood in American law does not require the House of Representatives to wait before commencing impeachment proceedings until some clear indictable offense on the part of the President becomes manifest. The framers of the Constitution separated impeachment from subsequent criminal prosecution. The

Founding Fathers made it clear that impeachment requires more evidence than would be required in the European parliamentary situation for a vote of no confidence. At the same time the authors of the Constitution intended that impeachment could be voted by the House of Representatives for Presidential conduct which would be less than criminal but more than tolerable.

Since impeachment is by its very nature a political process the people of the United States should be heard on this question more than perhaps on any other single issue that can ever come before the Congress. I, therefore, welcome communications from my constituency and from others since I obtain insights, sometimes of a very unique nature, from the hundreds of letters that come to me.

At this time the staff of the Judiciary Committee of the House is being expanded and a comprehensive investigation into every possible impeachable offense of the President has been initiated. No one at this time can predict how long that investigation will go on or where it will lead. I have repeatedly emphasized what I said on July 31:

Impeachment should not be a partisan issue. Impeachment should be a question which members of both political parties in the House of Representatives should be able to discuss.

By the very establishment of impeachment proceedings in the House it seems fair to state that the Congress has come to the conclusion that an impeachment proceeding is the only way by which the President can vindicate himself. Col. George Mason, one of the authors of the Constitution, made this point that sometimes impeachment is the only way by which a President can exonerate himself. Colonel Mason, speaking to the framers of the Constitution meeting in Philadelphia, recommended that the Constitution provide "for the regular punishment of the Executive when his misconduct should deserve it—and for his honorable acquittal when he should be unjustly accused."

In my judgment that is the way in which the Congress and the country should approach the impeachment proceedings now unfolding in the Judiciary Committee of the House of Representatives.

THE CONFIRMATION OF GERALD R. FORD TO BE  
VICE PRESIDENT

As a member of the Judiciary Committee I have taken no stated position with respect to the confirmation of GERALD FORD to be Vice President. The 38 lawyers on the House Judiciary Committee will watch with the keenest interest the Senate hearings and will evaluate every item of information which will be obtained concerning the first nominee to be Vice President under the 25th amendment of the U.S. Constitution.

Although the legislative history of the 25th amendment is not without doubt it seems fair to state that the authors of that amendment intended that the 535 Members of the Senate and House would utilize as their norm in voting upon a Vice President the basic question of whether in their judgment this person

has the qualifications to become, if called upon, the President of the United States. The framers of the 25th amendment did not intend to exclude the political ideology of the nominee nor did they think that the Members of the Congress should be required to set aside partisan differences of viewpoint as irrelevant or immaterial.

It would seem that the confirmation of Congressman GERALD FORD might well turn on the degree to which the Members of Congress feel that his judgment and conduct can be independent of those policies of the Nixon administration which a majority of the Congress deplore and lament. Obviously there are delicate and complex questions of the extent to which Congressman FORD should be penalized with respect to his views on executive privilege, impoundment of funds or the several other issues which cause Members of Congress to feel that their rights have been invaded by the executive branch of Government.

No one on the Judiciary Committee or in the House of Representatives has any desire or intention to delay unduly the nomination of Congressman GERALD FORD. At the same time it is self-evident that his confirmation is intertwined with the wrenching question of the impeachment of the man who appointed the Vice-President-designate.

One of the limitations in evaluating the background of Congressman FORD has been the attempt, at least up to this time, of the Department of Justice to make available the 1,400 pages compiled by the FBI on Mr. FORD only to the chairman and ranking minority member of the House Judiciary Committee. In my judgment that material and all other relevant material collected by any agency of the Federal Government should be available to every single Member who desires to view it. The contention made by the Department of Justice that allowing members of the Judiciary Committee to see this material might lead to unfortunate "leaks" does not respond to the assertion made by myself and other members of the Judiciary Committee that we are being deprived of knowledge which it may well be our legal and constitutional duty to evaluate.

As I write this statement there is growing pressure both from the press and from some Republicans to hasten the process by which Congressman FORD is to be confirmed. The reasons why haste is necessary never seem to be spelled out. If some individuals or organizations want to allege that the Judiciary Committee or the House of Representatives is deliberately delaying the burden is on them to demonstrate that there has been negligence. Any excessive speed in acting upon this nomination which could result in a failure to evaluate all of the issues involved in this selection could well bring to the American people another reason for their ever-deepening disillusionment with the way in which the Federal Government has been conducting itself in the recent past.

It should also be noted that the action of the Congress with respect to Mr. FORD is entirely different from the "advice and consent procedure" of the Senate with

regard to the appointment of Cabinet members by the President. It should be noted, for example, that unlike other comparable sections of the Constitution the 25th amendment states that the President does not appoint the Vice President but rather that he "nominates" him and that the Congress does not give its "advice and consent" but rather the Congress gives "confirmation" of the President's nomination.

IS A SPECIAL PROSECUTOR STILL NECESSARY?

