istration; to the Committee on House Administration.

By Mr. NIX:

H. Res. 250. A resolution maintaining U.S. sovereignty, Panama Canal Zone; to the Committee on Foreign Affairs.

H. Res. 251. A resolution Canal Zone sovereignty and jurisdiction; to the Committee on Foreign Affairs.

By Mrs. SULLIVAN:

H. Res. 252. A resolution to declare U.S. sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. TEAGUE of Texas:

H. Res. 253. A resolution to authorize the Committee on Science and Astronautics to conduct studies and investigations and make inquiries with respect to aeronautical and other scientific research and development and outer space; to the Committee on Rules.

By Mr. WALDIE:

H. Res. 254. A resolution to authorize the Committee on Banking and Currency to conduct an investigation and study of prices of lumber and plywood; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

46. By the SPEAKER: Memorial of the House of Representatives of the State of Hawaii, relative to Federal subsidized housing programs; to the Committee on Banking and Currency.

47. Also, memorial of the House of Representatives of the State of Oklahoma, relative to proposed assistance to North Vietnam for the rebuilding of the country; to the Committee on Foreign Affairs.

48. Also, memorial of the Senate of the State of Washington, relative to construction of the pipeline from the North Slope to tidewater in Alaska; to the Committee on Interior and Insular Affairs.

49. Also, memorial of the Legislature of the State of Minnesota, ratifying the proposed amendment to the Constitution of the United States to equal rights for men and women; to the Committee on the Judiciary.

50. Also, memorial of the Legislature of the State of New York, relative to designating November 11, as Veterans' Day; to the Committee on the Judiciary.

51. Also, memorial of the Legislature of the State of Maine, relative to postal service; to the Committee on Post Office and Civil Service.

52. Also, memorial of the Legislature of the State of Wisconsin, relative to continuing the Upper Great Lakes Regional Commission; to the Committee on Public Works.

53. Also, memorial of the Legislature of the State of New Jersey, relative to income tax credits for nonresident State income tax liabilities; to the Committee on Ways and Means.

54. Also, memorial of the Legislature of the State of South Carolina, relative to the capital gains treatment of timber under the Internal Revenue Code; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CRONIN:

H.R. 4892. A bill for the relief of the New York Toy Corp.; to the Committee on the Judiciary.

By Mr. DELANEY (by request):

H.R. 4893. A bill for the relief of Salvatore Orlando; to the Committee on the Judiciary.

By Mr. EDWARDS of California:

H.R. 4894. A bill for the relief of the Southeastern University of the Young Men's Christian Association of the District of Columbia; to the Committee on the District of Columbia.

By Mr. KOCH:

H.R. 4895. A bill for the relief of Mrs. Wallace S. Anderson; to the Committee on the Judiciary.

By Mr. STUDDS:

H.R. 4896. A bill for the relief of Chiu Wong (also known as Roverto Sing); to the Committee on the Judiciary.

SENATE—*Tuesday, February 27, 1973*

The Senate met at 12 o'clock meridian and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

Eternal God, who committest to us the swift and solemn trust of life; since we know not what a day may bring forth but only that the hour for serving Thee is always present, help us to serve Thee in faithfulness each moment of this day. Consecrate with Thy presence the way of our work that Thy way may be made known to us. In all things draw us to the mind of the Master that Thy kingdom may come and Thy will be done among men and nations.

We pray in the name of the Prince of Peace. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 26, 1973, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination under New England Regional Commission on the Executive Calendar.

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

The PRESIDENT pro tempore. The nomination under New England Regional Commission on the Executive Calendar will be stated.

NEW ENGLAND REGIONAL COMMISSION

The second assistant legislative clerk read the nomination of Russell Field Merriman, of Vermont, to be Federal Cochairman of the New England Regional Commission.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER FOR PRINTING OF PRESIDENT NIXON'S INAUGURAL ADDRESS AS A SENATE DOCUMENT

Mr. SCOTT of Pennsylvania. Mr. President, I ask unanimous consent that the inaugural address delivered by President Richard M. Nixon on January 20, 1973, be printed as a Senate document.

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

ORDER OF BUSINESS

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

THE NEXT STEPS IN SOUTHEAST ASIA

Mr. AIKEN. Mr. President, yesterday, what could turn out to be one of the most important conferences of the century began meeting in Paris.

While for several years I had predicted that the Paris conferences called to find a peaceful solution to the Indochina war could not be successful, yet on January 27 a cease-fire agreement was signed in Paris and I am delighted that my predictions of several years' standing turned out to be wrong.

Now another and more widely representative conference is being held in Paris and I sincerely hope that any agreements reached this time will be even more far reaching in the search for world peace than the one agreed to last month.

While we cannot be sure as to what agreements may be reached or if they would be effective or not, yet the hopes of the world for an era of peace seem brighter because of the effort being made.

During his visit to the Senate last week, Secretary Rogers said that the purpose of the international conference that opened yesterday—Monday, February

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26—in Paris was to "endorse" the cease-fire in Indochina.

A cease-fire is a military agreement.

It is not a peace treaty.

It is not an executive agreement among nations.

It is not the sort of arrangement that is usually ratified by governments or by parliaments.

In Korea, 2 whole years passed between the cease-fire and a political settlement.

Yet going on in Paris at this time we have a conference, convened to "endorse" a cease-fire, well before a stable peace has been established.

The makeup of the conference is unusual, to say the least.

Vietnam is represented by no less than three delegations, the northerners, the southerners, and the Vietcong.

The permanent members of the United Nations Security Council are there: Russia, China, France, the United Kingdom, and the United States.

Then there are delegations from Canada, Poland, Hungary, and Indonesia, the Governments that make up the new International Commission for Control and Supervision, which is now taking up positions at 26 points in Vietnam.

Japan is not at the conference because the North Vietnamese did not want them there.

Germany is not there because Germany is not a member of the United Nations.

Thailand is not there, and undoubtedly wishes it was because that country's security is very much involved in what happens next in Southeast Asia.

The purpose of this conference is unusual.

The mix of delegations attending is rather peculiar.

Yet we may be witnessing something new and rather important in the evolution of diplomacy.

The wars in Southeast Asia resemble the Balkan wars at the beginning of this century.

It is a part of the world where fighting may erupt at any time between all kinds of rivals and enemies.

Perhaps the most fruitless war of this century, World War I, grew out of a Balkan squabble.

Then there was no cease-fire, much less an international conference to "endorse" it.

In that war Russia, France, Britain, Germany, and Austria each suffered more casualties than has Vietnam, even after 25 years of war.

It is real progress when the major world powers find it in their common interest to endorse a cease-fire in a trigger-happy corner of the world.

It is real progress when Russia, China, and the United States, together with many others, collectively decide that some investment in peace is necessary.

The other purpose of the conference is to begin to think about the form that investment in peace should take.

When you come to think of it, there really is not any other practical form than some kind of reconstruction and development program.

It is not that the nations of Indochina, given sufficient help, will become the Japans and Germanys of tomorrow.

It is not a question of ransom or reparations, though the North Vietnamese are likely to use these terms, and there is little we can do about it.

What we are trying to do in Paris today is quite literally what the President says—make an investment in peace.

If there is to be a durable cease-fire not just in Vietnam, but in Laos and Cambodia as well, there must be some presence in the area doing something besides shooting or policing.

There must be some presence, even in Hanoi, that serves to discourage shooting by encouraging something else—rebuilding, to be exact.

What we must remember is that all the big powers want such a presence in Indochina, even in Hanoi.

President Nixon is not acting alone.

The Chinese want a United States presence, even in Hanoi; and it is a safe bet that even the Russians do, too.

And so do the North Vietnamese, though their reasons may be very mixed.

The cease-fire is only the bare beginnings of peace in Indochina.

Without further investment from the big powers, any one or all of them could easily be drawn into further warfare.

The conference is going on in Paris because none of the big powers, not just the United States, but none of them, want to be tyrannized any longer by the warring factions of Indochina.

It is of the utmost importance that the Congress understand the policy reasons behind the President's forthcoming requests for reconstruction assistance.

To argue over the amount of money is one thing.

But, just as we in the Congress authorize legislation before making appropriations in order to set the policy straight, so we must debate and understand the President's policy before haggling over the amount of money he should have.

A few days ago, I received a copy of an article written by Prof. Hans Morgenthau of the University of Chicago.

Professor Morgenthau was an articulate critic of our involvement in Vietnam.

I tended to agree with him in 1966 when he wrote this article and still think he was more right than wrong.

But the paragraph which interested me expressed some homely truths about the importance of getting the policy straight before arguing about the money.

In this article he wrote:

> If the people are unwilling to bear the burdens the security of the country demands, and if the government is unable to impose them, then America will not, and ought not, to remain a great power. A nation which refuses to accept the primacy of foreign policy over domestic politics has doomed itself.

Professor Morgenthau thought our wholesale intervention in Vietnam was a great blunder, that it reflected no major national interest of the United States.

However, that is all behind us now.

Professor Morgenthau was certainly right in saying that our leadership position in the world is doomed if we cannot accept the primacy of foreign policy.

There will be plenty of room for debate and discussion over the form that the reconstruction presence in Indochina should take.

It will take several forms.

South Vietnam is likely to be more receptive to an international presence and an international assistance program than is North Vietnam.

Problems of controlling the finances necessary to maintain that presence are certain to be formidable.

The big powers must insist that reconstruction aid does not serve to fuel guerrilla warfare and will not be used for that purpose.

Yet the Vietnamese, particularly the northerners, are certain to resist efforts of outsiders to control expenditures down to the level of the final user.

To find the solution to this problem will not be easy, but it must be found.

It is going to be very important to make sure that any U.S. funds are spent on U.S. goods and services, the end use of which is reasonably fixed in advance.

By this I mean that any aid we give to Vietnam should be clearly tied to the rebuilding of specific utilities, factories, or municipal services or to specific resettlement of refugees.

I do not expect the President to ask Congress for any large, multiyear authorization.

I could not support that.

In fact, the President should welcome a tight congressional rein on the spending of funds, which might involve quarterly, rather than annual, consultations with Congress.

It is not my understanding that we will be asked to finance any crash programs.

The investment in peace that is needed is one that will be spread out over quite a long period because the reconstruction presence needed in Indochina will be needed for quite a few years.

But I do not want to speculate further on what is going to be asked of Congress.

We will know soon enough.

I do want to focus on the policy question.

An investment in peace means a presence in Indochina, even in Hanoi.

All the big powers, not just President Nixon, want such a presence.

That presence will be called many things by many interested parties.

But the purpose of the presence will be to discourage more war and to encourage more peace.

If all the big powers agree that this is necessary, I think we in Congress should hesitate before saying otherwise.

A few weeks ago on the Senate floor I raised a modest plea for a return to bipartisanship in foreign policy.

I argued that Congress should be the place where the President's foreign policies are analyzed, explained, and defended, not just attacked and investigated.

The question of future aid to Indochina cries out for just this treatment.

If such aid is deemed to be in the interest of all the other big powers in the world in order to move from cease-fire to peace, we here should at least ponder the matter seriously and soberly before taking an opposite view.

The statement I have just made represents my own views.

I have not discussed the matter with any agency of the executive branch of our Government, nor have they with me.

But, as I told this Senate when I spoke here on the floor a couple weeks ago, it helps clear my own conscience to get some of these ideas off my mind and into the CONGRESSIONAL RECORD.

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

Mr. AIKEN. I yield.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from Vermont for the temperate statement he has made today, which fits in with his call for bipartisanship several days ago.

I note that on page 6 of his speech the Senator states:

> The cease-fire is only the bare beginnings of peace in Indochina.

How true. And just how tenuous that cease-fire is, of course, is manifest in the fact that in South Vietnam, in Cambodia, and in Laos the fighting is still going on.

So I commend the distinguished Senator for his remarks, because what he does is to raise a flag of caution. What he is primarily interested in, as I am—and I am sure the entire Senate and the total American population—is three things: One, a cease-fire in fact as well as in being; two, the continued withdrawal of all U.S. military personnel from Vietnam, a process which is in operation at the present time—and it is my understanding that the number remaining at the moment is somewhere between 11,000 and 12,000—and, three, the return of our POW's and the recoverable missing in action.

Those are the three most important factors. When we reach those objectives, then I think we can begin talking about assistance, if any such proposal is made, under article XXI of the agreement. But I think that in the meantime we ought to give the man downtown—the President—a chance to work these things through, following this tentative settlement—and that is all it is at the moment. We must try to make certain that there will not be a return to warfare in which we will become engaged and that there is an opportunity to establish a basis for a peace in that part of the world not only for the indigenous peoples concerned but for this Nation as well.

The distinguished Senator says on page 7 of his speech:

> There will be plenty of room for debate and discussion over the form that the reconstruction presence in Indochina should take.

Again, the Senator is correct. There will be a right time for a proposal to be made, based on the circumstances which exist at that time. Those circumstances, to get back to what originally was said, depend on a cease-fire in fact, depend on the total withdrawal of all U.S. military personnel and the release of all prisoners of war and recoverable missing in action.

As the distinguished Senator says in his speech.

> But the purpose will be to discourage more war and to encourage more peace.

The Senator is right. I hope that his speech has been listened to and will be read by those who are interested in that part of the world and our role in it and that they will be aware of the fact that the war is not over; that there is only a tenuous truce; that we still have POW's and recoverable MIA's in North and South Vietnam, in Cambodia, and in Laos; that we still have between 11,000 and 12,000 military personnel to be withdrawn, and that the truce at the moment is at best delicate; it is far from being a cease-fire, in fact.

I would hope we would follow the advice of the distinguished Senator from Vermont; that we would withhold our own fire for the moment, at least, and give the President a chance, based on the facts as they exist and in accord with what I have stated this afternoon, to present to the Congress a proposal, a proposal which I am sure Congress will disect and go into thoroughly, and a proposal on which Congress itself will have to make a judgment, as well as the President.

I thank the Senator for yielding.

Mr. AIKEN. Mr. President, I take this time to thank the majority leader for the remarks he has made and to state that I do not regard the Paris conference as even being a near approach to Utopia. There will be problems and violations of the agreement which has been reached, but we have made one step and I want to make plain that we cannot consider seriously any expenditures for reconstruction, and so forth, until all of our prisoners of war have been released.

Mr. MANSFIELD. Mr. President, I am in accord with the views just expressed by the distinguished Senator. As he knows, for years I have had three objectives, which I have mentioned and which I cannot reiterate too often. I have sought for years to bring about a cease-fire, not only in Vietnam, but in all of Indochina. I have sought for years to bring about the extrication of our forces from Vietnam and Indochina. I have sought for years to bring about the release of the prisoners of war and the missing in action.

These objectives seem—and I emphasize the word "seem"—to be on the way to a final solution, which may well be contingent on the "investment in peace" in all of Indochina. What the President said about an "investment in peace" may well be part of the price of ending this ghastly war, an objective so much desired by all of us and paid for over such a long period of time by over 303,000 Americans wounded in combat, by almost 46,000 Americans killed in combat, by 10,300 Americans dead as the result of nonhostile action, by an overall total of almost 360,000 American casualties in this war.

Concurrent with that human cost is the monetary cost of between $130 billion and $140 billion to date, a cost which will eventually amount to between $350 billion and $450 billion, and which will saddle the people of this Nation well into the next century.

It is good, indeed, that at long last this longest, most tragic and second most costly war in all our history may be coming to an end. In the words of Dr. Kissinger, in his superb exposition at his press conference in mid-January, it is time that "Together with healing the wounds of Indochina we can begin to heal the wounds of America."

Subject to various criteria which I am working on at the present time, I think we ought to give the President's proposals, when and if they come up, every reasonable consideration, because our chief objective, as I am sure it is his, is to bring about, finally, peace and stability in Indochina. It would be our hope and desire to cooperate with the President of the United States in his efforts to embark on the "decade of peace" which he has stressed so often during this administration.

I thank the distinguished Senator.

ORDER OF BUSINESS—INTRODUCTION OF A BILL

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized for not to exceed 15 minutes.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that a member of my staff, T. J. Oden, may be permitted to remain on the floor.

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

(NOTE.—The remarks that Senator MCINTYRE made at this point on the introduction of S. 1019, to abolish the mandatory oil import quota system, and the ensuing debate, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. HATHAWAY) laid before the Senate a message from the President of the United States submitting the nomination of Byron V. Pepitone, of Virginia, to be Director of Selective Service, which was referred to the Committee on Armed Services.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 8) relating to the designation, administration, and expenses of the Joint Study Committee on Budget Control.

The message also announced that the House had disagreed to the amendments of the Senate to the joint resolution (H.J. Res. 345) making further continuing appropriations for the fiscal year 1973, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MAHON, Mr. PASSMAN, Mr. NATCHER, Mr. FLOOD, Mrs. HANSEN, Mr. ADDABBO, Mr. CEDERBERG, Mr. RHODES, Mr. MICHEL, and Mr. SHRIVER

were appointed managers on the part of the House at the conference.

The message informed the Senate that, pursuant to the provisions of 44 United States Code 2701, the Speaker had appointed Mr. BURLISON of Missouri and Mr. FRENZEL as members of the Federal Records Council, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1, Public Law 689, 84th Congress, as amended, the Speaker had appointed Mr. HAYS, chairman, Mr. RODINO, Mr. CLARK, Mr. BROOKS, Mr. BURTON, Mr. ARENDS, Mr. DEVINE, Mr. MATHIAS of California, and Mr. RUPPE as members of the U.S. Group of the North Atlantic Assembly, on the part of the House.

QUORUM CALL—ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against me under the order.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Virginia be recognized now under the order set aside for him and that my time be reserved.

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

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized under the previous order for a period not to exceed 15 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I continue to be alarmed over conditions at the District of Columbia penal facility at Lorton.

The Lorton problem is not new. The residents near the penal institution have lived in fear for years as escape after escape has occurred. Each new report of an escape gives a deeper hue to the already vivid portrait of hapless prison administration.

Escapes at Lorton are the direct result of mismanagement inside the prison. Reports indicate that brutual homosexual assaults have occurred, and that contraband, including drugs and weapons, goes virtually unchecked.

To call this institution a reformatory does the greatest injustice to the word. I am shocked by the deplorable record of this prison.

Steps must be taken now to correct the problems which exist there.

On October 10, 1972, I wrote President Nixon to express my concern over this matter and offered to support legislation, if any is deemed necessary, to correct the situation. I think, however, it can be handled administratively by the government of the District of Columbia.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HARRY F. BYRD, JR. Mr. President, the protests against this deplorable prison seem to fall on deaf ears. Bill after bill has died in committee without hearings. Formal letters of protest from the U.S. Attorney's office to the District government go unanswered and even unacknowledged. Even judges lament privately at their helplessness over the problem. Public outrage is constant.

It is easy to understand the frustration from these groups: As long as poor inprocessing practices continue; as long as weapons and drugs continue to flow freely into Lorton via unsearched visitors who may openly consort with prisoners—without proper screens or barriers; as long as no effort is made to train guards properly—the escapes, the attacks, and the danger to the public will continue unabated.

I feel that the proposal of my distinguished colleague, the junior Senator from Virginia, has a great deal of merit. Unless the District of Columbia acts, and promptly, I feel that Senator Scott's legislation providing for a transfer of this facility from District of Columbia control to the Office of the Attorney General should be enacted.

There must be more than a merely cosmetic change at Lorton. The disease must be treated and not just the external symptoms

Lorton must be cleaned up now—either by the District of Columbia government—or by the Federal Government.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., October 10, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: The recurrent problems at the District of Columbia's penal institution at Lorton, Virginia concern me greatly. I am of the opinion that it is imperative that something be done to alleviate this problem at the earliest possible time.

As you know, there have been more than sixty escapes from Lorton this year, as well as continuous turmoil within the institution. The citizens of Northern Virginia are deeply disturbed by this unrest, and the people of Lorton are fearful.

As the District of Columbia has jurisdiction over this facility, and you as President have the responsibility to appoint the City Council of Washington, D.C., I would be most appreciative if you could make available the facilities of your office to aid in the solution of this problem.

If you feel that legislation is required to overcome the difficulties at Lorton, I shall be most happy to cooperate.

With best wishes, I am

Sincerely,

HARRY F. BYRD, JR.

THE WHITE HOUSE,
Washington, D.C., October 17, 1972.

Hon. HARRY F. BYRD, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I wish to acknowledge and thank you for your letter to the President in reference to the problems at the District of Columbia's penal facility at Lorton. You may be assured your letter will be brought to the President's attention at the earliest opportunity and also shared with the appropriate members of the staff.

With warm regards,

Sincerely,

TOM C. KOROLOGOS,
Deputy Assistant to the President.

ORDER OF BUSINESS—INTRODUCTION OF A BILL

Mr. HARRY F. BYRD, JR. Mr. President, I yield the remainder of my time to the distinguished Senator from Minnesota.

Mr. HUMPHREY. I am very grateful to the distinguished Senator from Virginia.

(NOTE.—The remarks Senator HUMPHREY made at this point on the introduction of S. 1030, the Fiscal and Budgetary Reform Act of 1973, are printed in the RECORD under "Statements on Introduced Bills and Joint Resolutions.")

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against the remaining time on my order.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock meridian tomorrow.

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

ORDER FOR ADJOURNMENT FROM WEDNESDAY TO THURSDAY AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 11 a.m. Thursday.

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

ORDER FOR RECOGNITION OF SENATORS ON THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees on Thursday, the following Senators be recognized, each for not to exceed 10 minutes, and in the order stated: Mr. WILLIAMS, Mr. EASTLAND, Mr. MAGNUSON, Mr. MCCLELLAN, Mr. EAGLETON, Mr. SPARKMAN, Mr. RANDOLPH, Mr. JACKSON, Mr. CANNON, Mr. MOSS, Mr. HARTKE, Mr. MUSKIE, and Mr. CHURCH.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time remains to me under the order?

The PRESIDING OFFICER. The Senator from West Virginia has about 8 minutes remaining under the order. That includes the order for the Senator from Virginia and the Senator from West Virginia and the Senator from Rhode Island.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged against the orders.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that any remaining time under the order be vacated.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized under the standing order, and after the consummation of any orders for the recognition of Senators which may be entered today, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein not to exceed 3 minutes each.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, upon the completion of orders for the recognition of Senators, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes each.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON STATUS OF THE PROCUREMENT OF THE F–14 WEAPON SYSTEM

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential report on status of the procurement of the F–14 weapon system (with an accompanying report); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of New Jersey; referred to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 29

"A concurrent resolution memorializing the Congress of the United States to enact legislation that would provide full Federal income tax credits for nonresident state income tax liabilities, and would reduce by a proportionate amount Federal grants to such taxing states or their political subdivisions

"Whereas, Many thousands of commuting residents of the State of New Jersey, are increasingly finding themselves the growing victims of added tax burdens arbitrarily imposed by the municipalities or states in which they work; and

"Whereas, These commuting workers, already carrying the full burdens of taxation in their own state and the selective taxes of other states, are now also required to shoulder the additional obligations of nonresident income taxes without commensurately sharing in the benefits derived therefrom, and without enjoying any representation in the legislative bodies levying such taxes; and

"Whereas, Such a system of double taxation is both contrary to the spirit of the federal constitutional principle of equality of citizenship, and inimical to the processes of interstate commerce; now, therefore

"Be it resolved by the Senate of the State of New Jersey (the General Assembly concurring):

"1. The Congress of the United States be, and it is hereby, respectfully memorialized to give earnest consideration to the enactment of legislation that would permit full tax credit deductions from Federal tax liabilities by nonresident taxpayers for taxes on earned income paid to another state or to any of its political subdivisions; and the Congress also enact legislation that would reduce, by an amount proportionate to the rates of nonresident taxes, federal grants to those political entities which tax the earned incomes of their nonresident working populations.

"2. Copies of this resolution be transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives and to each member of the Congress of the United States from the State of New Jersey."

A joint resolution of the Legislature of the State of Wisconsin; to the Committee on Public Works:

"SENATE JOINT RESOLUTION 13

"Enrolled Joint Resolution Memorializing Congress and the President of the United States to continue the Upper Great Lakes Regional Commission

"Whereas, 36 Wisconsin counties within the upper great lakes region possess similar human and natural resource characteristics important to addressing problems and potentials of economic development; and

"Whereas, the upper great lakes region of Wisconsin has experienced chronic unemployment and underemployment and has lagged behind most other regions of the country in meaningful economic growth and resource development; and

"Whereas, regional economic development under joint sponsorship of the federal government and states has demonstrated the potential to improve the quality of life for millions of Americans; and

"Whereas, considerable progress has been made by existing regional development commissions in planning for future economic advances, an accomplishment evidenced in the upper great lakes regional commission 5-year regional economic development plan and 5-year program; and

"Whereas, the program of the upper great lakes regional commission has demonstrated the effectiveness of state-federal cooperation in regional resource development; and

"Whereas, regional economic development is an essential supplemental effort to the concept of federal revenue sharing, an effort that assures much needed attention to areas that evidence similar characteristics of economic depression; and

"Whereas, the concept of multistate economic development regions has fostered cooperative, innovative interstate approaches to human, economic and environmental problems and policies; now, therefore, be it

"Resolved by the senate, the assembly concurring, That the legislature of the state of Wisconsin recognizes the desirability of continuing regional economic development programs authorized by Title V of the Public Works and Economic Development Act of 1965; and, be it further

"Resolved, That the legislature of the state of Wisconsin respectfully urges congress and the national administration to extend the life of the upper great lakes regional commission so that its work and potentials may be adequately evaluated and its potential fully realized; and, be it further

"Resolved, That duly attested copies of this resolution be transmitted to the president of the United States, to the secretary of the U.S. senate, to the chief clerk of the U.S. house of representatives, to the governors of the 29 Title V states and to every member of the congressional delegation from Wisconsin, Minnesota and Michigan."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, with an amendment:

H.R. 2107. An act to require the Secretary of Agriculture to carry out a rural environmental assistance program (Rept. No. 93–49).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

H.R. 3694. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended (Rept. No. 93–50).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time

and, by unanimous consent, the second time, and referred as indicated:

By Mr. McINTYRE (for himself, Mr. STAFFORD, Mr. McGOVERN, Mr. RIBICOFF, Mr. PASTORE, Mr. KENNEDY, Mr. PELL, Mr. HATHAWAY, Mr. ABOUREZK, Mr. BROOKE, Mr. HART, Mr. COTTON, Mr. WEICKER, Mr. NELSON, Mr. MUSKIE, Mr. PROXMIRE, Mr. HUGHES, Mr. WILLIAMS, and Mr. MONDALE):

S. 1019. A bill to terminate the oil import control program. Referred to the Committee on Finance.

By Mr. BUCKLEY:

S. 1020. A bill to insure international cooperation in the prosecution or extradition to the United States of persons alleged to have committed aircraft piracy against the laws of the United States or against international law. Referred to the Committee on Foreign Relations.

By Mr. CURTIS:

S. 1021. A bill to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 per centum the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. HARTKE:

S. 1022. A bill to increase from $240 to $480 per year the amount of earned income which will be excluded in determining eligibility for and amount of benefits payable to individuals under the Federal program for supplemental security income for the aged, blind, and disabled, established by title XVI of the Social Security Act. Referred to the Committee on Finance.

S. 1023. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, to provide a program for the accreditation of law enforcement agencies. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself and Mr. RANDOLPH):

S. 1024. A bill to promote the peaceful resolution of international conflict, and for other purposes. Referred to the Committee on Foreign Relations.

My Mr. METCALF (for himself, Mr. MANSFIELD, Mr. McGOVERN, Mr. ABOUREZK, Mr. HUMPHREY, Mr. MOSS, and Mr. HATHAWAY):

S. 1025. A bill to improve the Nation's energy resources. Referred to the Committee on Commerce.

By Mr. CHILES:

S. 1026. A bill for the relief of Carmello Solarino, his wife, Natala Grasso Solarino, his sister, Giorgetta Solarino Aleppo, his brother-in-law Giuseppe Aleppo, his nephews, Orazio Aleppo and Edoardo Aleppo, and his niece, Maria Teresa Aleppo. Referred to the Committee on the Judiciary.

By Mr. CURTIS (for himself, Mr. BENNETT, Mr. FANNIN, and Mr. TOWER):

S. 1027. A bill to amend the National Labor Relations Act with respect to refusals to bargain. Referred to the Committee on Labor and Public Welfare.

By Mr. CURTIS (for himself, Mr. BENNETT, Mr. FANNIN, and Mr. TOWER):

S. 1028. A bill to amend the National Labor Relations Act to require a vote by employees who are on strike, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. TAFT:

S. 1029. A bill to provide, in cooperation with the States, benefits to individuals who are totally disabled due to employment-related respiratory disease and to the surviving dependents of individuals whose death was due to such disease or who were totally disabled by such disease at the time of their deaths. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY:

S. 1030. A bill to establish a Congressional Office of Budget Analysis and Program Evaluation; to provide participation by State and local officials and the general public in the departmental budget making process; to provide investigations by the Comptroller General of impoundment reports; to provide legislative oversight and veto of impoundments; and for other purposes. Referred to the Committee on Government Operations.

By Mr. HARTKE (for himself, Mr. WEICKER, Mr. PASTORE, Mr. PELL, Mr. WILLIAMS, Mr. KENNEDY, Mr. RIBICOFF, and Mr. CASE):

S. 1031. A bill to designate a national network of essential rail lines; to require minimum standards of maintenance on such lines; to create a not-for-profit corporation to acquire and maintain rail lines in the Northeast; to provide financial assistance for rehabilitation of rail lines; and for other purposes. Referred to the Committee on Commerce.

By Mr. BAYH:

S. 1032. A bill to provide for loans for the establishment and/or construction of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McINTYRE (for himself, Mr. STAFFORD, Mr. McGOVERN, Mr. RIBICOFF, Mr. PASTORE, Mr. KENNEDY, Mr. PELL, Mr. HATHAWAY, Mr. ABOUREZK, Mr. BROOKE, Mr. HART, Mr. COTTON, Mr. WEICKER, Mr. NELSON, Mr. MUSKIE, Mr. PROXMIRE, Mr. HUGHES, Mr. WILLIAMS, and Mr. MONDALE):

S. 1019. A bill to terminate the oil import control program. Referred to the Committee on Finance.

Mr. McINTYRE. Mr. President, I am introducing a bill today cosponsored by 18 colleagues to abolish the mandatory oil import quota system.

This quota was first imposed by President Eisenhower by Executive order in 1959 through authority granted under section 232 of the Trade Expansion Act of 1962, as amended. This section authorizes the President to limit imports of any article that is being imported into the United States in such quantities as to threaten to impair the national security.

This oil import quota has now remained in effect for the last 14 years, and its existence has consistently been defended on the need for our country to maintain sufficient domestic production capabilities to avoid undue reliance on foreign sources for our petroleum needs.

However, in the intervening 14 years, a number of events have taken place which seriously challenge the rationale for continuing this quota program.

During the latter half of the 1960's, it became increasingly clear that the original justification for the quota, that is, a self-sufficient domestic production capability, was being severely eroded. The fact of the matter is that it was becoming increasingly apparent that this country was losing its production capabilities and that imports of foreign oil in substantial quantities would be necessary to meet demand.

In 1969, President Nixon created a Cabinet-level task force to study the oil import system, and, in February of 1970, a majority of the task force recommended to the President substantial changes in both the method and direction of import controls.

In summary, the task force report recommended the removal of the quota and its replacement with a tariff.

It has now been 3 years since that report was received by the President but yet the quota remains.

Of particular concern to that task force study was the cost to the consumer for maintenance of the quota and the task force found that the yearly cost was approximately $5 billion.

Mr. President, the facts are quite simple. Domestic production of crude oil in the United States has reached its maximum level, and, in fact, is declining somewhat; while, at the same time, demand for oil is increasing at a substantial rate.

Domestic refining capacity in this country is operating at near capacity levels yet no new refineries are presently being constructed. Even if construction were to begin today, it would be several years before new refineries could be operational.

The bill that I am introducing today is uncomplicated in nature but very far reaching in effect. State simply, it says that after June 30, 1973, no import quotas or other nontariff trade restrictions shall be imposed on the importation into the United States of crude oil or oil products. This bill, however, does not prohibit the President under his existing authority contained in section 232 of the Trade Expansion Act from imposing a tariff. The date contained in this bill is June 30, 1973. But it should be noted that the exact time contained in the legislation is of secondary importance to the need of establishing a date certain for abolishing the quota.

Mr. President, this identical bill has also been introduced in the House of Representatives by Congressman Silvio Conte and presently has over 100 cosponsors.

The issue is clear. The oil import quota system has outlived its usefulness. This country's national security does not require its continued existence. A tariff could perform the same function and would be much more equitable to the consumers of this country. The President's own Cabinet-level task force reached these same conclusions.

The fact of the matter is that the quota is falling under its own weight. It cannot be logically justified any longer, and it should be removed immediately.

We must face the fact that we cannot provide sufficient crude oil within the United States to meet the demand. We must be developing new concepts to deal with the realities of our present energy situation. As long as the quota remains in effect, the citizens of this country will

continually be plagued and threatened with shortages of petroleum products.

This winter the shortage was in heating oil and it is anticipated that this summer it will be gasoline.

It is certainly clear to me that the national security is not enhanced when the citizens of this country must continually suffer shortages of essential products in order to maintain the continued existence of a self-defeating quota system.

The tragedy is that the legislation being introduced today is totally unnecessary. The President presently has the authority under existing law to remove the quota and, if it is found necessary, to establish reasonable tariffs to protect this country's economic security. His own Cabinet-level task force study recommended this approach. And it must be done now.

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

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

S. 1019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e) On or after June 30, 1973, no import quota or other nontariff trade restriction shall be imposed by or pursuant to law with respect to the importation into the United States of petroleum and petroleum products."

Mr. HATHAWAY. Mr. President, I want to commend the Senator from New Hampshire (Mr. MCINTYRE) and other Senators who have cosponsored his legislation, and other Senators who have not as yet cosponsored it but are in favor of his legislation, and also Mr. CONTE, the Member of the House who is the chief sponsor of similar legislation there, and the many cosponsors in the other body, for bringing this matter before the Congress.

THE OIL IMPORT QUOTA SYSTEM'S IMPACT ON NEW ENGLAND

Mr. President, I rise to address this body on a subject of long and continuing concern to me—the oil import quota system and its harsh impact on my area of the country, New England. As a direct consequence of this ill-conceived quota system, Maine and the other New England States have been forced to deal with recurrent shortages of home heating oil in the winter months and have suffered as well the burden of some of the highest fuel costs in the country. Ending this inequitable and illogical mandatory oil import quota system is an essential step toward bringing a measure of relief to New England, and to other parts of the country as well, and toward achieving a rational energy policy for the future.

During my 8 years in the House of Representatives, the Members of Congress from New England evolved an unfortunate annual ritual. Every winter our offices would be flooded with complaints about shortages of home heating oil. Every year we would meet with administration officials and demand that something be done about these shortages, which were obviously a result of the artificial constraints imposed by the oil import quota system. Every session of Congress we all sponsored legislation to abolish that system and end the unnecessary hardship and undue expense it imposed on the people of New England.

Now, in the course of my first couple of months in the Senate, the New England States have been confronted with the worst heating oil crisis in their history. Numerous dealers in Maine and throughout the area have been left entirely without oil for periods of time, necessitating emergency measures in some cases, and to this day none of these dealers have adequate assurances of a continued supply sufficient to meet the needs of their customers. Temporary suspension of the quota on No. 2 heating oil has brought only partial relief, and the fact that controls are scheduled to be reimposed on May 1 has prevented the finding of any permanent solution to the problem. What is more, this grudging and short-term concession on No. 2 oil has done nothing to meet the needs of 20 percent of Maine's households—many inhabited by low-income familes—which are heated with kerosene, a fuel in desperately low supply.

This situation cannot continue. No longer are heating oil shortages just a New England problem. They are a problem nationwide. This year there were acute shortages of home heating oil experienced throughout the Midwest, and as far west as the Rockies. The spectacle of schools and factories closing for want of heating oil, and homes going cold, is not a pleasant one, and the American people must no longer be forced to endure this unwarranted hardship.

I submit that the Mandatory Oil Import Quota System is the crux of the problem. For years the system has operated to limit artificially the supply of oil to this country and to keep oil industry prices and profits high. Oil import quotas have restricted the supply of cheaper foreign oil coming into the United States and have concentrated that supply in the hands of the major oil companies, to be sold at higher domestic prices. The present administration has continued the program, despite the 1970 recommendation of its own cabinet task force on oil import controls, headed by the present Treasury Secretary, George Shultz, that the controls be abolished.

All evidence suggests that the oil import quota system operates to fix prices and limit supply, and not to promote national security—the official justification for the program. In fact, national security has suffered in the course of the program's existence. With the high guaranteed income handed to them by the quota system, the oil companies have had no incentive to find new sources of oil or expand their production.

Instead, domestic reserves have been depleted, domestic exploration and new discoveries have fallen off, and no new refineries have been built on the east coast—rather, eight have closed down.

What more graphic evidence do we need of the fallacy of the national security rationale than the fact that the United States, under the current oil import quota system, cannot even get through a moderately cold winter such as this one without a supply crisis. How could we possibly cope with a real national emergency?

It is time and past time that the oil import quota system be abolished. If the administration will not take the necessary action, then the Congress must.

No longer should New England be forced to suffer the burden of winter heating oil shortages. No longer should this country have to exist on an oil shoestring, when vast supplies are readily available from abroad at terms far more favorable to the American consumer than those he currently receives.

I am pleased to cosponsor this legislation to end the mandatory oil import quota system, and I hope that the Congress will act swiftly on this matter.

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

Mr. HATHAWAY. I yield to the Senator from New Hampshire.