The nomination by the President of Leon Jaworski on November 1, 1973, will be urged by many as a reason why the House and the Senate should drop their plans to enact legislation to provide for a special prosecutor who will be accountable to the chief judge of the District Court of the District of Columbia. Obviously the appointment of a special prosecutor to be accountable to the new Attorney General-designate, Senator WILLIAM SAXBE, of Ohio, can be theoretically looked upon as the reestablishment in theory and in fact of the special Watergate prosecutor's office as it existed under Archibald Cox. Upon close examination, however, it would appear that the SAXBE-Jaworski arrangement cannot really be said to enjoy the independence or prestige possessed by the arrangement liquidated by the President in the "Saturday night massacre" of October 20, 1973. I am afraid that the assurance of the President that he would not dismiss the new special prosecutor without the consent of certain leaders in the House and Senate does not make the new arrangement equivalent to that which the President eliminated with the firing of Archibald Cox.

The President himself indicated in his press conference last week that it is inappropriate to have "a suit filed by a special prosecutor within the executive branch against the President of the United States." In my judgment the President is correct on that point and that the answer to the problem is to take the special prosecutor out of the executive branch. If, however, either the House or the Senate, both controlled by the Democratic Party, should be the appointing power such an arrangement could be looked upon as injecting partisan politics into an area which must be totally void of partisan consideration. Consequently the only approach left is to mandate that the chief judge of the District Court of the District of Columbia appoint the prosecutor. Under the unique and tragic circumstances that now exist it appears that this arrangement is the only possible way by which the people of America can be assured that the Office of the President is not being investigated by the Office of the President but by an outside, impartial agency accountable to someone other than to the executive branch of Government.

As impeachment becomes more and more a real issue within the Congress I am sure every Member of the House and Senate is resolved to avoid the excesses which stigmatized the only other impeachment proceedings ever conducted by the Congress—the proceedings against President Andrew Johnson in 1868.

A decent regard for the design of the founders of our Constitution mandates that all Members of Congress speak rationally, responsibly, and reasonably about that one process given to us by our basic law by which Federal officials may be removed from office.

It has been 90 days, Mr. Speaker, since I introduced my resolution of impeachment. I filed that resolution with the greatest reluctance and after a period of delay of many weeks and months in which my mind and heart resisted the conclusion that impeachment is now the unavoidable duty under the Constitution for Members of the House of Representatives. The determination of the question of impeachment is a right and duty which under the Constitution the House of Representatives possesses and which it may not delegate to any other body in America.

I have the hope that the House of Representatives, regardless of the ultimate outcome of its proceedings, will act with respect to impeachment in a way that will restore and deepen the faith of America in the integrity and soundness of the procedures and the objectives of that body of the Federal Government, the House of Representatives, to which the authors of the Constitution gave unique and exclusive jurisdiction over impeachment.

#### DECLARE FEBRUARY 16 BATAAN-CORREGIDOR DAY

**THE SPEAKER.** Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

**Mr. MATSUNAGA.** Mr. Speaker, few chapters of the history of World War II's Pacific theater tell a more dramatic story than that of Bataan and Corregidor.

When Japanese aircraft bombed Manila on December 8, 1941, the day after the Pearl Harbor attack, Gen. Douglas MacArthur commanded a force of some 30,000, including 15,000 American troops, the remainder a combination of the regular Philippine Army and reservists. The Japanese invasionary force quickly reached 200,000, and the Japanese controlled both sea and air around the Philippines. In late December MacArthur was forced to evacuate Manila and withdraw his army to the Bataan Peninsula, setting up headquarters on the island fortress of Corregidor.

The defense of Bataan and Corregidor was nothing short of valiant and inspiring. Both American and Filipino forces fought tenaciously, notwithstanding onslaught after onslaught by Japanese infantry, artillery, and air power. More than half of the Allied troops were disabled by either wounds or disease, and all were at the point of starvation by mid-April. Tens of thousands of Philippine refugees complicated the peninsula's defense.

General Wainwright, assuming command from MacArthur, in March when MacArthur reestablished his headquarters in Australia, was forced to surrender on May 6, 1942.

General MacArthur promised that he would return to the Philippines, and, of course, he did. In October 1944 he waded ashore on Leyte, beginning a campaign that carried American and Philippine forces back to Corregidor on February 16, 1945. Beginning with a surprise paratroop landing, the 6th Army overcame bitter opposition, gradually forcing the Japanese back, and finally recapturing all of Corregidor 2 weeks later.

Seldom have troops fought so valiantly as did the joint Philippine-American force which eventually yielded to the Japanese invaders at Bataan and Corregidor in 1942. Their vindication came almost 3 years later, with the retaking of Corregidor beginning February 16, 1945. Thousands died or suffered severe injuries. All endured the infamous "Bataan Death March" of prisoners to Camp O'Donnell.

In honor of the brave men who, at Bataan and Corregidor, struggled to keep the land free for democracy, I am today introducing a resolution calling on the President to designate February 16 as "Bataan-Corregidor Day." Perhaps by recalling the valiant struggle of the Americans and Filipinos who fought side by side for liberty, we can remind ourselves of the common heritage shared by free men everywhere.

I ask unanimous consent that the text of my resolution be included in the RECORD at this point.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating February 16 as Bataan-Corregidor Day in observance of the anniversary of the recapture of Bataan and Corregidor and as a tribute to the gallant American and Philippine soldiers who fought, suffered and died side by side defending the principles of freedom. Such proclamation should call upon the people of the United States to observe such day with appropriate ceremonies and activities.*

#### AN ANALYSIS AND DISCUSSION OF HOW COAL CAN ALLEVIATE THE ENERGY CRISIS

**THE SPEAKER.** Under a previous order of the House, the gentleman from Alabama (Mr. BEVILL) is recognized for 5 minutes.

**Mr. BEVILL.** Mr. Speaker, energy shortages throughout the Nation continue to have an effect on the economic and everyday lives of our citizens. I believe we must redouble our efforts to increase domestic production of all types of energy. We must also develop other forms of energy. The United States has sufficient resources to meet its foreseeable energy needs. Coal reserves are abundant, and represent a supply of at least several centuries at existing levels of consumption.

My State is a coal-producing State. It has estimated recoverable coal reserves of 7 billion tons. This takes into consideration the 50-percent recovery factor. Coal production amounted to approximately 18 million short tons in

1971.<sup>1</sup> With these statistics, my State has roughly the potential of producing coal for 390 years.

With improvements in mining technology and the potential of coal conversion processes to produce clean burning fuels, production can be increased and coal can be made a larger contributor to the energy scene than ever before. It can be developed within a shorter time span than less abundant and more costly and sophisticated energy resources. Coal is recognized by leading coal industry and government authorities as a very significant short- as well as mid-term contributor to alleviating the domestic energy crisis.

Coal is a primary fuel for the Nation. In his testimony before the Committee on Science and Astronautics, Subcommittee on Energy, U.S. House of Representatives, October 18, 1973, however, Carl E. Bagge, president of the National Coal Association, emphasized that coal contracts, certain environmental, and strip-mine implications must receive attention before coal can become a full-fledged contender in the energy field. He very cogently pointed out that although coal is regaining, of necessity, its public visibility as a crucial source of energy, it cannot realistically be expected to reach its full stature merely by the shrinkage of other fuels. With that he added that:

The coal industry, which has lived too long on a subsistence level, absolutely requires national policy encouragement and help to increase its production, improve its product, and compete without extraneous handicaps in a free fuel market.

The nation has a second chance to put its energy house in order through sensible management and fuel use of its fuel inheritance. That reprieve, however, could be wasted unless the nation reverses its historical attitude of something less than benign neglect toward coal. We may look ahead to the nuclear promise and the even more remote hope of solar power, but in the realistic meantime we must live according to our present energy means, not draw blank checks against the future.

#### THE DEVELOPMENT OF COAL TECHNOLOGY

Research and development is a key factor to the future of coal and its contribution to the energy picture. It is obvious that the technological base of coal extraction, distribution, conversion, and consumption must be sound and expansive if America's energy needs are to be satisfied. To meet the annual demand will require a complex new coal system of which research and development is a crucial part.

Equally crucial appears to be to solve governmental restraints which inhibit the coal industry's ability to produce and market its product efficiently. Most frequently cited are price controls which interfere with the provisions of long-term cost recovery contracts, air pollution controls that rule out the use of much available high-sulfur coal, and the freezing of leases and exploration permits on western lands which halted major plans to expand the industry. It has repeatedly

<sup>1</sup> U.S. Department of the Interior, Bureau of Mines, Mineral Industry Surveys, *Coal-Bituminous and Lignite in 1971*, Washington, D.C. 20240, 69 pp., pp. 8 and 11.

stressed the enactment of governmental policies aimed at expanding the capability of coal to meet the demands of a rapidly growing and energy intensive society. These policies, they feel, should take into consideration and devise a total systems research and development program for coal. Only such a program can give production, distribution, conversion, and consumption technologies for the 1980's and beyond.

The administration proposal, with the intent to create a Department of Energy and Natural Resources as described in H.R. 9090 is aimed in that direction. According to the Atomic Energy Commission Chairman Dixie Lee Ray:

The mission of the new Department is to bring together and direct Federal activities relating to research and development on the various sources of energy—to exercise responsibility for policy planning, coordination, support, and management of research and development programs—to be responsible for assessing the requirements of research and development—in terms of both short- and long-term needs.

The proposal heavily focuses on coal management.<sup>2</sup>

Although these efforts will have little immediate effect in terms of added supply through coal unless some of the utilization constraints are relaxed, they promise to establish research goals, define priorities needed to achieve such goals, and allocate those resources necessary to attain specific research objectives. According to its spokesman, the coal industry believes that the following are the research priorities necessary to permit maximum utilization of our vast coal resource base.<sup>3</sup> The specific allocation of effort in each one will depend upon the need, the technical state of the art, and available resources.