Mr. MCINTYRE. I just want to say that I am delighted that the junior Senator from Maine is now joining forces with us here. In the Senate we have been periodically, as he well knows from his membership in the House, taking up the cudgels on behalf of ending what we consider to be a government policy which works a very great hardship on the people of the States that we represent. I am happy to inform him today that we now have joining us in this effort the Senator from Michigan (Mr. HART) and the Senator from Iowa (Mr. HUGHES), our two distinguished colleagues from Wisconsin (Mr. PROXMIRE and Mr. NELSON), the Senator from Minnesota (Mr. MONDALE), and the two distinguished Senators from South Dakota (Mr. MCGOVERN and Mr. ABOUREZK), all of them agreeing with us that the mandatory oil import quota system has virtually fallen, as I said in my remarks, of its own weight, and to also make the observation, for the benefit of those concerned, that this is a bipartisan move. The quota has not been found failing on just one side of the aisle, Republican or Democrat; it is an absolutely bipartisan move to get rid of this mandatory system.

We have witnessed over the past 3 or more years a constant losing attempt by the Oil Policy Committee and by the Office of Emergency Planning to prop the system up. We have seen exceptions and exemptions. Now we are in a position where we are in the midst of a moratorium, I believe, where they are attempting once again to keep the whole thing from collapsing.

I know the Senator's colleague from Maine feels the same way, as does the Senator from Massachusetts. The Senator from Rhode Island (Mr. PASTORE) has made his statement and he had to leave to testify. I hope we can bring to the attention of the country, with the help of our fellow legislators, the fact that the burden of the prohibition against foreign oil imports has now become archaic. It is now no longer proper to say that this is in the interest of national security. What we who represent the consumers of

New England and of the Middle West want is some help. We want an intelligent policy to deal with this oil problem.

The time has come. And that is why I have introduced the bill, hoping that it will add a new impetus to what my friend, the Senator from Maine (Mr. HATHAWAY), will agree is a matter of concern to New England and the entire country.

Mr. HATHAWAY. Mr. President, I agree wholeheartedly with the distinguished Senator from New Hampshire.

I would like to point out in concluding my remarks that it is really a bitter irony that, at the same time the President is impounding funds for worthwhile programs for the poor, he is perpetuating this oil quota system which is a bonanza to the rich. The oil companies receive at least $5 billion of subsidy from the oil import quota program, and added to that is the oil depletion allowance, which gives them another $1.5 billion or more. I find this particularly ironic.

Mr. CURTIS. Mr. President, our country is facing a real energy crisis. Our farmers are going to face a shortage of fuel for tractors. Railroads are already curtailed because of insufficient diesel fuel. Cities and entire States have been in a crisis situation because of the shortage of fuel oil for heating homes, and we hear talk about gasoline rationing.

A few weeks ago the distinguished senior Senator from Kentucky (Mr. COOK) observed to an assembly of State regulatory commissioners his prediction that the 93d Congress will be known as the Energy Aware Congress. This statement has my full endorsement.

I believe that we now have become aware of the growing disparity between energy supply and energy requirement. I am convinced that its scope, and the serious nature of its confrontation, will obsess many Congresses to follow this, the 93d. And I know that it will take the fullest cooperation of Congress, the Executive, the vast industry engaged in production and distribution of energy, and the citizens who consume energy, to achieve the results which will sustain an acceptable way of life.

It is not my nature to be pessimistic about the combined talents of this great Nation. Crisis has, many times in our history, begat a discipline and a dedication unmatched in the recorded history of any other nation. I do not believe we are going back to the caves to hover over a smoldering fire for light and heat. Yet, according to a report made by a committee of the House of Representatives, wood supplied 70 percent of the energy consumed in the United States at the turn of the 20th century.

We have come a long way. We are surfeited with comfort—the good life. The essence of its ease, the reduction of its labors, the rapidity of its travel, and the tempering of its seasons are the result of an ever increasing consumption of energy. During each decade of our lives we have doubled the use of energy over that of the decade preceding. From wood to coal, to oil, to natural gas, we have become almost totally reliant upon fossil fuels for energy. Water power and nuclear generation today make up about one-tenth of the energy supply—coal and petroleum products the other 90 percent.

The two prior Congresses have produced a rather elaborate record from some 30 hearings in various committees of the Senate and the House of Representatives. The state of the art in energy production and distribution and means toward solution of the problem of supply have been illustrated. I will not recite their findings beyond the repeat of some of their most important statistics:

First. The domestic deliverable reserve of crude petroleum is about a 15- to 20-year supply.

Second. The domestic deliverable reserve of natural gas is a little more than a 10-year supply.

Third. Coal is more plentiful—a domestic reserve of 200 to 500 years, measured by different concepts of use, but of which much coal cannot be utilized under present environmental limitations.

Fourth. Nuclear generation of electricity coming on line in volumes far short of goals anticipated in the 1950's and the 1960's. A short fall, by 1980, of half the nuclear energy projected during those years of intensive and expensive research and development is noted here.

Fifth. Fusion and solar energy are both laboratory realities but years of additional development are needed to bring them on line.

So, the doubling of energy supply in the decade of the 1970's over the 1960's seems out of reach at this time. From what we now know, we just cannot get from here to there.

Much we can do. Maybe we cannot do enough to meet the outside limits of our ability to consume—but perhaps enough to meet our reasonable needs.

If we were today to double the domestic price of crude petroleum and of natural gas, I, for one, do not believe we will, by so doing, double the domestic supply of crude petroleum and natural gas. But we know that price is the determinant in whether fossil fuels from deeper wells and offshore rigs can reach our market.

We know that dry holes cost just as much to drill as producers.

We know that prudent land-use practices and pollution abatement devices which can maximize the use of coal increase the cost per ton.

We know that foreign nations will price their products in the energy market for all that the market will bear. Domestic and offshore production and domestic refining capacity provide a secure supply. The more distant sources are both politically and geographically less responsible.

We know that, despite its first blush of popular appeal, no agency of the National Government can search for and produce supplies of fuel as efficiently or as inexpensively as can their counterparts in the private sector.

The Government cannot be both the referee and the quarterback in the energy business.

We are today on notice. We have not been shielded from this reality. Energy producers have spoken out. The immediate problem of fuel supply is one of redirection to overcome the displacement of coal and higher sulfur crude oil by environmental prohibitions.

Hollis Dole, who served so credibly as the energy resources expert of the Department of Interior since 1969, has for the past 4 years warned repeatedly that America's energy binge is over.

We have been urged to be efficient, to conserve, to explore, and to develop new reserves. This we must do unstintingly. Let us accelerate our moves in every direction which is prudently calculated to improve reserves or to create new supplies. And let us not overreact in our outreach for new supplies and new techniques. A little measure of commonsense can avoid a lot of panic.

Commonsense will bring into balance the opposing forces of irrationality. These forces declare a policy of absolutes—on the one hand, of the purest air and water, and of nature untrammeled by human use. These absolutes, on the other hand, seek unrestrained use of material goods to satisfy all of mankind's wildest fancies.

None of us will fail to turn over every stone which may lead us to new sources of energy. Exploration for fossil fuels as well as the development of the breeder reactor, geothermal, solar, and fusion power must all be wisely exploited. The demand is such that all of these are, at this time, a part of the total objective. And there are other means which can make a significant and proportionate contribution to this objective.

Mr. President, this energy crisis is so great that I believe that the Congress should pursue every angle that promises any hope of relief for the American people. Even if we could import all the petroleum that we needed, it would still be a bad national policy and would make our problems of balance of payments beyond what our economy can stand. We need greater production in the United States.

In the tax-writing field it is time that demagoguery be dispensed with and that we write tax laws that are in the public interest. It is in the public interest to encourage the exploration, finding, and developing of all energy resources available in our land. Many speeches have been made on the subject of "depletion" by those who have neither knowledge nor concern about the public interest from the standpoint of our energy needs.

We need to build the Alaskan pipeline and do it now. If necessary the Congress should pass an act directing that it be done. I believe that by advanced technology and care and concern we can meet our problems of preserving our environment without bringing the American economy to a halt, and that is what has been taking place recently.

For many years I have been an advocate of the production of motor fuel from alcohol made from farm crops. In addition to having surpluses available, we have millions of acres of land that could be in production. American agriculture is entitled to operate at full capacity in order to contribute to the overall needs of our economy.

Some of the leadership in the petroleum field have in the past very blindly opposed any effort, or even discussion

of motor fuel made from alcohol made from farm crops. That is no longer the case. I was very pleased to read the interim report of the U.S. energy outlook for the years 1971 to 1985 by the Other Energy Resources Subcommittee of the National Petroleum Council. Chairman was Mr. Olaf A. Larson of the Gulf Research and Development Co.

This report is most enlightening. It is a landmark document. It contains some information and a suggested program that the Congress ought to take note of and follow through on.

One of the problems that has always existed in connection with motor fuel made from alcohol made from grain has been the cost.

These cost estimates are not final. In the first place, the technology that will come about from a program that is actually in operation will reduce costs. Secondly, it is believed by many good researchers that there is a new approach waiting. For instance, a process can be developed that will separate the protein from the starch in wheat. The protein can be used for human food and will have a very high value. In the past, the protein in connection with making alcohol has been treated as a low-cost residue. That need not necessarily be the case. The alcohol can become the by-product and thus greatly reduce the overall cost.

Mr. President, I wish to read a portion of this report from the National Petroleum Council to which I referred:

ENERGY FROM AGRICULTURE

United States agriculture provides a major resource of renewable industrial energy. Production in excess of priority requirements for U.S. food, feed and fibers is possible through year 1985 and as projected to year 2000, barring natural disasters or national emergencies. The production of cereal grains and their conversion through fermentation to usable ethyl alcohol; the collection and use of such residues as straws, corncobs, hulls and shells for energy; the growing of crops specifically for energy; and the conversion of animal waste by-products into energy are all possibilities.

Agriculturally derived industrial energies would normally be more expensive than traditional fuels such as coal, gas, oil and water (hydroelectric). However, the future expected energy requirements and predicted shortages of low-cost traditional fuels to meet these requirements and the continued increase in fuel costs could change the future role of agriculture as a source of industrial energy. Many of the oil-rich countries have high population growth rates and are short on foods. Thus the possibility exists of exchanging excess agricultural materials, particularly the cereal grains, for oil.

Extensive research is needed and warranted to resolve the technical, economical, marketing and social phases of these complex agricultural resource possibilities.

AGRICULTURE—INDUSTRIAL ENERGY POTENTIALS

The efficiency of U.S. agriculture has advanced so fast that for several decades crop production, except in times of international conflicts, has exceeded the demands. Average farm production per acre has increased about 80 percent since 1940, largely due to better yielding seeds and greatly improved know-how. Thus, to meet U.S. crop needs, we plant less acres and require fewer farmers. Chances are small that present population will live to see famine conditions in the United States.

Agriculture provides a major source of renewable energy. Forests, cultivated crops and pasture land may be used repeatedly under proper management.

Agriculture production is subject to weather, diseases, insects and other natural conditions which cannot be completely controlled. However, major advancements have been made, and these advancements will continue. The inventory of land available for agriculture is continuously decreasing because of its removal from crop production for highways, housing, reservoirs, recreation and many other nonfarm uses. Growth in these nonfarm uses is expected to continue in the future, at least in line with population growth, but to date these losses have had negligible effect on agricultural productivity.

Normally, U.S. agriculture provides food, feed and fiber, and these uses result in the highest financial return. However, significant energy from U.S. agriculture in excess of our own requirements for feed, fiber and other priority needs could be made available from cereal crops, forests, agricultural by-products and residues (i.e., straws, bagasse, hulls, shells, corncobs) and from animal wastes. Costs of collection and utilization in competition with commonly used energy sources have, to date, resulted in only minor usage for industrial energy. However, the increasing demands for U.S. industrial energy, the requirements for pollution abatement and the needs for rural assistance could make agriculture a significant factor in the future general energy situation. The major potential sources are individually reviewed. The studies are limited to U.S. requirements and present exports.

Cultivated crops

About 360 million acres or 16 percent of all U.S. land (2,260 million acres) are now used for cultivated crops. This is about 60 percent of the land that could be used for this purpose. Normally, the best yielding land is cultivated.

Cereal grain production per acre for the past decade has varied, but on an average has increased over 3 percent annually. This increase has exceeded the growth rate of the U.S. population and export demands, and the amount of cultivatable land used has decreased in this period. Based on U.S. requirements for the predictable future, there is a potential source of industrial energy from crops that could be produced on these unused acres. Land lost to non-crop use could be significant in the long-range picture if diversion continues at the present rate. This loss is expected to total about 20 million acres by 1985. Fortunately, most of this has been land not suitable for cultivated crops.

A logical sequence of energy conversions is to use the idle land to produce cereal grain, which is largely carbohydrate, and convert the grain by fermentation to ethyl alcohol—a convenient combustible fuel. The conversion of carbohydrate to ethyl alcohol by fermentation is technically feasible, and ethyl alcohol is usable as a motor fuel. One hundred million of the unused acres with an average yield of 70 bushels of grain per acre (approximately 3,900 pounds) would be equivalent to about 18 billion gallons of alcohol, or over 20 percent of the 86 billion gallons of motor fuel consumed in the United States in 1970. The energy equivalent of ethyl alcohol is about 12,000 BTU/pound or 80,000 BTU/gallon (gasoline approximately 135,000 BTU/gallon).

The cost of this ethyl alcohol would be considerably higher than present petroleum motor fuel costs. However, when evaluated against assistance to many U.S. regional economies, improved air pollution control and engine performance, fermentation alcohol must be considered in any future industrial energy considerations.

A summary report on the production of alcohol from wheat cereal grain is included with this study.

The possibility of bartering these large quantities of cereals for such traditional energy fuels as oil must also be considered. Many of the international surplus petroleum countries need food. Thus, a higher industrial energy return might be received per pound of agricultural raw material.

Forests and woodlands

About 25 percent of all U.S. land is now classified as forest and woodland. This includes parks, wildlife refuges and recreational. A century ago wood supplied about 70 percent of all U.S. industrial energy. Today it supplies less than 2 percent. On a total energy basis, this is a reduction of over 50 percent.

The capability of U.S. forests to meet future needs for lumber, for paper pulp and for paperboard is now questionable. In the past two decades, U.S. and export requirements have increased an average of 3.9 percent annually, and this rate is predicted to increase. The approximately 50 million tons of U.S. pulp now produced annually is expected to double by 1985. Extension of the wood supplies through increased recycling of waste paper; utilization of tree limbs, wood bark, sawdust and other by-products; increased growth rates by fertilization; use of better yielding species of trees; more efficient forest management; and increased yields of end products per unit of raw material may delay the time of serious shortages. However, shortages are predicted before the end of this century.

Wood supplies in the United States offer only minor potentials for additional industrial energy, and wood cannot be considered an important raw material in the long-range future U.S. industrial energy requirements.

Agricultural residues and fiber crops

The weight of collectable agricultural residues such as straws, shells, hulls, corncobs and similar materials from present U.S. agricultural production is large, amounting to over 195 million tons annually. Heat equivalent of these residues would be in the order of 3,000 trillion BTU's. (The 1971 U.S. energy consumption is about 70,000 trillion BTU's.)

These residues are now located throughout all 50 states. (No significant quantities of residues are now in collected form.) Collection costs and delivery to regional power plant locations would normally vary from around $10 to about $15 per ton. Heating values of the residues are in the order of 8,000 BTU/pound or about 60 percent the heating value of bituminous coal.

Thus, agricultural residues are a potential source of large amounts of energy but could not now compete economically with such fossil fuels as coal and oil. Collection facilities and the power plants for significant usage do not presently exist.

The growing of crops specifically for energy fuels is also a possibility. Yields of different fiber crops vary by several hundred percent. The probable maximum yield in selected U.S. regions is about 20 tons of dry matter per acre per year. With this yield, production costs per ton of dry matter would be in the order of $10. The heat of combustion per ton would be about 15 million BTU's. Thus, a ton of dry matter at $10 would be equivalent to coal at about $17 per ton on a comparative BTU basis. U.S. land that could produce 20 tons of dry matter per acre is limited. Normal yields of 50 percent of this weight are more realistic.

Animal wastes

Domestic livestock wastes in the United States currently total about 2.03 billion tons per year (about 325 million tons of dry matter) and are increasing with population and economic growth. Disposal of these wastes is a serious economic and environmental

problem. Many research studies are in progress, but economically acceptable solutions have not been resolved. However, such quantities of organic wastes could be a significant factor in future long-range energy considerations. The total heat equivalent of these wastes after adjusting for water evaporation would be in the order of 1,600 trillion BTU's.

Gases

Potentially, agricultural residues, fiber crops and animal wastes could be converted into gases for fuel or for chemical synthesis. These gases could be produced through fermentation or through pyrolysis of the wastes.

Fermentation of a ton of dry residue would yield in the order of 10,000 cubic feet of gas having a heating value of about 500 BTU/cu. ft. A raw material cost of $10 to $15 per ton would thus be equivalent to $1.00 to $1.50 per thousand cubic feet of gas with a heating value of 500,000 BTU's per thousand. Fermentation of the 520 million tons of residues could produce in the order of 2,600 trillion BTU's.

Pyrolysis of a ton of residue would yield in the order of 6,800 cubic feet of mixed gases with a net heating value of about 150 BTU/cu. ft. A raw material cost of $10 to $15 per ton would thus be equivalent to $1.50 to $2.25 per thousand cubic feet of gas with a heating value of only 150,000 BTU's per thousand. The 520 million tons of residues could produce in the order of 530 trillion BTU's.

Neither the fermentation nor pyrolysis procedures appear to be economically competitive with established fossil fuels as a source of industrial energy for the foreseeable future. However, removal of many of these wastes is a must for pollution control, and any financial return is a profit. It is thus possible that disposal through fermentation may result in significant future contributions to the U.S. industrial energy supply.

INDUSTRIAL ALCOHOL FROM WHEAT

The conversion of the starch and sugars to ethyl alcohol is shown in Figure 1.

$$(C_6H_{10}O_5)_n + nH_2O = nC_6H_{12}O_6$$

Starch — Dextrose

$$C_{12}H_{22}O_{11} + H_2O \longrightarrow 2\,C_6H_{12}O_6$$

Maltose — Dextrose

$$C_6H_{12}O_6 \longrightarrow 2\,C_2H_5OH + 2\,CO_2$$

Dextrose — Ethyl Alcohol, Carbon Dioxide

Figure 1. Conversion of Starch and Sugars into Ethyl Alcohol.

Thus, 180 pounds of dextrose theoretically should yield 92 pounds of alcohol. For starch, the theoretical yield of alcohol is 0.568 pounds per pound of starch. In actual practice, yields generally are about 90 percent of theoretical.

Alcohol production is directly related to the starch in the grain. If, as shown in Table XIV, the respective starch content of a hard wheat and soft wheat is 64 and 69 percent (moisture-free), the maximum alcohol that could be produced from a 60-pound bushel would be 21.8 and 23.5 pounds. Translated to a 14-percent moisture basis and a practical 90-percent yield of alcohol, the anhydrous alcohol obtained per bushel would be 16.9 and 18.2 pounds respectively, or 2.58 and 2.75 gallons.