First. Mining research—Productivity has declined since the passing of the Coal Mine Health and Safety Act of 1969. It has also declined through the simple aging of coal mining technology which has remained relatively static since the 1950's. Future coal demands cannot be met without a major new forward thrust in extraction technology. It is felt that acceleration of research programs on production technology, within strict health and safety requirements, would improve the efficiency of coal mining. In a statement on October 11, 1973, the President has recommended that extraction technology, which includes reclamation, be increased from \$5.9 million in fiscal year 1973 to \$9.9 million in fiscal year 1974. Other mining and health and safety research and development is to be increased from \$34.7 to \$51.2 million.

Second. Liquefaction — Liquefaction processes can provide a low-sulfur alternative to imported residual oil for boiler purposes. The market potential for such a product is clear. Pilot plant work is now underway in solvent refining. An accelerated program, leading to the construction of additional pilot plants as successful research programs indicate, and the earliest possible construction of

demonstration stations, strongly promise to be within the national interest. Again, according to the October 11 Presidential energy message, funds for liquefaction are to be increased from \$11.5 million in fiscal year 1973 to \$30.4 million in fiscal year 1974.

Third. Gasification—A major effort is underway in coal gasification. A jointly sponsored program between the American Gas Association and the Office of Coal Research has brought this process to the pilot plant stage. In addition, several private companies have extensive research programs of their own underway.

Within the past several years there has been a new initiative in another type of coal gasification, the use of low-Btu in conjunction with the combined cycle for the generation of electrical power. This program has exciting potential. If it is successful, future new power stations will be more efficient and will be able to burn a clean fuel made from coal. Federal dollar support in these areas have taken the following form: High-Btu gasification, low-Btu gasification, and research into improved combustion technology are to be increased from \$33.4 million in fiscal year 1973 to \$64.0 million in fiscal year 1974.

#### Fourth. Power systems:

Research and development in this area is both expensive and time consuming. But the realization has come that it is timely to develop power systems of the future, systems which will burn coal more efficiently and with less pollution than present power plants. Notice must also be served to the producers of electrical power that coal is and will remain a vital part of the Nation's energy base for decades to come.

Projects underway in the Office of Coal Research include fluidized bed combustion, now programmed for pilot plant operation; magnetohydrodynamics—MHD—which seems to be a longer-term project; and combined-cycle generation. All of these systems promise exciting prospects. All have potential, but will be expensive to build and bring to commercial application. By the way that power systems are defined in the Presidential budget allocation, the exact allocation for such systems is difficult to determine.

Fifth. Environmental challenges to coal:

According to the industry, the largest single impediment to coal growth at present appears to be the unattainable pollution abatement standards which have been set by the Environmental Protection Agency and the various States. In its natural state, coal carries ash, sulfur, and other impurities. The focus of attention, to date, has been on the problem of sulfur dioxide control technology. Several processes have been brought through the pilot plant stage and are now at the early stages of demonstration work. But, ultimately, one or more of these processes will have to be used for a reasonable period of time on a full-scale power plant of 500 megawatts or above to demonstrate commercial feasibility. This will require a large dollar investment and the fullest cooperation of industry and the Federal and State governments involved.

Yet, even if and when sulfur dioxide problems are solved, there are oxides of nitrogen within coal and fuels. It is recommended that research and development begin immediately and be carried forth quickly so that when the new standards for nitrogen oxides are designed and implemented, the technology will be available to permit coal to meet them.

It has become evident that America desires both ample energy and a relatively pollution-free environment. The vast reserves of coal available to the Nation can supply both, given the time necessary to do it and a research and development program which will provide the technological base for meeting the energy requirements within acceptable environmental constraints.

#### COMPETING ENERGY SOURCES

Nuclear power is coal's potential major competitor in the utility market. It is a reality, however, that nuclear power will in the near term not be able to meet the energy shortfall of the magnitude involved.

Imported fuel oil appears to be the only feasible alternative to coal in much of the East and Midwest. A decrease in coal production is certain to increase the amount of oil imported. But current events in the Middle East doubly underscore the case for coal.

Many proposals have been made to develop alternate energy resources such as geothermal or solar energy to replace coal. Appealing as they may appear, their lack of early availability makes them clearly unacceptable in the early future.

The inevitable conclusion must be that the current focus on coal is here to stay.

#### RETIREMENT OF JULIAN R. SERLES, JR., AS OFFICIAL REPORTER OF DEBATES

**THE SPEAKER.** Under a previous order of the House, the gentleman from California (Mr. McFALL) is recognized for 5 minutes.

Mr. McFALL. Mr. Speaker, I take this time to call attention to the retirement yesterday of a native-born Californian, Julian Serles, who has been an Official Reporter of Debates of the House of Representatives for the past 10 years.

In addition to that service here in the House, Mr. Serles was an Official Reporter of Debates of the Senate for some 7 years, and prior to that time an official committee reporter of the House for nearly 10 years.

He also had service in the U.S. Air Force during World War II, the latter half of which was in India and China. Therefore, his total service for the U.S. Government is nearly 30 years.

So far as I am aware, Mr. Speaker, Mr. Serles is the only reporter in history ever to serve in all three official reporting positions on Capitol Hill. In addition, he has the distinction of having been appointed an official superior court reporter for the Kings County Superior Court, in California, at the age of 19. He served in that court prior to entering the Air Force, where he performed the duties of

<sup>2</sup> Cf. Weekly Energy Report, August 6, 1973, p. 4.

<sup>3</sup> Testimony, Carl Bagge, October 18, op. cit.

a courts-martial reporter for more than 3 years.

Mr. Series, in addition, has been active in his local community. He was the main organizer of and president for 5 years of the Donaldson Run Recreation Association, a community swimming pool in Arlington, Va.; and at the present time is the president of the River Bend Golf and Country Club of Great Falls, Va. At that club he has been an active and ardent golfer. He is the present club champion, as well as the senior club champion.

During the time he was an official committee reporter he attended Georgetown University, where he majored in executive business administration, in evening courses for some 7 years. At that university he was elected a member of the Gold Key Society and also was awarded the gold medal for economics.

Mr. Series was born in Hanford, Calif., and attended local schools there while a boy. Thereafter he learned to write shorthand at the Merritt Business School in Oakland, Calif., before returning to Hanford to become a court reporter.

While he was in the service in World War II he married a North Carolina girl, and after the war he and his wife, Lewis, were blessed with a daughter, Grace, who now is married and living in Charlotte, N.C.

Mr. Speaker, I know I express the sentiments of all Members of the House when I wish both Julian and his wife very pleasant and happy years of retirement.

#### SAFE STORAGE OF NERVE GAS

The SPEAKER. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, earlier this year I introduced H.R. 9745, following an announcement by the Army that certain quantities of nerve agent at the Rocky Mountain Arsenal in Denver would be shipped to the Tooele Army Depot, a storage site located in my district in Utah. Since there are already large quantities of these nerve agents in storage at Tooele, my concern was not whether the depot could safely store the additional material contemplated for transfer. My concern was with the Army's long delay in confronting the danger inherent in storing nerve gas near the main airport at Denver, and whether transfer of the agents was the best means of removing that danger. Destruction onsite seemed to me to be the most logical and certainly the safest course of action possible. Such an action would necessarily depend on whether the Army really needed the stockpiles at Denver or whether these agents were surplus and could be destroyed.

The entire manner in which the Army handled this matter of the stockpiles at Denver indicated to me that there was no clear and well-coordinated plan either with regard to the necessary size of national stockpiles or as to procedures for munition disposition. It seemed incredible to me that such dangerous munitions could have been designed, tested, and produced without any detailed thought

as to maintenance, storage, and destruction of deteriorating munitions, or the safety of transport of bulk agent for the filling of fresh munitions. The absence of a clear and definitive plan and the apparent Army policy of reaction to crisis and public pressure rather than of following a logical program suggested the possibility that inertia was the basis of our policy of maintaining nerve agents as a deterrent weapon system.

My bill was referred to the Subcommittee on Research and Development of the Armed Services Committee where hearings were held on October 3 and 4. The Army announced publicly, on the first day of the hearings, that a decision had been made to destroy all the nerve agents onsite at Denver. This, of course, had been my recommendation from the beginning.

Under questioning at these hearings, the Secretary of the Army and other Department of Defense witnesses indicated that a reevaluation of the stockpile requirements by the Joint Chiefs of Staff and the National Security Council had led to the decision that the stockpiles at Denver were not needed. One cannot help wondering whether this reevaluation would have been completed as quickly and the same decision reached if public examination had not exposed the dangers of the Denver storage site. I am pleased that the Army announced last week that destruction of the munitions has begun. Priority should be given to completion of the required destruction of the bulk agent as well.

When the Army announced its decision to destroy the nerve gas at Denver, one of the major objectives for House action on my earlier bill was satisfied. The bill was tabled by the committee and the hearings were adjourned. However, the testimony given at the hearings still leaves a number of issues of greater national importance still unresolved. Two other objectives of H.R. 9745 were to direct attention to the need for reevaluating our policy of maintaining nerve agent stockpiles as a deterrent weapon system and to focus attention on the fact that the Geneva protocol of 1925, in the Senate Foreign Relations Committee for over 2 years, has still not been reported out—apparently because of that committee's disagreement with a position taken by the President with regard to the exclusion of herbicides and riot control agents from the requirements of the protocol.