The cost of ethyl alcohol from wheat depends on many conditions, such as location, regional labor rates and type of wheat used. Past studies have shown that a practical-size grain fermentation plant could process about 20,000 bushels per day. Such a plant at current prices would cost about $14.0 million to construct. Anhydrous alcohol production would be about 17.2 million gallons from 6.6 million bushels of wheat. A representative cost estimate is shown in Table XV.

The wheat cost per gallon of alcohol would depend directly on the wheat price as shown in Table XVI.

TABLE XIV.—AVERAGE PERCENTAGE COMPOSITION OF SURPLUS CEREAL GRAINS [1]

Grain	Starch	Protein	Oil	Fiber	Minor constituents [2]
Hard wheat	64	14	2	2	18
Soft wheat	69	10	2	2	17
Dent corn	72	10	5	2	11
Sorghum	71	13	3	2	11

[1] Moisture-free basis.
[2] Minerals, sugars, pentosans, and vitamins.

TABLE XV.—FERMENTATIVE CONVERSION COST OF 190° PROOF ALCOHOL FROM WHEAT (EXCLUSIVE OF COST OF WHEAT)

Item:	Cost/gallon [1] (cents)
Base conversion cost	30.9
Depreciation ($1.4 million/year, 10 years, 17.2 million gallons)	8.1
Total	39.0
By-product feed credit (6 pound/gallon alcohol at $60 per ton)	18.0
Net	21.0
Conversion cost [1] of 200° proof alcohol:	
Alcohol (1.048 gallons at 21.0)	22.0
Cost of dehydration	2.2
Total cost, exclusive of wheat, profit, packaging and sales expenses	24.2

[1] Dwight L. Miller, "Industrial Alcohol from Wheat," National Wheat Utilization Conference (Nov. 5, 1969); adjusted for cost increases to date.

TABLE XVI.—EFFECT OF WHEAT COST ON ETHYL ALCOHOL COST

[Basis: 2.6 gallons 200° proof alcohol/bushel]

Wheat price/bushel	Alcohol cost/gallon, [1] cents		
	Wheat	Conversion	Total [2] base cost
$1.00	38.5	24.2	62.7
$1.25	48.0	24.2	72.2
$1.50	57.7	24.2	81.9

[1] Dwight L. Miller, "Industrial Alcohol from Wheat," National Wheat Utilization Conference (Nov. 5, 1969); adjusted for cost increases to date.
[2] These costs do not include profits, packaging, and sales expenses.

Ethyl alcohol has been used as component in U.S. motor fuels on a limited scale only. Alcohol will give acceptable blend and handling performance, provided the blend contains at least 10-percent anhydrous alcohol (by volume). Lower blends might also be used with dual and more expensive fuel systems. The basic problem has been unfavorable economics. Legislative action that would require the use of alcohol blends with the alcohol produced from cereal grains (i.e., wheat) would be required for a significant volume motor fuel alcohol market.

The effects of such a legislative market are tremendous. It would require 3.4 billion bushels of cereal grains annually (the 1968 cereal production of wheat, corn and sorghum was approximately 1.57, 4.37 and 0.74 billion bushels respectively) to produce the 9.0 billion gallons of anhydrous alcohol (10-percent blend). This alcohol would cost more than $5.6 billion to produce from $1/bushel grain. Approximately 500 fermentation plants with a total capital investment on the order of $7.0 billion would also be required. (Present total installed plant capacity is only 15 to 20 million bushels). About 28 million tons per year of by-product feed would be produced.

The significant effects of this 28 million tons of by-product feed on the markets for other grains and cereals have not been evaluated. These high-protein by-product feeds would not fill the gap left by removal of a high proportion of feed grain from the market. These by-product feeds would also compete with such materials as soybean meal, cottonseed meal and other feed protein concentrates. Basically, there would be an excess of protein feeds but not enough carbohydrate energy.

Mr. President, I am very heartened at this report from the petroleum industry. I have always been an advocate of greater uses of farm products through chemistry. In the Farm Act of 1956, I secured the passage of an amendment which called upon President Eisenhower to appoint a commission to recommend the greater industrial uses of farm products. It was known as the Welsh Commission. The members of the Welsh Commission were: J. Leroy Welsh, Karl D. Butler, George H. Coppers, Charles R. Sayre, and Frank J. Welch. The Executive Director of that Commission was the distinguished Wheeler McMillen, who was then the editor of the Farm Journal. Among other things that report said in its summary:

SUMMARY OF THE REPORT

In Public Law 540, the 84th Congress established a five-man bipartisan Commission charged with the duty of making recommendations designed to bring about the greatest practicable increase in the industrial use of agricultural products.

In carrying out this assignment the Commission obtained the assistance of 188 of the country's outstanding leaders in agriculture, industry, and science, drawn from a wide range of private and public agencies. The 18 task groups or special committees in which they were organized represented all the agricultural products useful or potentially useful in industry. In addition, a number of technical experts served the Commission as consultants or staff members, and the United States Department of Agriculture and other Government organizations were unstinting in providing help and information.

THIS IS THE PROBLEM

American farmers have succeeded so well in the necessary effort to increase their efficiency that they now consistently outrun the capacity of the economy to consume what they produce.

To cope with this situation, which has widespread disrupting effects on markets, Government has resorted to costly programs for restricting land use, controlling production, and disposing of surpluses.

Though population is growing and living standards are rising, the productive capacity of our agriculture promises for many years to keep increasingly ahead of both.

An increase in exports seems unlikely as other countries become more and more self-sufficient.

It is widely agreed that American agriculture should for many reasons be kept at high levels of production and efficiency. Since there seems to be little prospect of a sufficiently large expansion of food markets in the next decade to use all the excess, the question becomes:

Can the economy develop profitable industrial markets capable of absorbing enough of the excess farm production to minimize, possibly even to eliminate, the need for costly restrictions, supports, and surplus-disposing operations?

THIS IS THE ANSWER

The Commission believes the answer is an emphatic "Yes," provided the necessary steps are taken to make possible and encourage such a development.

This conclusion is based on painstaking study, including the testimony of the scores of individuals with wide experience in the practical and scientific aspects of product utilization who made up the task groups and committees.

To make possible and encourage such a development there are four main needs.

The first is a sufficiently sharp sense—lacking so far—of the importance, the possibilities, and the urgency of the industrial utilization approach to farm surplus problems.

The second need is a greatly expanded program of fundamental and applied research—physical, chemical, biological, economic—to learn far more about the nature of agricultural raw materials and to determine what existing or new industrial products and processes might profitably use them. This work would not end in the laboratory; in promising cases it would go through the development stages of pilot-plant experiment and trial commercialization, which must precede full commercial use. The research and development program would mobilize the efforts of many scientific institutions—private, public, State, Federal, and perhaps even some in other countries; and in some cases the Government would share the cost of the research with private industries.

The third need is to insure, through fellowships, scholarships, grants, and other means, that much more scientific talent is trained for and channeled into this neglected field of farm product research and development than it has engaged so far.

The fourth need is to provide in certain cases, suitable financial incentives during a temporary trial or development period—for example, new products or processes that are expensive to launch or that seem less promising than alternative uses of risk capital, or that might lead to especially rapid disposal of surpluses.

The initial step in launching such a program is sound legislative action by Congress.

WHAT INDUSTRY HAS DONE

The expanded program of utilization research and development proposed by the Commission would enable agriculture to do what industry, with its bigger, better-integrated units and larger resources of money and men, has long been doing.

Industry is currently investing at least $3 billion a year, 3 percent of gross sales, in research. The result is obvious in a constant flood of new and improved products—fabrics, plastics, building materials, surface coatings, detergents, chemicals, and many others.

Many of these so-called miracle products of modern research have provided the foundation for vast new industries and the stimulus for new consumer demands. Most of the products are based on non-agricultural raw materials (particularly chemicals derived from petroleum), which are chemically taken apart and rebuilt (synthesized) in new forms. This search by industry is continuous, systematic, and intensive.

By contrast, agriculture spends not over $375 million on research—about 1 percent of gross sales; and most of this goes to improve and increase production. Federal and State governments spend $190 million of the total, of which no more than $18 million goes for utilization research.

So in recent years agriculture has been researched out of a good part of its natural markets. Nearly half the market for natural fibers—cotton, wool, flax, silk—has been taken over by synthetic fibers. Two out of three pairs of shoes are now made partly or wholly of leather substitutes. Two-thirds of the soap has been replaced by detergents, which do not use natural fats. Much of the paint and varnish bypasses linseed and other vegetable oils.

AGRICULTURE CAN DO

Raw materials produced by farmers are made of chemical components just as are most of the nonagricultural materials used to make the products mentioned. Coal and petroleum, in fact, are plants that died a long time ago.

Farm-produced materials, too, can be modified, tailored to particular needs, taken apart and recombined to make new products with new properties—plastics, films, fibers, coatings, and all the rest.

But with few exceptions materials from the farm have not had the intensive and systematic laboratory attention that has been given to those from other sources. When utilization research in agriculture has had the benefit of adequate expenditures and large teams of workers, the results have been outstanding—as in the case of commercial methods for producing penicillin, frozen concentrated fruit juice, nylon from corn cobs, various products from soybeans.

But because in the past food was never abundant enough, because manpower had to be released from the farms to run industry, because great wars created great necessities, most of the research funds in agriculture have always gone into production research—with revolutionary results in such fields as plant and animal breeding, control of diseases and pests, soil management, mechanization.

Partly because of the success of these efforts the time has come to create a better balance by giving more attention to utilization research.

The problems are not fundamentally different. Scientific brains of the kind that have so greatly expanded industrial markets can accomplish similar results with farm-grown materials.

But the problems are knotty, and it is not enough to learn from research that this or that agricultural product would be good for certain industrial uses. Other questions are equally important. Can it compete with products from nonfarm sources, giving as good results at less cost or better results at a cost not too much higher? Will the price remain fairly stable? Will an adequate, reasonably steady flow of supplies be available? Can they be obtained without too much trouble? Can the quality be depended on? The possibility of favorable answers to such questions as these, which determine market acceptance, also depends to a large extent on research.

WITH A DYNAMIC APPROACH

The Commission's Report outlines 106 broad fields of research and development, including hundreds of product uses, that seem to promise fruitful results.

The proposals are drawn from the reports and recommendations of the task groups and committees, which repeatedly emphasized the need for an approach to farm-product utilization as dynamic and imaginative as that which characterizes the best work in industry.

The products dealt with include cereal grains, cotton, oilseeds, meat and animal byproducts, tobacco, wool and mohair, dairy products, sugar, fruits, vegetables, edible tree nuts, white potatoes, poultry and eggs, crop residues, forest products, and new crops.

A few promising new crops get special attention largely because of their possibilities as new sources of farm income and as replacements, for industrial use, on a certain amount of land now growing foods or feeds in surplus supply. Not many years ago soybeans were unknown in this country. Now they are a mainstay of farming in large areas. There are literally hundreds of thousands of wild plants about which nothing is known regarding potential uses.

The Commission also made a detailed study of the possibility of utilizing surplus grain for the manufacture of alcohol for industrial uses, for conversion to butadiene to make synthetic rubber and for blending with gasoline as motor fuel. From the evidence now available, it was not possible to reach any clear-cut conclusions in favor of a large-scale program of this sort at this time.

In the case of industrial alcohol and butadiene, however, the picture is sufficiently promising to warrant extensive research for accurate determination of costs. This could be carried out by reactivating a number of alcohol and butadiene plants, some publicly and some privately owned, that are now idle.

Another promising possibility in this field is the further development of processes for converting corn into alcohol, with protein as a byproduct. The protein could be sold for food or feed at relatively high prices, which would make it possible to provide starch for alcohol at relatively low prices.

BASED ON SOUND LEGISLATION

Following the instructions of Congress, the Commission drew up specific recommendations for achieving the objectives it proposes. Seven of the 10 recommendations deal with points previously discussed in this summary—participation by many public and private institutions in an effective research network; fostering basic research; grants, fellowships, and scholarships to increase the supply of scientists; Government-industry sharing of research costs; research and development work with new crops; commercial-scale trials of new products; economic incentives.

The other three recommendations are concerned with financing and administration.

The amount now available for industrial utilization research in the United States Department of Agriculture is $16,145,000. The Commission recommends that this be increased at least threefold, with additional sums for new crops, development and trial commercialization, and incentives.

It recommends that in lieu of direct appropriations, 15 percent of the annual gross receipts from customs revenues be allotted for the industrial utilization program. This would be in addition to the 30 percent from the same source now available to the Secretary of Agriculture, under Public Law 320, for other designated purposes.

For the administration of the program, two alternative recommendations are made.

The first is to establish a five-member nonpartisan Agricultural Research and Industrial Board to be appointed by the President with the advice and consent of the Senate. This Board would allocate funds, make contracts with research institutions, and direct and coordinate the program but would not itself engage in research.

The second alternative is to place the responsibility for the program in the Department of Agriculture, under a director with the title of Assistant Secretary of Agriculture who would be in charge of research and education within the Department and would coordinate all agricultural research in the Federal Government. The proposed board would in that case be appointed by the President but would be responsible to the Secretary of Agriculture.

In proposing this pattern of procedures, the Commission had in mind the need to achieve effective results as promptly as possible, to maintain and expand the excellent research operations of the Department of Agriculture and the land-grant colleges and experiment stations, to make effective use of the talent and facilities of other institutions, and to add as little as possible to the structure of government.

Mr. President, the far-seeing report of the Welsh Commission has not been implemented as it should, yet some progress

has been made. I ask unanimous consent to have printed in the RECORD an article from the Omaha World-Herald of February 20, 1973, entitled "Wheat Uses 'Unlimited'."

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

PAPER, TIRES, DRESSES: WHEAT USES "UNLIMITED"; KERNEL SPLIT IN FOUR

HUTCHINSON, KANS.—Many new uses for wheat are the result of a major breakthrough in wheat studies, Far-Mar-Co., Inc. announced Monday.

Dr. Wayne Henry, director of research and development at the Hutchinson-based grain cooperative, said the housewife of the future may serve her family wheat pancakes sweetened with wheat syrup, read a morning paper made from wheat, put on her new wheat dress and drive to work in a car with tires of a wheat base.

Far-Mar-Co. began research two years ago to discover new applications so wheat growers would receive greater returns.

It is conservative to estimate, Henry said, that the process could bring up to $4.08 for a bushel of wheat now priced at $2.

"It's the biggest thing to happen to us in a generation," said Jim Gunn, executive secretary of the Kansas Association of Wheat Growers. The association and the Kansas Wheat Commission asked Far-Mar-Co. to do the research.

The excitement concerns the discovery of a process for removing from the wheat kernel its four components—gluten, starch, bran and germ—and, uniquely, to do so without major physical chemical or nutritional damage to the components.

The feat, Henry said, opens "unlimited potential" for the application of each component.

Gluten, for example, is primarily used by the baking industry, helping to provide elastic mass but now, Far-Mar-Co. says, it can also be used in the manufacture of plastics, detergents, and rubber products.

Japan, Germany, Canada and Australia export to the United States an estimated total of 20 million to 25 million pounds of gluten annually at about 30 cents per pound, he said. Kansas wheat men think Far-Mar-Co.'s process can stop gluten imports.

Far-Mar-Co. announced it hopes to have constructed and in operation before the end of the year a $700,000 building engineered to process 1,000 pounds of wheat per hour.

E. L. Hatcher, chairman of the National Wheat Institute, Washington, said the institute has recommended that the U.S. Department of Agriculture approve the release of $500,000 in a special institute fund to support Far-Mar-Co. in continued research.

Henry estimated it will be five years before the discovery has an effect on the wheat industry.

Mr. CURTIS. Mr. President, in the current Congress and in several preceding Congresses, I have introduced legislation to provide a tax incentive for the use of alcohol made from grain in our motor fuels. I ask unanimous consent that a copy of my bill, S. 616, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CURTIS. Mr. President, in summary I would like to stress the fact that our energy crisis is real and it is here. It is my opinion that unless a wise national policy is adopted, based on full production of energy, the United States could become a second-rate nation. We need to pursue every program that will contribute to a solution of our energy shortage such as the Alaskan pipeline. Tax incentives must be reinstated for great exploration and development of our energy resources. Nuclear powerplants should be built and not delayed. An intensive research and development program for solar energy should be undertaken. Full use of existing agriculture surpluses and full use of our entire agriculture potential should be developed for the purpose of making a distinct contribution to our motor fuel supplies as well as for the purpose of serving agriculture.

Mr. President, I yield the floor.

EXHIBIT 1

S. 616

A bill to amend the Internal Revenue Code of 1954 to provide for a reduced rate of tax for gasoline which contains grain alcohol and no lead

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4081 of the Internal Revenue Code of 1954 (relating to manufacturer's excise taxes on gasoline sold for highway use) is amended to read as follows:

"SEC. 4081. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of—

"(1) 1 cent per gallon on gasoline containing 10 percent alcohol made from farm crops and containing no lead; and

"(2) 4 cents per gallon on any other gasoline.

"(b) RATE REDUCTION.—On and after October 1, 1977, the tax imposed by this section shall be 1½ cents per gallon and shall be imposed only on gasoline described in subsection (a)(2)."

Mr. PASTORE. Mr. President, I am pleased to join with my distinguished colleague from New Hampshire in cosponsorship of a bill to abolish the oil import program. I have long favored the removal of controls on oil imports—of both crude oil and products—because I strongly believe that the import quota system has simply not achieved its purposes.

For States like Rhode Island, where nearly 80 percent of the buildings are heated by oil, and for regions like New England, where over 70 percent of the buildings use oil heat, the program has proven to be costly and inefficient.

We are told that import controls are necessary to develop our domestic reserves and refining capacity so we will not have shortages. Well, for years, we have had the program, and for years we have paid high prices for products; the President's own Cabinet task force, which recommended abolition of the program, estimated that the average annual consumer cost in Rhode Island alone was $29 million and the per capita cost was $32—or $128 for a family of four.

After years of paying inflated prices, what has been the result? This year we have a severe supply crisis that threatened runouts and shortages; the refiner supplying the major portion of fuel oil to Rhode Island cut back sharply on deliveries. A catastrophe that would have affected the health and safety of many thousands in my State was averted only by the arrival of unusually warm weather in late January and by the action of the President on January 17, completely decontroling imports of No. 2 fuel oil for the first 4 months of this year.

The President's action is a clear admission of the failure of the oil import program. It is a clear admission that the present system is bankrupt. It is clear evidence that the quota system must be abolished.

The oil import program was created under delegated authority from the Congress. I believe we should act here and now in Congress to dismantle this outmoded system.

Mr. President, as an example of the widespread support for our position, I ask unanimous consent that a column by James Collins, from the February 17 issue of Oil Daily be inserted at the conclusion of my remarks. Mr. Collins, who has been no supporter of the New England position, states:

It is becoming clearer with every passing day that more and more redtape and new systems to control oil imports will only be self-defeating, for they will leave in Government hands decisions that should now be made by an industry unleashed from governmental restraint.

I congratulate the Senator from New Hampshire for his leadership on this issue and am pleased to join in cosponsorship. I hope that at long last the Congress will act on this vital legislation.

ENLIGHTENED POLICIES FOR ENERGY NEEDS

Mr. WEICKER. Mr. President, I am delighted to join with the distinguished Senator from New Hampshire in introducing legislation to abolish the mandatory oil import quota system.

The home-heating oil shortage faced by Connecticut consumers is only one aspect of a widespread crisis. Shortages of various petroleum products in many regions of the United States clearly demonstrate that present policies are counterproductive. We cannot continue to operate contrary to the realities of our present and future oil resource capabilities.

A policy that was set forth in 1959 is not doing the job in 1973. While we might hope for Executive action, it has nevertheless been 3 years since a Cabinet-level task force recommended substantial changes in oil import policies. The proposal being introduced today would do nothing more than bring the substance of these recommendations to fruition.

The time to act has arrived. We are not merely faced with oil distributors who have to reject a homeowner's plea for heating oil—in the dead of winter. We are faced with hospitals, in Connecticut for example, that are paying 16 percent more for oil at a time when they are under enormous pressure not to raise charges to patients. We are faced with a drain on No. 2 heating oil because it is being consumed by the electric companies, who use it to dilute high-sulfur domestic crude oil. Low-sulfur foreign

oil is not available, and yet recent anti-pollution laws now require low-sulfur content in oils consumed by these companies.

While we must act now to alleviate a crisis of untold dimensions, I likewise believe that we must no longer simply react to the growing energy crisis. It is imperative that we mount a national campaign to determine enlightened policies and rational sources of inexpensive, clean, and available energy for tomorrow's needs.

Mr. KENNEDY. Mr. President, I am pleased to join with the distinguished Senator from New Hampshire (Mr. McINTYRE) and other concerned New England and Midwest Senators in introducing once again legislation aimed at the abolition of rigid clamp on oil import quotas.

The current crisis is not new to New England residents. It is only the latest evidence of the exhaustion of a system that no longer works.

For the past several years, the products of the oil import quota system have been oil shortages and high prices.

Yet, each year, we find the administration proclaiming its continuing allegiance to the antiquated concept of restricting imports to protect domestic oil companies who have been profiting from this system since 1959. The people paying for the system have been the consumers of America and particularly the consumers of New England.

The Cabinet task force on oil import control reported in 1969 that the national per capita cost of the oil import program was $24. The cost to consumers in Massachusetts was $35 a person; in New Hampshire, $39; in Maine, $41; and in Vermont, $45.

The Nation's consumers on the whole were paying more than $5 billion a year in extra costs to support the program, according to the task force report.

And yet, the supply of home heating oil has consistently been inadequate. Today, even the major oil companies acknowledge that imports of home heating oil are necessary to meet the demands of American consumers.

Domestic producers, operating at full capacity cannot meet domestic demands. And the recent hearings of the Senate Interior Committee have demonstrated that the situation is not improving.

The crisis earlier this year was produced mainly by the failure of the administration to permit an adequate supply of home heating oil imports at a time when those supplies were available and at reasonable prices.

Looming ahead is an almost assured shortage of gasoline during the summer months and once again domestic supply is inadequate to meet those needs. The Oil Daily today reported that gasoline stocks are 33 million barrels shy of last year's level.

I ask unanimous consent that this article be printed in the RECORD.

A recent meeting of an ad hoc policy committee of the New England congressional caucus with a White House energy adviser confirmed the fact that, during 1973, there will be a shortfall of some 600,000 barrels per day in petroleum availability.

Action must be taken now to meet the short-term requirement for an adequate supply of oil for this summer's gasoline requirements and for next winter's home heating oil needs.

In order to avoid a home heating oil shortage in the northeast next winter, there must be the possibility for long-term contracts with overseas suppliers. However, the present scheduled reimposition of import controls on May 1 has prevented any long-term contracts to be made with European suppliers.

It is only by lifting those import restrictions permanently that these contracts can be made. And that is the only way we can act now to avoid the damaging pattern of recurring home heating oil shortages.

I ask unanimous consent to insert in the RECORD a recent statistical assessment of the supply situation provided by the New England Fuel Institute as well as my recent testimony to the Senate Interior Committee and to the Cost of Living Council.

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

GASOLINE STOCKS DOWN BY 33 MILLION BARRELS

(By Jim Drummond)

HOUSTON.—Are U.S. gasoline inventories 33,155,750 barrels beneath the "barely adequate level?

An independent refiner's mathematics suggest this.

He looks for a six or seven percent increase in domestic demand for motor fuel as Detroit turns out more millions of low-compression, high gasoline consuming cars.

Oil Daily's figures indicate the nation had an average of 223,243,000 barrels of gasoline in storage in the four weeks ended last Feb. 9. The comparable number a year earlier was 240,750,000 barrels.

If the 1972 figure is increased 6.5 percent, a compromise between the six and seven percent range, it becomes 256,398,750 barrels, or 33,155,750 barrels larger than the most recent 1973 figure.

U.S. motor fuel supplies began to tighten late last spring when companies and others who normally had been sellers of gasoline became buyers.

"The public never felt the worst pinch but wholesalers and retailers did," the independent refiner said. "Service stations shut down temporarily—and a few, permanently—in scattered areas. A products pipeline closed."

Inventories are down this year because the petroleum industry, preoccupied with a distillate shortage, never had a chance to rebuild them, and because of a new and more ominous factor—lack of sufficient crude oil.

The crude shortfall, attributed in some quarters to lagging productability worldwide, adds to catchup problems which include failure of U.S. refining capacity to grow as rapidly as products demand and a transportation jamup which finds crude pipelines full and barges and tankers scarce, the independent said.

By contrast, products pipelines like the Williams Brothers system which are dependent on crude-short inland refineries were reported limping along at reduced flow rates.

In the independent's opinion, the only way out is to find some way to curtail demand. Higher prices, if permitted, might do it:

"Wholesale gasoline prices are rising. If street prices follow suit and get high enough, the fellow with the big station wagon-and-trailer rig might stop taking those long vacation trips to Florida and Canada."

Soundings indicate major companies will be competing for gasoline supplies in the marketplace again this year, the independent said. Whether foreign product will fill much of the U.S. gap isn't clear yet to his company.

"Not much foreign gasoline is available yet," he reported. "How much will be later is questionable—there are demand problems abroad, too. What can be found now is priced four to five cents a gallon above the domestic products."

SIX DOLLAR RESID

More than one cargo of low pour residual fuel having 0.3 percent sulphur content is said to have been sold at $6 a barrel in New York harbor.

The price, about $1 a barrel above most postings, underscored reports low sulphur black oil is scarcer than distillates on the Eastern Seabord.

Importation of foreign residual at the Gulf Coast at a laid down price of 16.25 cents a gallon before terminaling was seen proof of a scarcity so severe exchanges are difficult if not impossible to come by.

"It obviously would have been more advantageous to land this product on the East Coast and swap it for Gulf Coast product, saving the freight," a bulk marketer said.

Two cargoes totaling about 400,000 barrels were said to have been brought to a gulf port from the Mediterranean. One headed for an upriver terminal on the Mississippi.

"Terminaling charges of 15 to 20 points and 25 points duty would have brought the cost of this distillate to about 17 cents a gallon before it entered barges," the marketer said. "With barge rates much above normal, the cost at its destination would be several cents higher still."

If Phase III of federal price controls was supposed to be a signal for petroleum industry prices to move upward as a unit, it didn't work. They rode off in all directions, a partial tabulation of wholesale products postings by individual companies suggests.

Most of the changes were so-called increases in distillates which restored some but not all of the frozen-out peak in the market's annual peak-and-valley pattern. There were a smaller number of gasoline adjustments featuring a widened differential of two cents a gallon between regular and premium. Heavy fuels, raised to ceilings or nearly to ceilings before Phase III arrived, were given a belated filip by some suppliers.

Distillate "increases" ranged as high as 1.2 cents a gallon, the figure which Mobil achieved in the Midwest by adding 0.75 cent a gallon and erasing a summer discount of 0.45 cent on Number 2 oil and kerosene. In the East, where the discount was 0.30 cent, its total adjustment came to 1.05 cents a gallon.

Texaco, Exxon and Sun arrived at 1.05 cent totals by the same route. Total Leonard made a one cent increase and eliminated jobber discounts. Shell, Murphy and Clark settled for one cent, which Clark called an average rack price adjustment. Gulf asked only 0.90 cent more from all classes of trade, and ARCO, only 0.80 cent, including cancellation of a 0.30 cent discount. . . .

GASOLINE PRICES, REGULAR GRADE ON OR ABOUT FEB. 2

City	DTW	Pump ex taxes
Albuquerque	19.1	26.9
Atlanta	18.33	26.4
Baltimore	18.68	25.9
Birmingham	18.5	25.9
Boise	19.4	26.9
Chicago	19.6	27.7
Cincinnati	19.6	26.9
Cleveland	19.6	26.9

City	DTW	Pump ex taxes
Columbus	19.6	26.9
Dallas	16.5	23.1
Detroit	17.9	24.9
Houston	16.3	22.9
Indianapolis	18.4	25.9
Jacksonville	18.9	25.9
Kansas City, Mo	19.6	26.9
Los Angeles	17.7	24.9
Miami	19.0	25.9
Milwaukee	18.25	25.9
Minn./St. Paul	19.6	27.9
New Orleans	17.5	24.9
New York	20.1	26.7
Newark	18.69	27.9
Oklahoma City	18.9	26.4
Omaha	19.6	27.9
Philadelphia	18.8	25.9
Phoenix	18.8	24.9
Salt Lake City	18.5	25.9
San Francisco	18.4	25.9
Seattle	17.55	25.4
Tampa	18.98	25.9
Tulsa	18.8	26.2
Washington	18.78	25.9
Wichita	19.6	26.9

NEW ENGLAND FUEL INSTITUTE,
Boston, Mass., February 16, 1973.

To: All Members of the Board of Directors.
From: Charles H. Burkhardt.
Re: Statistical Assessment of the Supply Situation.

New England Fuel Institute is closely monitoring the supply situation and we refer you to our bulletin of February 8th. We have had only one request for supply assistance from a distributor between February 1st and the 15th. This concerned low sulphur heavy oil. The distributor did not have enough to take care of two utility companies he supplied. The distributor in question applied for an import license (since no quota tickets are required), to bring in No. 2 oil so that the utilities might be kept operating. We do not know the final outcome as it came up only yesterday. It was obvious the supplier would attempt to import No. 2 to meet the deficiency of low sulphur resid. We suggested that he get the two utilities to apply for a variance as he did not want to do this himself.

Production of No. 2 home heating oil during the week ending December 29th and February 2nd broke all time weekly records. 20,966,000 barrels were produced during the week ending December 29th and 22,315,000 barrels of distillate were produced the week ending February 2nd.

Actually from December 1st, 1972 to the week ending February 2nd, 1973, U.S. refineries produced 29,978,000 more barrels of Distillate fuel oil than they did during the comparable period a year earlier. This year's total for the period was 280,914,000 barrels as against 250,936,000 barrels of distillate oil produced during the previous year's comparable period.

While these production statistics are encouraging, when we compare them with the present supply picture, which is the result of soaring demand for distillate, they take on a different complexion and we can readily comprehend just how inadequate such record production is, in face of the record breaking demand.

For the four weeks average, ending February 2nd a year ago, distillate stocks (inventories) East of the West Coast were 155,782,000 barrels. For the four weeks average ending February 2nd of this year, distillate stocks, East of the West Coast, were 128,627,000 barrels. East Coast distillate inventories this year were down 27,155,000 barrels over last year.

For the single week ending January 27th, distillate fuel oil stocks (inventories) East of the West Coast, dropped to 125,360,000 barrels and for the next week ending February 2nd, had further dropped to 121,188,000 barrels. If you refer to our bulletin to the Board of Directors of February 8th, you will note that it states, that if distillate inventories drop to 70,000,000 barrels there would not be enough in the pipe, shipping and transportation lines to supply the nation and severe shortages will be at hand for certain areas at the end of the supply lines, (Mid-West and Maine). Note that as of February 2nd, we were only 51,000,000 barrels from the point of disaster impact.

Much will depend on the weather, but the real villain is *Demand*. In December, U.S. demand for petroleum products of all types rose to a new record level of 18.1 million barrels per day. This is 7.7% higher for all petroleum products than a year ago; however distillate heating oil had the greatest increase in demand, 12.8% over a year ago; residual demand was up 7%; gasoline, 5.7%; kerosene, 1%.

Because of inadequate crude oil supplies, refiners averaged 11.9 million b/d of product. Measure that against the new record level demand of 18.7 million b/d and you can see what the situation is! Imports at present are the only answer.

Refined product inventories during the month of December declined *twice* the usual seasonal average and by the end of that month, stocks of all major products were sharply below the level of a year ago. What is more important—crude oil stocks at the end of December were at their lowest level in six years.

The situation, to put it mildly, is not good, and there has to be some realistic short term remedies or there will be a crisis impact that will affect all refined products; gasoline, heating oil, kerosene, jet fuel and resid.

The ecologists have had their day and may be leading us to doom. We cannot build refineries—we cannot build deepwater offshore terminals—we cannot complete the Alaskan pipeline—we cannot drill for offshore oil—we cannot burn coal or high sulphur residual oil at any time—we cannot stave off disaster, unless this changes!

The emotional binge of the ecologists and anti-pollutionists is now historically running parallel and analogous to the disaster of the prohibition era. Which, as a result of an emotional and hysterical movement, saw the legitimate liquor industry given over to racketeers, hijackers, bootleggers, smugglers, etc.

We are now seeing an American energy supremacy being given over to foreign nations where it will be held hostage to the highest bidders and will be prohibited from developing its own resources in its own land. All this is completely unnecessary. It could easily be eliminated if a rational balance was struck between our energy needs and our needs for reasonable ecological standards.

STATEMENT BY SENATOR EDWARD M. KENNEDY ON THE DOMESTIC OIL SHORTAGE

Mr. Chairman: I appreciate the opportunity to appear before the Senate Interior Committee this afternoon on the oil import quota system and the domestic oil shortage. At the outset, I want to express my personal belief that these series of hearings undertaken by the Committee are crucial to awakening the Congress to the energy crisis the nation is facing today.

The Chairman deserves the appreciation of the Senate and the nation for his leadership in this area. And these hearings already have borne fruit by encouraging the Administration to assign to this issue a new priority.

I also appreciate the opportunity to present to the Committee the Governor of the Commonwealth of Massachusetts, Francis Sargent. Governor Sargent will be able to enlighten this Committee concerning the recent outrageous situation that Massachusetts faced, when a major oil company demanded that air quality standards be lowered or schools, utilities and industries would go without heat.

I believe these hearings will demonstrate that the present oil import quota system was a major accomplice to the poor planning of the oil industry in generating a critical oil shortage this year.

I do want to take this opportunity to bring to the attention of the Senate Interior Committee some of the recent history surrounding this program which makes clear that the present oil shortage is not a one-time aberration.

For years, the oil import quota system has proved inequitable to American consumers, inadequate to American heating needs, and incapable of promoting our national security.

A system that can present Massachusetts citizens with the choice between clean air or home heat is a system that is not in the national interest. A system that finds the United States in the dead of winter trying to scrape up enough oil to heat its homes, its schools and its hospitals is not in the national interest. And a system that picks the pockets of consumers to boost the profits of oil companies is not in the national interest.

I would urge the Committee to examine closely the Cabinet Task Force Report on Oil Import Controls which issued its report three years ago.

On the question of cost, the Task Force concluded that the system was costing consumers $5 billion a year; by 1980 8½ billion. And it found that the consumers of the Northeast were footing most of the bill. The Cabinet Task Force on Oil Import Control reported in 1969 that the national per capita cost of the oil import program was $24. The cost to consumers in Massachusetts was $35 a person; in New Hampshire, $39; in Maine, $41; and in Vermont, $45.

On the question of national security, the Task Force concluded: "The fixed quota limitations that have been in effect for the past ten years, and the system of implementation that has grown up around them, bear no reasonable relation to current requirements for protection either of the national economy or of essential oil consumption. The level of restriction is arbitrary and the treatment of secure foreign sources internally inconsistent. The present system has spawned a host of special arrangements and exceptions for purposes essentially unrelated to the national security. . . ."

And the Task Force was emphatic that the restrictions on Canadian imports, whether of Canadian crude or of finished products, made absolutely no sense in terms of national security. In fact, they are probably more secure than shipments by sea from Texas.

The present oil import quota system had a single presumed justification, the alleged relationship to the protection of national security.

The Cabinet Task Force found that relationship did not exist. Yet its report has been gathering dust on the shelves of this Administration since its publication.

On the question of supply, I would urge the Committee to recognize that the present domestic oil shortage has had numerous predecessors. In September, 1970, there was a shortage of residual fuel oil in Massachusetts. I recall calling the major oil companies and urging them to divert cargoes to Boston because we had schools and hospitals in danger of running out of oil. A year later, the Office of Oil and Gas of the Department of Interior in Washington confirmed what we in New England knew we had endured.

Its report read: "In September of 1970 the continuing tight supply of residual fuel oil reached alarming proportions in the New England area, and in Massachusetts in particular. A constant series of price increases from mid-1969, affecting homes, schools, utilities and industry . . . reflected a serious possibility of a shortage of oil. . . . The New England area, being over 90 percent depend-

ent on imported residual fuel oil primarily from the Caribbean area, faced a critical short supply position, particularly if an abnormally cold winter would hit the area."

In 1970, the Administrators of the oil import quota system had their fingers crossed and their eyes on the weatherman, for they were gambling that it would not be an abnormally cold winter.

This year, they gambled again; but this year they lost. And New England and the midwest have suffered the consequences.

In New England, of an approximate population of 11,900,000 people, 9,045,600 use oil for heating purposes.

Yet the pleas for additional imports of home heating oil went virtually unanswered throughout 1972. New England representatives were asking as early as last April for adequate levels of imports of home heating oil and the building up of low sulphur residual oil reserves. And our request continued month after month. The response from the Administration was ". . . that there shall continue to be an adequate supply of home heating oil to consumers in all areas in District I."

That was not achieved.

In September, we saw a minimal increase of 5,000 barrels a day in #2 oil imports, retention of the Western Hemisphere limit and a 10 percent allowance on borrowing from 1973 imports.

We protested that policy then. We said that New England winters hit hardest in the first three months of the year and if people were borrowing from their 1973 allotments, we were going to run short.

And we noted that in September distillate stocks were 10% lower than in 1971 and the proposed additional imports would not even make up that deficit. By the end of December, that deficit had risen to 34 million barrels.

Yet all we saw was a tinkering with the machinery and an increasing protest that everything that could be done was being done. Then, the facts overwhelmed the explanations. Schools were closed in midwestern cities, homes in several instances were in danger of losing their heating supply and in New England virtually every local oil distributor had his allotment rationed.

Mr. Chairman, this proposal would help relieve the current shortage but it is not the long term answer. If we do not take steps now, we will simply describe this year's shortage as the 1972–73 crisis while we are struggling with the same set of facts a year from now.