Some members of the House Armed Services Subcommittee pointed out during the hearings that they could not understand why the Senate Foreign Relations Committee would view the President's attempt to exclude herbicides as the basis for delaying action on the Geneva protocol when the more important issue of controlling chemical warfare, and particularly the use of nerve agents, was the primary purpose for ratifying the protocol. I think that the larger and more complex issues associated with the Senate actions were overlooked during these discussions. Herbicides are more than defoliating agents. They are also crop destruction agents and their use was discontinued in

Vietnam because of serious charges that toxic substances capable of having a teratogenic effect on human beings were contaminating the area. The issue of excluding herbicides from the protocol has broader implications when viewed in the context of international understandings concerning the scope of the protocol, and the fact that there is concern in the world that the exclusion of one set of chemical agents might establish a precedent for exclusion of other agents. Such specific exclusions might weaken the effectiveness of the protocol as an international treaty. I cannot in this brief statement discuss the complexity of these arguments except to point out that the Senate committee did examine the issue in some detail. They arrived at the conclusion that they could not agree with the President in his interpretations, and rather than report out the protocol with a negative recommendation, asked the President to reconsider his position. Although he apparently has not chosen to reply to the Senate committee's request, the President's position on this issue was discussed during the House committee hearings on H.R. 9745. Ambassador Hill indicated in his testimony that the administration has not changed its position, despite the controversy about the dangers of herbicides, the investigations still continuing on the ecological effects of the use of these compounds in Vietnam, and the fact that the Senate committee disagrees with his recommendations.

The hearings before the Armed Services Committee only partially examined the national policy questions I had posed. Some of the testimony left me with serious doubts that we really are reevaluating our stockpile needs. The fact that the Army has proceeded to the point that plans for producing the new binary chemical warfare weapons have been announced, and that a decision is near regarding the open air testing of such weapons, makes me anxious to insure that we are certain about the need for replacing current nerve agent stockpiles with the new binary munitions. Such a restructuring of weapons systems bears with it not only the increased costs associated with the adoption of any new weapons system but also the danger, according to some analysts, of an escalation of chemical warfare capabilities by other nations.

I believe that the issue of our chemical warfare policies and the status of international treaty negotiations on chemical warfare arms control still require examination. To this end, I am submitting a resolution today which is intended to secure an intensive examination of our progress in negotiations on chemical warfare treaties and a careful public scrutiny of the entire process of determining whether this Nation should continue to commit itself to a policy of maintaining large stockpiles of chemical warfare weapons.

The proposals regarding binary chemical weapons have merit with regard to alleviating the dangers of storing and handling these highly toxic munitions, but this does not constitute an adequate justification for the continuation of stockpiling. The question of continued

stockpiling requires evaluation, and in my opinion, this evaluation should not only be conducted in a public forum but should be completed as soon as possible, and certainly before we commit any additional resources to the production and stockpiling of binary munitions. To this end then, I recommend that the Congress conduct such an evaluation to determine whether our policy of maintaining stockpiles for deterrent purposes is indeed justifiable. I think that an examination of this policy will also help to clear the air and permit us to make definite decisions regarding our position in current international negotiations on chemical warfare arms control and progress toward ratification of the Geneva protocol. There is no reason why policies on chemical weapons should be conducted in an aura of secrecy in these days of open discussion of nuclear weapon capabilities and systems. I urge your support of this resolution, the text of which follows:

H. RES. 679

A resolution expressing the sense of the House of Representatives concerning ratification of the Geneva Protocol of 1925, and a comprehensive review of this Nation's national security and international policies regarding chemical warfare

*Resolved*, That it is the sense of the House of Representatives that the Geneva Protocol of 1925, banning the first-use of gas and bacteriological warfare, be ratified immediately; and be it further

*Resolved*, That it is the sense of the House of Representatives that both the President and the Congress should resolve the position of the United States on the future status of herbicides and tear gas so that the Senate may move forward toward immediate ratification of the Geneva Protocol of 1925; and be it further

*Resolved*, That it is the sense of the House of Representatives that reconsideration of the Protocol would provide an opportunity for a comprehensive review of United States' policies in the field of chemical warfare.

#### LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to:

Mrs. BURKE of California (at the request of Mr. HAWKINS), on account of maternity leave.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. ANDERSON of Illinois) to revise and extend his remarks and include extraneous matter:

Mr. KEMP, for 30 minutes, today.

(The following Members (at the request of Mr. RIEGLE) to revise and extend their remarks and include extraneous matter:)

Mr. MEZVINSKY, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. DRINAN, for 5 minutes, today.

Mr. MATSUNAGA, for 10 minutes, today.

Mr. BEVILL, for 5 minutes, today.

Mr. FUQUA, for 5 minutes, today.

Mr. McFALL, for 5 minutes, today.

Mr. OWENS, for 10 minutes, today, and

to revise and extend his remarks and include extraneous matter.

#### EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks was granted to:

Mr. HENDERSON, to extend his remarks in the body of the RECORD, notwithstanding it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$940.50.

Mr. BOLAND, to extend his remarks in the permanent RECORD, following the rollcall No. 474.

(The following Members (at the request of Mr. ANDERSON of Illinois) and to include extraneous matter:)

Mr. FREILINGHUYSEN in two instances.

Mr. DERWINSKI in two instances.

Mr. QUIE in two instances.

Mr. ESCH in four instances.

Mr. ROBINSON of Virginia in two instances.

Mr. HINSHAW.

Mr. CLEVELAND.

Mr. YOUNG of South Carolina.

Mr. KEMP in two instances.

Mr. McCLOY.

Mr. FISH.

Mr. HEINZ in two instances.

Mr. SHRIVER.

Mr. SPENCE in two instances.

Mr. COHEN in two instances.

Mr. ROUSSELOT.

(The following Members (at the request of Mr. RIEGLE) and to include extraneous matter:)

Mr. STAGGERS.

Mr. GIAMO in 10 instances.

Mr. O'HARA.

Mr. OWENS in five instances.

Mr. DINGELL in two instances.

Mr. WON PAT in five instances.

Mr. GUNTER in two instances.

Mr. RARICK in three instances.

Mr. GONZALEZ in three instances.

Mr. HELSTOSKI in 10 instances.

Mr. DANIELSON in five instances.

Mr. HARRINGTON in two instances.

Mr. DRINAN in five instances.

Mr. MOSS.

Mr. ROUSH.

Mr. DULSKI in six instances.

Mr. HANNA in five instances.

Mr. RIEGLE.

Mr. WALDIE.

#### ADJOURNMENT

Mr. RIEGLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Monday, November 5, 1973, at 12 o'clock noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1496. A letter from the Secretary of the Treasury, transmitting drafts of proposed legislation to provide for increased participation by the United States in the International Development Association, and to provide for increased U.S. contributions to the

Special Funds of the Asian Development Bank; to the Committee on Banking and Currency.

1497. A letter from the Secretary of Health, Education, and Welfare, transmitting a plan for the delegation of certain functions of the Commissioner on Aging to officers of the Department of Health, Education, and Welfare not directly responsible to him, pursuant to section 201 of the Older Americans Act of 1965; to the Committee on Education and Labor.

1498. A letter from the Assistant Secretary of State for Congressional Relations, transmitting copies of Presidential Determination No. 74-5, finding that it is important to the national security of the United States to furnish sophisticated weapons systems to the Republic of Korea, Turkey, and Jordan in fiscal year 1974, pursuant to section 504(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1499. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of September 30, 1973, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1500. A letter from the Vice President for Public and Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of July 1973, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HUNGATE: Committee on the Judiciary. H.R. 10937. A bill to extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia; with amendment (Rept. No. 93-618). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE of Illinois: Joint Committee on Atomic Energy. H.R. 11216. A bill to amend Public Law 93-60 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes (Rept. No. 93-619). Referred to the Committee of the Whole House on the State of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG:

H.R. 11230. A bill to amend title 3, United States Code, relative to Presidential succession; to the Committee on the Judiciary.

By Mr. ANDERSON of California (for himself and Mr. Roe):

H.R. 11231. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of California (for himself, Mr. BRADEMAS, and Mr. CHAPPELL):

H.R. 11232. A bill to provide for a 7-percent increase in social security benefits beginning with benefits payable for the month of January 1974; to the Committee on Ways and Means.

By Mr. CONTE (for himself, Mr. BADILLO, Mr. COLLIER, Mr. CONYERS,

Mr. EDWARDS of California, Mr. FRENZEL, Mr. HORTON, Mr. KEATING, Mr. KEMP, Mr. KETCHUM, Mr. LEGGETT, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. NIX, Mr. O'HARA, Mr. RANGEL, Mr. ROE, Mrs. SCHROEDER, Mr. THOMPSON of New Jersey, Mr. UDALL, Mr. WIDNALL, Mr. YATES, and Mr. YATRON):

H.R. 11233. A bill to provide for the conservation of energy through observance of daylight saving time on a year-round basis; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH:

H.R. 11234. A bill to improve the conduct and regulation of Federal elections and campaign activities; to the Committee on House Administration.

H.R. 11235. A bill to establish an Independent Office of Special Prosecutor, and for other purposes; to the Committee on the Judiciary.

By Mr. FOUNTAIN:

H.R. 11236. A bill to provide authority to expedite procedures for consideration and approval of projects drawing upon more than one Federal assistance program, to simplify requirements for operation of those projects, and for other purposes; to the Committee on Government Operations.

By Mr. FUQUA:

H.R. 11237. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees; to the Committee on Government Operations.

By Mr. GUDE (for himself, Mr. FRASER, Mr. RANGEL, Mr. DELLUMS, Mr. FAUNTROY, Mr. STARK, Mr. MAZZOLI, and Mr. MCKINNEY):

H.R. 11238. A bill to amend the act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. HENDERSON:

H.R. 11239. A bill to amend section 1006 of title 39, United States Code relating to the eligibility of U.S. Postal Service employees for promotion or transfer to other positions in the executive branch, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11240. A bill to clarify the application of section 8344 of title 5, United States Code, relating to civil service retirement annuities and pay on reemployment, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KYROS:

H.R. 11241. A bill to provide for the conservation of energy through observance of daylight saving time on a year-round basis; to the Committee on Interstate and Foreign Commerce.

By Mr. MATHIAS of California:

H.R. 11242. A bill to amend the act which created the U.S. Olympic Committee to require such committee to hold public proceedings before it may alter its constitution, to

## EXTENSIONS OF REMARKS

require arbitration of certain amateur athletic disputes, and for other purposes; to the Committee on the Judiciary.