Today, we have a deficit in stocks of home heating oil of nearly 26 million barrels. And there is a deficit of 7 million barrels in residual oil of which 6 million is in District I.

By waiting until January 17 to lift the oil import restrictions on home heating oil and then by limiting the relaxation to a few months, the President assured the continuation of a crisis situation for the remainder of this winter. For our stocks are still low and the 3½ month suspension presents an added difficulty to the task of finding large supplies of home heating oil in the middle of the winter. Most European refineries insist on long-term contracts and the temporary nature of the current relaxation in controls prevents those contracts from being made.

That is why I introduced, along with Senator Stevenson and some 21 other cosponsors from both the east and midwest, an emergency resolution on the present fuel shortage.

It would do the following:

First, it would lift all controls on the importation of No. 2 home heating oil into Districts I–IV, the states east of the Rockies, through April 1, 1974. This provision would permit long-term contracts be made with European refineries and would enable oil not only to be imported this year; but also it would help avoid a crisis next winter.

Second, the Resolution would have lifted all controls on the importation of crude oil for 90 days following enactment. This would enable additional supplies of crude to be imported to insure an adequate supply to domestic refineries. Immediate increases in crude could, for example, be made available to midwest refineries from Canada. There remains, according to Canadian government sources, an estimated annual average of 150,000 barrels per day in spare pipeline capacity.

Mr. Chairman, this proposal would help relieve the current shortage but it is not the long term answer. If we do not take steps now, we will simply describe this year's shortage as the 1972–73 crisis while we are struggling with the same set of facts a year from now.

And I should emphasize that it is not only a shortage of home heating oil and low sulphur residual oil. For this spring and summer, there is every indication that there will be severe gasoline shortages as well.

And to add to the burden of oil shortages, there will be continual increases in the price of oil. We already see the major oil companies seeking to take advantage of a situation they were substantially responsible for creating. Most majors have raised prices on No. 2 oil by an average of 8 percent and in Boston closer to 10%. The increased cost of more than a penny a barrel at the wholesale level means more than $50 million more this year for New England and $150 million for the northeastern states, if it is permitted to remain. I would hope that this price rise will be rescinded by the Cost of Living Council which, in response to our requests, has scheduled hearings next week.

As a long-term solution to the domestic fuel shortages, the decisions we take with regard to the oil import quota system form only one part, but they are an essential part.

First, I believe there must be an end to the oil import quota system. This system does not meet our national security needs. It creates regional inequities and it forces the consumer to pay the price of protecting the profits of oil companies.

Second, in accomplishing this phase-out, the immediate step should be permanent decontrol of the importation of No. 2 distillate (home heating oil) into the U.S. and total removal of the Western Hemisphere purchase limitation on those imports. It is unfair for a single region of the country to bear the weight of a national program. And, no one surely can argue that we can solve New England home heating oil needs with domestic supplies.

Third, another immediate action should be establishment of an energy free zone between Canada and the U.S. for both crude and finished products and similar action throughout the Western Hemisphere for crude oil. No greater national security risk exists in the physical transportation of oil from these nations to the U.S. than in the shipment of our own domestic oil to the East Coast.

A single action such as abolishing the oil import quota system will provide an important first step toward developing an intelligent national energy policy that meets our fuel needs while recognizing the demands of environmental protection and reasonable prices to the consumer, but it is the most important first step.

We must provide government with full access to industry books on the demand for oil, the location of their home heating oil and other stocks, the quality of those stocks, and the cost of production.

We must examine the possibility of national security shortage reserves of oil.

We must examine the possibility for public rather than private development of oil and gas reserves, particularly on public lands.

We must examine how to provide additional refineries in keeping with environmental requirements.

We must examine ways to improve the security and safety of tankers and terminals.

All of these factors deserve attention as part of the deliberations of this Committee.

But while this is taking place, there should be one thing that is crystal clear. The current oil import quota system must be ended. And it should be ended now.

Mr. KENNEDY. Mr. President, I sought over a month ago to achieve some immediate relief from the import restrictions by introducing a joint resolution to suspend the restrictions on home heating oil controls through next winter's home heating season and to suspend crude oil controls for 90 days following enactment. Some 28 Senators joined me in this effort. A similar resolution was introduced in the House of Representatives by Congressman BURKE of Massachusetts.

There is a tremendous need to reassess our national energy policies on a long-term basis and to establish policies that will insure adequate supplies for our domestic needs without creating critical environmental problems. However, there is no reason for any delay in abolishing an oil import quota system that is no longer meeting its own objectives and that is no longer in the national interest.

By Mr. BUCKLEY:

S. 1020. A bill to insure international cooperation in the prosecution or extradition to the United States of persons alleged to have committed aircraft piracy against the laws of the United States or against international law. Referred to the Committee on Foreign Relations.

Mr. BUCKLEY. Mr. President, I introduce for appropriate reference a bill to insure international cooperation in the extradition to the United States of persons alleged to have committed aircraft piracy against the laws of the United States or against international law.

The bill, simply stated, would prevent any foreign air carrier of a country, which fails to extradite to the United States, upon the request of the United States, any person alleged by the United States to have committed or attempted to commit aircraft piracy where the action occurred within the jurisdiction of the United States from continuing to operate within this country.

I want to emphasize that it is extradition and not prosecution that is at the heart of this bill. The mere prospect of prosecution by a foreign government will not necessarily serve as a deterrent to a hijacker, especially if he expects the country of his destination to be politically sympathetic to him. It is, for example, quite conceivable that a hijacker could be prosecuted for hijacking—thereby allowing the foreign nation to say it was acting in good faith—but that his penalty could be so lenient as to make the conviction simply a matter of legalistic formality. Only the sure knowledge that extradition—and only extradition—will follow any hijacking to any nation will deter hijackers.

The basic purpose of this legislation is to exert pressure on foreign governments to cooperate with the United States in bringing an end to a series of hijacking

occurrences which have jeopardized the life and limb of innocent victims and in some unfortunate instances led to their injury and death.

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

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

S. 1020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 1372 of title 49 of the United States Code is amended by substituting a semicolon for the period at the end thereof and adding the following: "Provided, That no permit shall continue in force, and no permit shall be issued, to a foreign air carrier which operates in any nation which does not agree to extradite to the United States, or does not extradite to the United States, upon request of the United States, any person alleged by the United States to have committed or attempted to commit aircraft piracy in violation of subsection (i) of section 1472 of title 49 of the United States Code where the act of piracy complained of has occurred within the jurisdiction of the United States."

By Mr. CURTIS:

S. 1021. A bill to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 per centum the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. CURTIS. Mr. President, I am today introducing a bill similar to one I sponsored during the 92d Congress which was adopted unanimously by this body but was not approved by the House of Representatives. The purpose of this bill is to raise the Federal contribution to the maintenance of State meat inspection programs from 50 percent, as it is now, to 80 percent. This would apply not only to meat inspection programs but also to poultry inspection programs.

In addition, the bill I introduce today provides that any cooperative arrangements for meat and poultry inspection under the Talmadge-Aiken Act, Public Law 87–718, shall be equal to the highest percentage contributed to any State under the Federal Meat Inspection Act and the Poultry Products Inspection Act.

The present law provides that a State may maintain a meat inspection or poultry inspection program if it meets the standards set by the Federal act and if the Federal Government finds that the State's program is equivalent to the Federal program. Under that program, most of the States conduct a State meat inspection program as well as a poultry inspection program.

In the Meat Inspection Act of 1967 was a provision that if a State chose to discontinue its meat inspection program, the Federal Government would take it over. In that case, of course, 100 percent of the cost would fall upon the Federal Government. We are living in days when the States are facing many budgetary problems. Some States already have elected to discontinue their meat inspection programs.

It is believed that if this Federal contribution were raised from its present 50 to 80 percent, the States would refrain from discontinuing their meat inspection programs and, very likely, it would save money for the Federal Government. That is the purpose of this bill.

I cannot overemphasize how important it is to have the States share in this program and how they can do a job equivalent to the Federal system and at the same time tailor the operation of their inspection programs to meet the needs of their smaller communities and their smaller processors.

The second part of this bill, which amends the Talmadge-Aiken Act, provides that in States where Federal meat or poultry inspection is performed by State-employed inspectors, the Federal Government shall provide 80 percent of the funds. I believe this would be desirable since it would help keep State programs in operation, eliminate the difference between State and Federal systems, and help keep the total cost of meat and poultry inspection from becoming much more costly.

Mr. President, I hope the Senate will once again act swiftly on this legislation.

By Mr. HARTKE:

S. 1022. A bill to increase from $240 to $480 per year the amount of earned income which will be excluded in determining eligibility for and amount of benefits payable to individuals under the Federal program for supplemental security income for the aged, blind, and disabled, established by title XVI of the Social Security Act. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, one of the longstanding injustices in our social security system has gone uncorrected and unresolved for years, and it exists today as it has for years. It is an injustice which applies to persons receiving social security benefit payments who also receive supplemental income from welfare.

As social security payments are increased in order that those who live upon such payments may live better, the supplementary income is reduced by the amount of the increase in the social security payment.

Thus, because of this financial flimflam, millions of persons receiving social security payments do not benefit one cent from an increase in such payments.

In such case, Mr. President, the beneficiary is not the individual whom Congress intended to benefit but the State treasury.

For public welfare recipients it works this way, Mr. President. The administering welfare authorities establish a person's need for assistance by considering approved budgetary items, let us say at $130 a month, the exact amount of the Federal payment under the new supplementary security income plan for the aged, blind, and disabled. This same needy person received $80 a month as a disability insurance beneficiary.

From this you might think the person would then receive $130 plus $80 or $210 a month. But this is not the case. According to welfare practice, regularly received income must be considered in determining the amount of a welfare payment and used to reduce the amount of the payment. Social security payments are treated as regularly received income.

Our welfare recipient who has an established need for $130 a month and a social security payment of $80 a month does not have a total monthly income of these two amounts combined. Rather, the $80 social security payment is subtracted from the $130 established need for aid, and the needy person gets $50 aid grant—the difference between the established need and the social security payment. However much the social security payment may be increased up to $130 a month, the needy person only will get a total of $130 a month. As the social security payment is increased—as intended by Congress to raise the living standards of social security beneficiaries—the amount of the aid grant is reduced by the amount of the increase.

The person who receives social security payments and a welfare grant reads in the paper or learns from television or radio that Congress has increased the amount of social security payments and he happily anticipates having increased income.

He receives his welfare and social security checks and discovers to his great discouragement and disappointment that, though his social security check is larger than before, his welfare check is smaller, and he is no better off financially than before.

For years, Mr. President, I and others in the Congress have been aware of this most unjust and unfair situation and have introduced bills to exempt increases in social security payments from being considered as income available to meet a person's needs when he must apply for public welfare.

It has always seemed most ironic to me that although the Social Security Administration has oftentimes approved and even sponsored legislation to increase social security payments, this very same Federal agency has always opposed and actively disapproved all bills that would have made sure that such increases actually were received by beneficiaries—that such increases were actually available to beneficiaries as additional income to meet constantly and catastrophically rising living costs.

Now, Mr. President, I am today introducing a bill that proposes a new method for assuring that social security beneficiaries who must also apply to public welfare receive at least a substantial portion of any future increase in social security payments.

The Hartke bill would provide relief for adults who must live on public welfare, in the following manner:

Section 1612(b)(2) of title VI of Public Law 92–603 (H.R. 1) provides that $20 a month of income from any source is to be exempt from meeting the needs of an aged, blind, or disabled recipient of aid.

This means, Mr. President, for aged, blind and disabled persons who receive social security payments as well as welfare grants, $20 a month of the social

security payment will be exempt, the welfare grant will not be reached each month by this $20 amount.

My bill would double the amount of this exemption of income from any source. It would change the present amount in section 1612(b)(2) from $20 to $40 a month, thereby making it possible to free $40 of a social security payment or social security payment increase from claim and absorption by the State.

My bill would make sure, Mr. President, that when we increase social security payments because they are far too low, that social security beneficiaries do, in fact, get at least $40 of the increase if they also receive public welfare as adult needy recipients.

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

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

S. 1022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1612(b)(2) of title VI of the Social Security Act (as enacted by section 301 of Public Law 92-603) is amended by striking out "$240" and inserting in lieu thereof "$480".

SEC. 2. The amendment made by the first section of this Act shall take effect on January 1, 1974.

By Mr. HARTKE:

S. 1023. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, to provide a program for the accreditation of law enforcement agencies. Referred to the Committee on the Judiciary.

ACCREDITATION PLAN FOR LAW ENFORCEMENT AGENCIES

Mr. HARTKE. Mr. President, today the question of adequate protection for life and property is a serious one for all Americans. The cries for law and order continue, but too little has been done to insure that the citizens of this country are adequately protected. The problem of protection will not be solved by a bumperstrip war against crime. It will be met only through the application of the most sophisticated methods in the fight against crime.

The bill I am offering today was originally introduced in the first session of the 92d Congress. Since the authorization for the Law Enforcement Assistance Administration expires this year it is anticipated that there will be considerable debate in the Congress as to its successes and failures. What I view as one of the shortcomings of the LEAA program is that there has not been sufficient concentration on developing the professionalism of the men and women who serve in the law enforcement agencies of the country. All too often exorbitant amounts of money have been spent on purchasing "hardware," that is, equipment, and weapons for every possible contingency, and little emphasis has been on providing the necessary training to function in the highly volative situation law enforcement officers often find themselves engaged in. We need a new direction in the fight against crime.

The bill I offer today is designed to give that direction. The bill seeks to establish a national accreditation program for police departments, to guarantee that the law enforcement agencies in this country are truly professional agencies. I introduce this bill because the citizens of our Nation are entitled to the best law enforcement protection possible. Today, we realize that standards of recruitment, selection, training, and operations must be upgraded to insure citizens of uniform treatment and justice. Consequently, every effort must be made to further professionalize the Nation's police departments by urging them—where needed—to strive for new standards of excellence.

In 1967, the President's Commission on Law Enforcement and the Administration of Justice recommended the establishment of State commissions on standards to assist in improving the quality of law enforcement in this country. Although there have been some efforts in that direction, the vast majority of the States have taken little or no action to comply with the recommendations of the study. It is a national tragedy that most States in this country do not have any form of substantive law enforcement standards legislation. It is the clear need for professionalization in the field of law enforcement that causes me today to introduce this legislation which I hope will be the impetus for a national effort to achieve heightened stature for law enforcement agencies throughout our country.

My proposal provides for the establishment of a national accreditation commission comprised of nationally prominent figures in the field of law enforcement the primary function of which would be to establish guidelines for use in determining the relative caliber of police departments. These guidelines would be administered by a regional accrediting commission which would examine municipal, county and State police organizations to determine if they meet certain minimum standards. The concept of the establishment of regionally administered standards is by no means a new or novel idea. For example, the late Director of the FBI, J. Edgar Hoover, recommended the establishment of national uniform standards to achieve police excellence. Also, Mr. James F. Ahern, former police commissioner of New Haven, Conn., recommended in a speech before the Democratic national policy committee that—

> A major step in the professionalization of law enforcement would be creation of a national institute of police standards. The institute would direct federally supported experimentation in law enforcement and draft and distribute a set of voluntary standards in such areas as police recruitment, training, operating procedures, organizational design, conduct, and ethics.

Mr. Ahern felt that such a professional organization is needed to provide leadership and guidance to the thousands of police departments in this country.

In line with Mr. Ahern's thoughts the program I am proposing would initially be voluntary, but eventually departments that do not meet the requirements of the regional accreditation panels would become ineligible for Federal funds.

As previously stated, the national commission would be comprised of national prominent figures in the field of law enforcement and related academic areas. This commission would be able to draw on their professional experience and training to develop national guidelines for the regional accrediting agencies to implement. Of course, it is impossible for any national commission to develop clear and concise rules which would be applicable to each and every law enforcement agency in the country. Consequently, the national commission would develop guidelines which the regional panels would implement in light of their knowledge of regional and local circumstances.

It is imperative to state at this point that my proposal is not intended, nor does it create a national law enforcement body to control the functions and responsibilities of State and local law enforcement agencies. The commission—national and regional—will be constituted of academicians and officials who are completely independent of the control of the Federal Government. The members of the commission will be prominent figures in the field of law enforcement and related areas who are willing to give of their time to assist in developing professional standards for law enforcement agencies.

A vital feature of this legislation is the inclusion of criteria that most law enforcement officials consider important to any evaluation of a police department's caliber. These criteria are not meant as the exclusive means for evaluating the professionalism of a police department but will be an important part of the evaluation process.

First, there must be standards established in the area of recruitment and selection practices of police departments. This would, in all probability, include establishing minimum standards of education and aptitude for police work. The role of the law enforcement officer in present-day America makes many more demands than in the past. Yet, very little has been done to insure that the law officer is suited by education to his post. Educational standards set by many police departments in the Nation require less than a high school education. A 1961 survey by the International Association of Chiefs of Police revealed that of the over 300 departments surveyed, 24 percent had no minimum educational requirements and less than 1 percent required any level of college preparation. There has been very little change in those figures in the past 10 years, even though two major national commissions have stressed the need for a better educated and more professionally trained law enforcement officer.

A recent publication cited the problems facing police departments in this country and stressed that—

> Failure to overtake or at least keep pace with the rising educational standards in other occupations means that law enforcement officials will have to be drawn from the minority of the population least educated, least talented, and least qualified to assume the responsibilities of modern law enforcement.

Another example of the glaring deficiency in most police department re-

cruitment programs has been their failure to permit lateral movement of police officers, the process of permitting a law enforcement officer to transfer from one jurisdiction to another without losing his rank and accrued benefits.

Another area of obvious importance is that of training programs for recruits and inservice personnel. Any accrediting panel should inquire into the scope and extent of training programs, the nature of the course and the quality of instruction, and the extent of the training in general with respect to the particular problems the local jurisdiction faces. A recent study found that fewer than 15 percent of all law enforcement agencies provide immediate recruit training for officers. In far too many jurisdictions, officers are simply handed a revolver and a ticket book and assigned to an older officer to glean what training and experience they can. Where formal training programs do exist, they range from a few days to several months. Unfortunately, the training given is largely outmoded and not structured to the needs of current-day law enforcement. The tendency has been to train an officer so that he responds mechanically to problems rather than as a skilled professional. We must make a commitment that no longer will we put individuals in our tension-ridden communities with little training to face the problems that are part and parcel of his daily tasks.

One area that deserves utmost consideration is an examination of the compensation and benefits that are provided for the officers. This is a problem I have recognized before and have introduced legislation to supplement police salaries. As the late Director of the FBI, J. Edgar Hoover, stated, the fact that the beginning pay for a police officer is under $7,000 nationwide is a national disgrace. Inadequate compensation has been a significant factor in failing to entice and retain competent persons in the law enforcement area. The existing pay scales continue to prove incapable of attracting men who can more adequately meet the high standards that are required by the present conditions in our society, but little has been done to rectify this deplorable situation.

Administrative organization of police departments must also be examined. The size of police departments in many cities is such that too many departments are administrative disaster areas with haphazard delineation of responsibilities and very poorly established chains of command. The existence of such poorly organized agencies makes it extremely difficult for police officials to be responsive to the problems of officers, and for officials to insure that the highest ethics and integrity are maintained.

Last, but by no means of minor importance, it is imperative that serious consideration be given to an examination of the community relations training programs and efforts of police departments. The changes in the urban structure of our society necessitate that the new enforcement officer increase his function from the traditional police role to a wider and more expanded relationship with the public at large. This requires that the police officer be sufficiently trained in working with, and understanding groups with which he comes in daily contact. Unfortunately, the police officer has had to deal with the results of our many social ills. Societal ills such as inadequate housing, unemployment, and poor education have made the always difficult job of the police officer even more trying today. A failure to recognize the need for enhancing the training and work in the area of police-community relations could unfortunately negate all other advancements made in upgrading the status of law enforcement agencies.

In conclusion, the citizens of this country deserve and desire a new standard of excellence in law enforcement to guarantee protection for all citizens. The legislation I am introducing can be the impetus for a national effort to raise law enforcement to truly professional status. The public demands no less.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD immediately following my remarks.

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

S. 1023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately after part E the following new part:

PART F—ACCREDITATION OF LAW ENFORCEMENT AGENCIES

"SEC. 471. It is the purpose of this part to encourage the improvement of law enforcement agencies of the States and units of general local government on a voluntary basis by providing for a program of accreditation and financial assistance to the States and units of general local government having agencies that are accredited pursuant to this part.

"SEC. 472. (a) There is hereby established in the Law Enforcement Administration a Commission on the Accreditation of Law Enforcement Agencies (hereinafter in this part referred as to the 'Commission') composed of nine members to be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are officials in the field of law enforcement for the Federal Government, for any State, for any unit of general local government, or experts and teachers in the field of law enforcement. In making appointments under this section, the President is requested to give due consideration to appointment of individuals who, collectively, will provide appropriate geographical balance on the Commission.

"(b) The term of office of each member of the Commission shall be six years, except that—

"(1) the members first taking office shall serve as designated by the President, three for a term of two years, three for a term of four years, and three for a term of six years, and

"(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

"(c) The President shall designate one of the members of the Commission to serve as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

"(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner and subject to the same limitations as the original appointment was made.

"(e) Five members of the Commission shall constitute a quorum.

"(f) In the exercise of its functions, powers, and duties, the Commission shall be independent of the Attorney General, the Administrator of the Law Enforcement Administration, and all other offices and officers of the Department of Justice.

"SEC. 473. (a) The Commission is authorized to—

"(1) establish criteria for the accreditation of law enforcement agencies of the States and units of general local government, including provisions for such criteria for each appropriate class and type of law enforcement agency, after giving consideration to the following factors—

"(A) recruitment and selection practices, including minimum educational qualifications, minority group selection allowances, and the criteria for lateral movement into the law enforcement agency;

"(B) the availability and quality of training programs for new law enforcement personnel, existing personnel of any such agency;

"(C) the quality of the physical facilities of such agency and the availability and the contemporary nature of the equipment and support services of any such agency;

"(D) minimum acceptable rates of compensation for such personnel, and the availability of workmen's compensation, health insurance, death benefits, and other benefits available to such personnel;

"(E) the number of on-the-line personnel of such agency in relation to the population of the State or unit of government which that agency serves;

"(F) minimum adequate management practices and a model of organizational structure for any such agency; and

"(G) the quality of the community relations program, including the amount of training of law enforcement personnel in such program and the accessibility of law enforcement personnel of the agency to the public;

"(2) establish national and regional accrediting associations composed of law enforcement officials who are representative of all levels of the work personnel of the agency being accredited;

"(3) provide for the establishment of accrediting boards by the regional accrediting association, one of whose members, in the case of a law enforcement agency of a unit of general local government, is representative of a law enforcement agency of the State in which that agency is located;

"(4) provide for the general policy with respect to accrediting such agencies, including the manner of establishing accrediting boards by regional accrediting associations and the daily rates of compensation to be paid association and board members, except that in no event shall such compensation exceed $100 per day;

"(5) make grants in accordance with section 475; and

"(6) perform such other functions as are necessary to carry out the purposes of this part.

"(b) The Commission shall submit interim reports to the President and the Congress as it deems advisable to keep the Congress fully informed of the establishment of criteria for, and the process of, accreditation under this section. The Commission shall submit, as part of the report of the Administration as required under section 519 of this Act, a report setting forth the activities of the Commission and such recommendations including recommendations for additional legislation as it deems advisable in each calendar year.

"SEC. 474. (a) There shall be a full-time staff director for the Commission who shall

be appointed by the President by and with the advice and consent of the Senate and who shall receive compensation at a rate to be fixed by the President not in excess of the rate prescribed for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code. The President shall consult with the Commission before submitting the nomination of any person for appointment to the position of staff director. Within the limitations of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the provisions of title 5 of the United States Code, and may procure services as authorized by section 3709 of such title 5 but at rates for individuals not in excess of the daily rate prescribed for GS–18 of the General Schedule.

"(b) The Commission may accept or utilize services of voluntary or uncompensated personnel.

"(c) The Commission may constitute such advisory committees within States composed of citizens of that State and may consult with Governors, attorneys general, and other representatives of State and local governments, and private organizations, as it deems advisable.

(d) Members of the Commission, and members of any advisory committees shall, for the purposes of chapter 11 of title 18, United States Code, be deemed to be special Government employees.

"(e) All Federal agencies shall cooperate fully with the Commission in order to assure that the Commission may effectively carry out its functions and duties.

"(f) The Commission, or on the authorization of the Commission any subcommittee of three or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 5 of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subsection, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of five members is present.

"(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant, and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

"(h) Each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

"(i) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this part.

"SEC. 475. (a) The Commission is authorized to make grants to any State or any unit of general local government in accordance with the provisions of this section if such State or unit of general local government has been accredited pursuant to section 473.

"(b) No grant shall exceed 25 per centum of the amount of the funds received by such State for operating purposes and not for distribution to units of general local government, or received by such unit of general local government under part C of this title in the fiscal year preceding the fiscal year in which the grant is made. If a unit of general local government is accredited under this part and has not recived a grant under part C of this title for that preceding fiscal year, the Commission shall determine the amount to which such unit of general local government is entitled under this part after giving consideration to units of general local government of a similar size that have received grants under such part C.

"(c) Any State or unit of general local government that has been accredited pursuant to section 473 and desires to receive a grant under this part for any fiscal year, shall submit an application to the Commission at such time, in such manner and containing or accompanied by such information as the Commission may reasonably require.

"SEC. 476. It is the intention of the Congress that the national and regional accrediting association and accrediting boards established by such associations shall be totally independent of any officer or agency of the Department of Justice or any other department or agency of the Federal Government.

"SEC. 477. There are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1974, and $1,000,000 for the succeeding fiscal year.

"SEC. 478. Except the provisions of sections 510, 511, and 516(a) of title I, the provisions of part G of this title, relating to administrative provisions, shall not apply to this part."

(b) Section 601 of such Act is amended by inserting at the end thereof the following new subsection:

"(m) The term 'law enforcement agency' means any police department, sheriff's office, or other similar law enforcement agency of a State or a unit of general local government as determined pursuant to criteria established by the Commission of Accreditation of Law Enforcement Agencies."

(c) Parts F and G of title I of such Act are redesignated as parts G, H, I, and J, respectively.

SEC. 2. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following—

"(131) Members of the Commission on Accreditation of Law Enforcement Agencies."

By Mr. HARTKE (for himself and Mr. RANDOLPH):

S. 1024. A bill to promote the peaceful resolution of international conflict, and for other purposes. Referred to the Committee on Foreign Relations.

THE PEACE ACT

Mr. HARTKE. Mr. President, today Senator RANDOLPH and I are introducing a bill to establish a Department of Peace as an executive department of the Government. Identical legislation is being offered in the House of Representatives by Congressman MATSUNAGA.

This proposal represents a call to a new idealism, an idealism which holds that future wars can be avoided only if we care enough to try.

The Department of Peace proposal has been offered previously but many Congressmen and Senators have felt that acceptance of such a proposal was inappropriate because of our involvement in Southeast Asia. I did not agree with that proposition then nor do I agree now. Suffice it to say that those who saw our involvement in Vietnam as an obstacle to the establishment of a Department of Peace no longer have that excuse for failing to support our bill. Furthermore, recent action by the executive branch indicates that the time is propitious for a Department of Peace bill. The President has informed the Congress of the need for a reorganization of executive departments. Thus it would seem highly desirable, before any reorganization is complete, serious consideration be given to the need for a Department of Peace. It is in this spirit of change that I call upon the Congress and the President to rethink our policies for bringing about world peace and call upon the Congress to take up the mantle in providing the direction for a truly "peacemaking" policy throughout the world.

It would be the purpose of the new Department to develop long-range policies for peacekeeping; for presently there is no institutional advocate for peace in our Government, while those agencies and departments which view the application of force as the most efficient way to settle international disputes abound.

The bill has three titles: Title I establishes a Department of Peace, specifies what present agencies will be transferred to it, outlines the duties and structure of the Department, and sets forth the administrative provisions under which the Department will operate. Title II creates an International Peace Academy which would have the responsibility of training individuals in the science of peacekeeping. A new joint committee of Congress, with seven members drawn from both the Senate and the House, is established by title III, to be called the Joint Committee on Peace and International Cooperation.

Five specific responsibilities are assigned the new Department; they are:

First. The Department is to develop and recommend to the President appropriate plans, policies, and programs designed to foster peace.

Up to the present time, there has been no such broad assignment given to any Federal agency. It is true that we have not been without peace plans, peace policies, and peace programs. But they arise in various quarters under a variety of circumstances and they exist without the close coordination a single department will give. Nor has there been authority located in a specific position to do what the second mandate asks.

Second. The Department will exercise leadership in coordinating all activities of the U.S. Government affecting the preservation or promotion of peace. To exercise such leadership, of course, will require the close cooperation of the Department of Peace with the other departments, which in most cases have activities falling within the description.

Third. The Department will cooperate with the governments of the other nations in research and planning for the peaceful resolution of international conflict, and encourage similar action by private institutions. Here there are two

significant elements, neither of which is presently a statutory responsibility of any agency—peace research, and the encouragement of attention to this area by private institutions.

The fourth mandate brings under the Department of Peace responsibility for aiding the interchange of ideas and persons between private institutions and groups in the United States and those in other countries.

The fifth is similar—to encourage the work of private institutions and groups aimed at the resolution of international conflict.

Agencies whose functions would be transferred to the new Department include: the Agency for International Development, the Peace Corps, the Arms Control and Disarmament Agency, and the functions of the International Agricultural Development Service, now in the Department of Agriculture. The President may also transfer additional responsibilities to the new Department, if he determines that the functions of any other office or agency are pertinent to the objectives of the Peace Department.

It has rightfully been said that "wars occur because people prepare for conflict, rather than for peace." It is time that this country set itself to the hard task of keeping the peace. It should not be the fate of every generation of Americans to endure wars which we are told are necessary to our national security, or to save face or to maintain our role as a world leader.

On February 7, 1969, I introduced similar legislation. This bill differs from that prior effort in a number of ways, chief among which is the elimination of language which could have posed a conflict between the new Department and the legitimate functions of the Department of State.

Mr. President, the tragedy of Vietnam highlights the need for a new approach to the resolution of international conflicts. Let us not be lulled by the possibility of achieving peace in Southeast Asia into thinking that we have no need for a permanent peacekeeping agency. Our proposal recognizes past failures and presents a reasoned alternative to what some would view as the inevitability of war.

I ask unanimous consent that a copy of the bill, establishing a Department of Peace, be printed in the RECORD immediately following my remarks.

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

S. 1024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Peace Act".

DECLARATION OF PURPOSE

SEC. 2. The Congress declares that the United States has an urgent and continuing responsibility to seek international peace and has undertaken obligations to seek international peace under the Kellogg-Briand Pact of 1929, the Nuremberg Charter of 1945, and article I, paragraph 1 and article II, paragraphs 3 and 4, of the United Nations Charter. It is the purpose of this Act to meet these responsibilities and obligations and to provide the means to seek and achieve the peaceful resolution of international conflict.

TITLE I—DEPARTMENT OF PEACE

ESTABLISHMENT OF DEPARTMENT

SEC. 101. There is hereby establish at the seat of government, as an executive department of the United States Government, the Department of Peace (hereafter referred to in this Act as the "Department").

FUNCTIONS OF THE DEPARTMENT

SEC. 102. (a) The Department shall be responsible for carrying out the purposes of this Act. In achieving such purposes, the Department shall—

(1) develop and recommend to the President appropriate plans, policies, and programs designed to foster peace;

(2) exercise leadership in coordinating all activities of the United States Government affecting the preservation or promotion of peace;

(3) cooperate with the governments of other nations in research and planning for the peaceful resolution of international conflict, and encourage similar action by private institutions, a research division shall be established for this purpose;

(4) encourage and assist the interchange of ideas and persons between private institutions and groups in the United States and those in other countries, a cultural exchange division shall be established for this purpose; and

(5) encourage the work of private institutions and groups aimed at the resolution of international conflict.

PERSONNEL OF THE DEPARTMENT

SEC. 103. (a) There shall be at the head of the Department a Secretary of Peace (hereafter referred to in this Act as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) There shall be in the Department an Under Secretary of Peace, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Peace (or, during the absence or disability of the Under Secretary, or in the event of a vacancy in the office of the Under Secretary of Peace, an Assistant Secretary of Peace or the General Counsel, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary. The Under Secretary of Peace shall perform such functions as the Secretary shall prescribe from time to time.

(c) There shall be in the Department four Assistant Secretaries of Peace and a General Counsel, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time.

(d) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the purposes and functions of this Act.

(e) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

TRANSFER OF FUNCTIONS TO DEPARTMENT

SEC. 104. (a) There are hereby transferred to the Secretary all functions which were carried out immediately before the effective date of this title—

(1) by each of the following agencies or offices:

(A) the Agency for International Development;

(B) The Arms Control and Disarmament Agency; or

(C) the Peace Corps;

(2) by any components of such agencies or offices; or

(3) by the Secretary of State insofar as such functions from an agency, office, or component referred to in paragraph (1) or (2).

(b) There are hereby transferred to the Secretary all functions which were carried out immediately before the effective date of this title—

(1) by the International Agricultural Development Service, Department of Agriculture; or

(2) by the Secretary of Agriculture, insofar as the function relates to functions transferred under this subsection from such Service.

(c) Section 2 of the United Nations Participation Act of 1945 (22 U.S.C. 287) is amended by inserting at the end thereof the following new subsection:

"(h) The Secretary of Peace shall advise the President with respect to the appointment of any person to represent the United States in the United Nations, or in any of its organs, commissions, specialized agencies, or other bodies."

(d) The functions, powers, and duties of the Secretary of State, and the other offices and officers of the Department of State, relating to specialized agencies as defined in article 57 of the United Nations Charter, are transferred to the Secretary of Peace.

(e) Within one hundred and eighty days after the effective date of this title, the President may transfer to the Secreary any function of any other agency or office, or part of any agency or office, in the executive branch of the United States Government if the President determines that such function relates primarily to functions transferred to the Secretary by the preceding subsections of this section.

TRANSFER OF AGENCIES AND OFFICES

SEC. 105. (a) All personnel, assets, liabilities, contracts, property, and records as are determined by the Director of the Bureau of the Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of section 104 are transferred to the Secretary. Except as provided in subsection (b), personnel engaged in functions transferred under this title shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(b) The transfer of personnel pursuant to subsection (a) shall be without reduction in classification or compensation for one year after such transfer.

(c) In any case where all of the functions of any agency or office are transferred pursuit to this title, such agency or office shall lapse.

ADMINISTRATIVE PROVISIONS

SEC. 106. (a) The Secretary may, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to the Secretary by this title, delegate any of his functions to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions.

(b) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids;

and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such fund shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund.

(c) The Secretary may approve a seal of office for the Department, and judicial notice shall be taken of such seal.

(d) In addition to the authority which is transferred to and vested in the Secretary by section 104, as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote facilities;

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) messing facilities;

(4) motion picture equipment and film for recreation and training; and

(5) living and working quarters and facilities.

The furnishing of medical treatment under clause (1) and the furnishing of services and supplies under clauses (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(e)(1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury of the United States in a separate fund and shall be disbursed upon order of the Secretary.

(2) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(f) The Secretary is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such advisory committees as may be appropriate for the purpose of consultation with and advice to the Department in the performance of its functions. Members of such committees, other than those regularly employed by the United States Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under section 103(e), and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(g)(1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or individuals for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations or individuals such information as he deems pertinent on the research carried out pursuant to this subsection.

(3) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Department which authorize the making of contracts for research.

TECHNICAL AMENDMENTS

SEC. 107. (a) Section 10(d)(1) of title 3, United States Code, is hereby amended by inserting before the period at the end thereof a comma and the following: "Secretary of Peace".

(b) Section 101 of title 5, United States Code, is amended by inserting at the end thereof the following:

"The Department of Peace."

(c) Subchapter II of chapter 53 of title 5, United States Code (relating to executive schedule pay rates), is amended as follows:

(1) Section 5312 is amended by adding at the end thereof the following:

"(13) Secretary of Peace."

(2) Section 5314 is amended by adding at the end thereof the following:

"(54) Under Secretary of Peace."

(3) Section 5315 is amended by adding at the end thereof the following:

"(92) General Counsel, Department of Peace.

"(93) Assistant Secretaries of Peace (4)."

(4) Section 5317 is amended by striking out "34" and inserting in lieu thereof "36".

ANNUAL REPORT

SEC. 108. The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year.

SAVING PROVISIONS

SEC. 109. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this title, by (A) any ageny or office, or part thereof, any functions of which are transferred by this title, or (B) any court of competent jurisdiction, and

(2) which are in effect at the time this title takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.
operation of law.

(b) The provisions of this title shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this title; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this title shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this title, shall abate by reason of the enactment of this title. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this title, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this title. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this title takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this title—

(A) such agency or office, or any part thereof, is transferred to the Secretary, or

(B) any function of such agency, office, or part thereof, or officer is transferred to the Secretary,

then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this title).

(d) With respect to any function transferred by this title and exercised after the effective date of this title, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the department or officer in which such function is vested pursuant to this title.

(e) Orders and actions of the Secretary in the exercise of functions transferred under this title shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this title shall apply to the exercise of such function by the Secretary.

(f) In the exercise of the functions transferred under this title, the Secretary shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and his actions in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

CODIFICATION

SEC. 110. The Secretary is directed to submit to the Congress within two years from the effective date of this title a proposed codification of all laws which contain functions transferred to the Secretary by this title.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 111. (a) This title, other than this section, shall take effect ninety days after

the enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a), any of the officers provided for in subsections (a), (b), and (c) of section 103 may be appointed in the manner provided for in this title, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in this title. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Department pursuant to this title.

TITLE II—INTERNATIONAL PEACE ACADEMY

ESTABLISHMENT OF ACADEMY

SEC. 201. There is hereby established within the Department the International Peace Academy (hereafter referred to in this Act as the "Academy"). The Academy shall furnish training and instruction to prepare citizens of the United States for service in positions or programs relating to the field of promoting international understanding and peace.