By Mr. MOAKLEY (for himself, Mr. ROSENTHAL, and Mr. CHARLES H. WILSON of California):

H.R. 11243. A bill to amend title 3 of the United States Code to provide for the order of succession in the case of a vacancy both in the Office of President and Office of the Vice President, to provide for a special election procedure in the case of such vacancy, and for other purposes; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 11244. A bill to repeal the Campaign Communications Reform Act, to amend the Federal Election Campaign Act of 1971, and for other purposes; to the Committee on House Administration.

By Mr. O'BRIEN:

H.R. 11245. A bill to provide standards of fair personal information practices; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.R. 11246. A bill to establish an Independent Office of Special Prosecutor, and for other purposes; to the Committee on the Judiciary.

By Mr. RANDALL:

H.R. 11247. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11248. A bill to direct the Chief Judge of the U.S. District Court for the District of Columbia to appoint a Special Prosecutor to investigate and prosecute any offense with respect to the election in 1972 for the Office of President and with respect to the conduct of the Office of President by Richard M. Nixon; to the Committee on the Judiciary.

By Mr. REID:

H.R. 11249. A bill to provide that daylight saving time shall be observed on a year-round basis; to the Committee on Interstate and Foreign Commerce.

By Mr. STARK (for himself, Mr. BELL, Mr. WOLFF, Mr. HEINZ, Mr. MALLARY, Mr. GUDE, Mr. KEATING, Mr. DE LUGO, Mr. MCKAY, Mr. ROBERT W. DANIEL, Jr., Mr. BAFALIS, Mr. YOUNG of Illinois, Mr. JOHNSON of California, Mr. DANIELSON, Mr. VEYSEY, Mr. BURTON, Mr. BIESTER, Mr. McCLOSKEY, Mr. PETTIS, and Mr. HANLEY):

H.R. 11250. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States, and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee on Banking and Currency.

By Mr. ULLMAN (for himself, Mr. SCHNEEBELI, Mr. MAHON, Mr. BURKE of Massachusetts, Mr. LANDRUM, Mr. FULTON, Mr. BURLESON of Texas, Mr. CORMAN, Mr. GIBBONS, Mr. WAGGONER, Mr. KARTH, Mr. CONABLE, Mr.

PETTIS, Mr. DUNCAN, Mr. BROTHMAN, and Mr. ARCHER):

H.R. 11251. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 11252. A bill to amend title 5, United States Code, to provide for the reclassification of certain security police positions of the Department of the Navy at China Lake, Calif., and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WYATT:

H.R. 11253. A bill to authorize the Secretary of Agriculture to make grants to cities to encourage the increased planting of trees and shrubs and to encourage other urban forestry programs; to the Committee on Agriculture.

By Mr. CULVER (for himself, Mr. CONTE, Mr. CORMAN, Mr. JAMES V. STANTON, Mr. MINISH, Mr. DOWNING, Mr. STRATTON, Mr. FULTON, Mr. DRINAN, and Mr. ANDREWS of North Carolina):

H.J. Res. 805. Joint Resolution to provide for the appointment of a Special Prosecutor, and for other purposes; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

H.J. Res. 806. Joint Resolution to authorize the President to proclaim February 16 as Bataan-Corregidor Day; to the Committee on the Judiciary.

By Mr. O'NEILL (for himself and Mr. HARVEY):

H. Res. 678. Resolution to seek peace in the Middle East and to continue to support Israel's deterrent strength through transfer of Phantom aircraft and other military supplies; to the Committee on Foreign Affairs.

By Mr. OWENS:

H. Res. 679. Resolution expressing the sense of the House of Representatives concerning ratification of the Geneva Protocol of 1925, and a comprehensive review of this Nation's national security and international policies regarding chemical warfare; to the Committee on Foreign Affairs.

## MEMORIALS

Under clause 4 of rule XXII,

324. The SPEAKER presented a memorial of the Legislature of the Territory of the Virgin Islands, relative to the transfer of title to submerged and other lands to the territories; to the Committee on Interior and Insular Affairs.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

347. The SPEAKER presented a petition of Demetrius Zettos, San Francisco, Calif., relative to impeachment of the President; to the Committee on the Judiciary.

## EXTENSIONS OF REMARKS

LUDWIG VON MISES: EMINENT ECONOMISTS PAY TRIBUTE TO HIS LIFE AND WORKS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1973

Mr. KEMP. Mr. Speaker, in 1952, Prof. Ludwig von Mises, already recognized as

an intellectual giant in the field of economics, contrasted free market economies with state-controlled economies:

Laissez-faire does not mean: let soulless mechanical forces operate. It means: let individuals choose how they want to cooperate in the social division of labor and let them determine what the entrepreneurs should produce. Planning means: let the government alone choose and enforce its rulings by the apparatus of coercion and compulsion.

Professor Mises' life and works stand as a tribute to unceasing efforts on his behalf to espouse the principles of freedom within the marketplace, stressing, with the full force of history marshalled to sustain his arguments, that political freedom itself cannot long exist without economic freedom.

Professor Mises' teachings, particularly his classic work *Human Action*, have had a great influence upon me and my phi-