OFFICERS, STAFF, AND INSTRUCTORS

SEC. 202. (a) The Secretary may appoint or assign, on a full- or part-time basis, such officers, staff, and instructors as the needs of the Academy require.

(b) The Secretary may assign or detail, on a full- or part-time basis and with the consent of the head of the United States Government department or agency concerned, any officer or employee of the executive branch of the United States Government to serve on the faculty or staff of the Academy. During the period of his assignment or detail, such officer or employee shall be considered as remaining in the position from which assigned or detailed.

SUPERVISION OF ACADEMY

SEC. 203. The supervision and charge of the Academy shall be under such officer or officers as the Secretary may appoint for or assign to that duty, and under such regulations as the Secretary may prescribe.

BOARD OF TRUSTEES

SEC. 204. (a) There is hereby established within the Academy a board of trustees (hereafter referred to in this Act as the "board") which shall advise the Secretary on the operation of the Academy. The board shall be composed of—

(1) the Secretary (ex officio);

(2) two officers of the Department designated by the Secretary;

(3) two Members of the Senate, of different political parties, appointed by the President of the Senate;

(4) two Members of the House of Representatives, of different political parties, appointed by the Speaker of the House of Representatives;

(5) the Chairman of the Atomic Energy Commission, or his designee;

(6) the Chairman of the Federal Council on the Arts and the Humanities, or his designee;

(7) one member from the National Academy of Sciences, to be appointed by the President after consultation with the President of the Academy;

(8) two educators of prominence appointed by the President;

(9) two prominent persons associated with the advancement of world peace, appointed by the Secretary; and

(10) the United States Ambassador to the United Nations.

(b) Members of the board shall be appointed for two-year terms and shall be eligible for reappointment.

(c) The board shall visit the Academy annually. With the approval of the Secretary, the board or its members may make other visits to the Academy in connection with the duties of the board.

(d) The board shall inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the board decides to consider.

(e) Within sixty days after its annual visit, the board shall submit a written report to the President of its action, and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the board, be submitted to the President within sixty days after the approval.

(f) Each member of the board may be allowed travel expenses, including per diem in lieu of subsistence, in accordance with the provisions of section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

ADMISSION OF STUDENTS

SEC. 205. (a) The authorized number of students at the Academy shall be one hundred and fifty.

(b) The Academy shall operate as a coeducational institution and students shall be selected for admission to the Academy on the basis of merit, as determined by a competitive examination to be given annually in each State, the District of Columbia, and the Commonwealth of Puerto Rico, at such time, in such manner, and covering such subject matter as the Secretary may prescribe.

(c) No individual shall be eligible for admission to the Academy unless he is a citizen of the United States who has been awarded a bachelor's degree upon graduation from a college or university located in the United States or a degree which the Secretary determines is generally recognized as the equivalent of a bachelor's degree upon graduation from a college or university located in a foreign country.

STIPENDS AND TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 206. Each student of the Academy shall be entitled to receive—

(1) a stipend in an amount determined by the Secretary to be within the range of stipends of fellowships payable under other Government programs providing for the education or training of graduate students; and

(2) reasonable travel and transportation allowances, including transportation for his immediate family, household goods, and personal effects, under regulations prescribed by the Secretary, but such allowances shall not exceed the allowances payable under section 5723 of title 5, United States Code.

COURSE OF INSTRUCTION AND TRAINING

SEC. 207. (a) The course of instruction and training for students at the Academy shall be prescribed by the Secretary, shall be for a period of one year, and shall, insofar as consistent with the purposes of this title, be acceptable for credit toward a graduate degree at accredited colleges and universities. In prescribing such course of instruction and training, the Secretary shall provide that special emphasis be placed on such studies as will best prepare students for leadership in the nonviolent resolution of international conflicts and in the promotion of international understanding and peace Upon satisfactory completion of the prescribed course of instruction and training, students shall be awarded a Federal certificate of participation.

(b) The course of instruction and training at the Academy shall, during each year of its operation, be organized as prescribed by the Secretary, except that one month of each such year shall be devoted to annual leave for all students.

AGREEMENTS BY STUDENTS

SEC. 208. Each student selected for admission to the Academy shall sign an agreement that, unless sooner separated, he will—

(1) complete the course of instruction at the Academy; and

(2) accept, if offered, an appointment as an officer or employee of the United States or, in the discretion of the Secretary, employment with an international organization or private agency or foundation determined by the Secretary to be engaged in activities relating to the promoting or achieving of international understanding and peace, in any position for which such student is qualified by reason of his special training at the Academy, for at least the one-year period immediately following the awarding of his certificate from the Academy or the completion by him of any period of full-time graduate study approved by the Secretary.

AUTHORIZATIONS; ACQUISITION OF PROPERTY

SEC. 209. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) The Academy shall have power to acquire and hold real and personal property and may receive and accept gifts, donations, and trusts.

TITLE III—JOINT COMMITTEE ON PEACE AND INTERNATIONAL COOPERATION

ESTABLISHMENT OF JOINT COMMITTEE

SEC. 301. There is hereby established a joint congressional committee to be known as the Joint Committee on Peace and International Cooperation (hereinafter referred to as the "joint committee"). The joint committee shall be composed of seven Members of the Senate, to be appointed by the President of the Senate, and seven Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The party representation on the joint committee shall as nearly as may be feasible reflect the relative membership of the majority and minority parties in the Senate and the House of Representatives, respectively.

FUNCTIONS

SEC. 302. It shall be the function of the joint committee—

(1) to make a continuing study of matters relating to the Department of Peace;

(2) to study means of coordinating programs in order to further the purpose of this Act; and

(3) as a guide to the several committees of the Congress dealing with legislation relating to the Department of Peace, to file a report not later than May 1 of each year (beginning with the calendar year 1971) with the Senate and the House of Representatives containing its findings and recommendations with respect to the Department of Peace, and from time to time to make such other reports and recommendations to the Senate and House of Representatives as it deems advisable.

VACANCIES; SELECTION OF CHAIRMAN

SEC. 303. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

HEARINGS; STAFF; ASSISTANCE

SEC. 304. (a) In carrying out its duties under this title, the joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings; to sit and act at such times and places; to appoint and fix the compensation of such experts, consultants, technicians, and staff personnel; to procure such printing and binding; and to make such expenditures as it deems advisable.

(b) With the prior consent of the department or agency concerned, the joint committee is authorized to utilize the services, information, and facilities of the departments and establishments of the United States Government and private research agencies.

AUTHORIZATION; EXPENSES

SEC. 305. (a) The expenses of the joint committee, which shall not exceed $200,000 for each fiscal year, shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee duly authorized by the chairman.

(b) Members of the joint committee, and its employees and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

SENATOR RANDOLPH CONTINUES HIS EFFORTS FOR DEPARTMENT OF PEACE

Mr. RANDOLPH. Mr. President, I am gratified to be a cosponsor of this legislation, which calls for a positive action toward achieving true world peace. I join with my able colleague, Senator HARTKE, in urging the establishment of a Department of Peace as an executive department of the Federal Government. It has been said many times that "wars occur, because people prepare for conflict, rather than peace." Although each of us would strongly endorse the achievement of world enlightenment and peace in the abstract, it remains our responsibility to provide the apparatus through which this can be done.

I recall that even before the end of World War II, on June 29, 1945, as a Member of the House of Representatives, I introduced legislation to create a Department of Peace. The Judiciary Committee held hearings on my bill, but no action was taken. In subsequent years, I have engaged in numerous hearings, presented testimony and made speeches on the need for a visible alternative to war. On June 2, 1959, as a Member of the Senate, I introduced legislation similar to the measure we are considering now to create a Department of Peace. Other bills to achieve this governmental body have been offered with my active cosponsorship and support.

It is a dream that will not die; a concept that will not be forgotten. I believe that we can achieve world understanding and this is the step I urge the Congress to take in this session. This dream of an effective Department of Peace is supported by those who believe in "Peace upon earth among men of good will." The bill we are considering has broad bipartisan support. Let us move promptly.

I ask unanimous consent to insert in the RECORD a letter which I sent last December 6 to the President of the United States in which I set forth some of my thoughts on this vital matter. I know that we share today a genuine concern for peace for all the peoples of the world.

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

U.S. SENATE,
Washington, D.C., December 6, 1972.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I am greatly encouraged by the reports that you are considering, as a part of your government-reorganization plan, a new "Department of Peace."

The propitious moment in history has arrived for such a move. This proposal has received my active support since 1945, when, as a member of the House of Representatives, I introduced legislation to establish a Department of Peace. During the post war period, it was my privilege to testify on Department of Peace bills before the House Committees on Foreign Affairs and on Expenditures in the Executive Departments. After entering the Senate, I again introduced a measure to create such a department. During the last three Congresses, I have joined with other Senators in sponsoring legislation to create a Department of Peace. Additionally, my efforts have included speeches and articles advocating this sound concept.

It is my belief that a Department of Peace will enhance your progressive and decisive efforts to create an improved climate of world understanding, including arms limitation agreements and your historic initiatives toward China and Russia. As you know, Mr. President, we must continue to place greater priority on world peace. We have led the world in the development of the most destructive weapons known to man. Let us lead the world in creating a department to bring peace. I stated in the Senate in 1959:

"The supreme problem for all mankind, is the achievement of a just and lasting peace—or to live under the Damoclean sword of an almost universal nuclear destruction. In these terms, therefore, there are not several races of men, but in reality only one race of man—for it is mankind as a whole who will solve this problem—or mankind as a whole who will suffer the immeasurable horror of a general nuclear war. Men make war. Certainly men can make peace."

This objective is too important and too vital to all mankind to be a part-time job. We need men dedicated full time to this task, whose only objective is the pursuit of peace, and who will have the force of a cabinet level organization on a par with the Department of State and the Department of Defense.

Our Nation must explore all avenues in finding a base of understanding among countries. With a Secretary of Peace to spearhead the campaign we can bring the issue of peace to the forefront of the lives of all Americans and of the lives of all the inhabitants of the world.

Let us carry the message of peace to all nations and to all peoples and give impetus to the crusade for harmony among all God's children by the creation of a United States Department of Peace, headed by a United States Secretary of Peace.

Please know, Mr. President, that you have my earnest support and cooperation in your efforts to share with other nations our basic aspirations for peace and understanding.

With esteem and personal best wishes, I am,

Truly,

JENNINGS RANDOLPH.

By Mr. METCALF (for himself, Mr. MANSFIELD, Mr. MCGOVERN, Mr. ABOUREZK, Mr. HUMPHREY, Mr. MOSS, and Mr. HATHAWAY):

S. 1025. A bill to improve the Nation's energy resources. Referred to the Committee on Commerce.

NATIONAL POWER GRID

Mr. METCALF. Mr. President, on behalf of the majority leader, Mr. MANSFIELD, the senior Senator from South Dakota (Mr. MCGOVERN), the junior Senator from South Dakota (Mr. ABOUREZK), the junior Senator from Minnesota (Mr. HUMPHREY), the junior Senator from Utah (Mr. MOSS), the junior Senator from Maine (Mr. HATHAWAY), and myself, I introduce for appropriate reference a bill to establish a national power grid.

Companion legislation is being introduced in the House today by Congressman ROBERT TIERNAN, of Rhode Island.

Mr. President, one of this Nation's most urgent problems is energy supply. We need a reliable electric power system. We need to curb the unnecessary use of nonrenewable resources and to protect the environment. We need to provide required generating capacity and move the electricity where it is needed. A national power grid would help to accomplish these goals in a way that no other concept can.

The national power grid has been a long time coming. Gifford Pinchot, while Governor of Pennsylvania decades ago, outlined the concept. More than 20 years ago Commissioner of Reclamation Michael Straus proposed a Western power grid.

In the 1950's, Leland Olds, former Chairman of the Federal Power Commission, proposed regional power supply organizations. Six years ago former Assistant Secretary of the Interior Ken Holum and his associates proposed, in study 190, a grid covering half of the United States. More recently, former Secretary of the Interior Walter Hickel spoke of departmental plans for a national power grid. But no such proposal has been examined by Congress.

So, the power grid proposal is not a new one. But it is an idea whose time has come.

Never before has this Nation been so conscious of its dependence on enormous supplies of energy. Never before has the American citizen been so impressed by his vulnerable position with regard to this dependence.

Because of our insatiable appetite for energy we may within a few years see the Great Lakes, the Pacific, Atlantic, and Gulf coasts ringed, and rivers lined, with electric generating plants. One estimate forecasts that by 1980 one-sixth, and by the year 2000 one-third, of our fresh water runoff will be used as cooling water for electric generating plants.

A national power grid system could slow down such plant proliferation by as much as 25 percent. It would mean lower fuel consumption as well. There would be less demand for peak generating facilities. Bulk power could be moved from one section of the country to another to take care of load requirements peaking at different times of day in the various time zones of the country, and at different seasons of the year in the various regions of the country.

The national power grid would strengthen the Nation's varied electric system by benefiting all segments of the industry. A publicly financed bulk power supply system would help solve the power supply problems of the small consumer-owned utilities and the financing and sit-

ing problems of the large investor-owned utilities.

I regard introduction of a bill such as this as an initial pleading. We need to have all segments of the power industry and environmental and consumer groups examine it closely, criticize or applaud, and help the Congress develop through the hearing procedure an act that will provide an interstate highway system for electricity, a transmission system that will move power where it is needed and diminish the demand for construction of additional generation facilities.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article about the national power grid by former Assistant Secretary of the Interior Ken Holum, which appeared in the October 1972 issue of Public Power, and the text of the bill.

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

NATIONAL POWER GRID WOULD MEET THE TEST OF PUBLIC INTEREST—VOLUNTARY POWER POOLS FALL SHORT OF MEETING THE CHALLENGES OF THE 1970'S

(By Kenneth Holum)

Sponsors of the Mid-Continent Area Power Pool (MAPP) assert that their plans eliminate the need for a National Power Grid, and the power company sponsors of that New England Power Pool (NEPOOL) contend that the public corporation recommended to the New England Regional Commission in 1970 is unnecessary. Are these claims true? Can voluntary power pools meet the challenge of the 70s? To find the answers we must measure these arrangements against the benefits of a National Power Grid and regional public corporations.

On July 21, 1971, Sens. Lee Metcalf (D., Mont.) and George S. McGovern (D., S.D.) and Reps. James G. Abourezk (D., S.D.), Robert O. Tiernan (D., R.I.) and Herman Badillo (D., N.Y.) introduced legislation to authorize the creation of a National Power Grid and the establishment of regional public corporations, charged with the responsibility of making certain that bulk power supplies, together with the necessary transmission, are available to all utilities regardless of size or ownership.

The National Power Grid would strenthgen the nation's pluralistic electric system and offer important benefits to all segments of the industry. The availability of bulk power supply from a publicly-financed system would solve both the power supply problems of the small consumer-owned utilities and the financing and siting problems of the investor-owned utilities.

The National Grid bill proposes to deal with the problems of power supply, its cost and reliability, and with conservation and optimum use of resources and environmental matters associated with power generation and transmission by making these items a matter of public responsibility. A review of the draft legislation indicates a real desire on the part of the authors to involve the general public in the planning processes.

During the 1950s, Leland Olds, who had served with distinction as chairman of the Federal Power Commission, advocated the giant power concept and proposed the creation of regional power supply corporations. In 1970, a study of electric power supply conducted for the New England Regional Commission recommended that a public bulk power supply organization for New England be created by interstate compact. In essence, the National Grid bill represents a solid effort to advance these concepts through the enactment of Federal statutes.

When Leland Olds advocated the giant power concept during the fifties, he was principally concerned with keeping electric power costs lov' and supplies adequate. His interest was consistent with the public interest concerned at that time.

Following the great Northeast blackout of 1965, interest in service reliability has accelerated. Concurrently power shortages and power failures have occurred—or been threatened—in many areas of the country.

PUBLIC CONCERNS ARE GROWING

The new and appropriate concern for environmental quality that emerged during the 1960s requires sound planning and careful operation of power supply facilities, placing significantly greater burdens on those responsible for power production and transmission facilities. Today, the public will not permit the construction of transmission facilities without assurances that the rights-of-way have been chosen with careful attention to the damage imposed on the landscape and without assurances that appropriate alternatives have been examined and evaluated.

The energy crisis, which has focused public attention on the world's limited supply of basic fuel resources, makes the most efficient use of these resources mandatory.

All of these urgent public interest demands on the electric power industry would be well served by the enactment of National Grid legislation and the management of the public corporations that will be created as a result of its enactment by intelligent and competent public employees.

While public men, beginning with Leland Olds, were developing a plan of action for electric utilities that in 1971 produced a National Grid bill, the private men, led by those employed by the investor-owned electric utilities, were countering with a voluntary action approach, suggesting that power pools established on their initiative could meet public interest requirements, legitimately imposed on the industry.

Sometime an ambitious student of the electric power industry will enjoy diagramming the "voluntary" power pool responses of industry spokesmen to the giant power concepts of Leland Olds, the 1964 National Power Survey of Joseph Swidler's Federal Power Commission, the reliability legislation drafted by Lee White's FPC and the National Grid bill of Senators Metcalf and McGovern and Representatives Abourezk, Badillo and Tiernan.

The student of history will conclude that this reaction reached a new crescendo when the 31 utilities that organized and promoted the MAPP agreement all simultaneously issued press releases that concluded with the same paragraph: In recent years, the development of a national power grid has been proposed as a possible solution to the problems of meeting growing power demands throughout the country. This new MAPP pool, and others like it throughout the country, eliminates the necessity of such a national grid. Entirely voluntary in nature, MAPP will provide the ultimate electric power consumer with increased reliability, better economy, and regional planning to meet regional and local consumer needs.

It is not the purpose of this paper to analyze the documents proposed by the 31 utilities and submitted by the Northern States Power Co., as their agent, to the FPC for its review and approval. Over 90 municipal utilities, REA cooperatives and public groups, including the City of St. Paul, Minn., have filed protests and petitions to intervene before the FPC.

POOLING PLAN ATTACKED

The petitions urge the Commission to reject the MAPP plan because it: 1. does not provide for a pooling arrangement comparable with the public interest; 2. contains numerous unreasonable restraints on competition which directly conflict with Sections 1 and 2 of the Sherman Act and Section (10) (h) of the Federal Power Act; and 3. is in violation of the "preference clause" contained in various Federal power marketing acts.

The details of the MAPP pool and its deficiencies will be argued in detail before the Commission, and the debate may well continue before the courts.

For the same reasons we will not comment specifically on power pooling efforts in New England except to nore that NEPOOL seems unlikely to achieve the regional power supply goals established by the 1970 report to the New England Regional Commission. NEPOOL has produced more frustrations than it has kwh for the consumer-owned systems.

Instead, we will take a look at the developing contention of electric utility spokesmen that they can produce voluntary power pools that will satisfy the wide range of public interest demands on the industry. The MAPP sponsors suggest that they have eliminated the need for National Grid legislation. They promise the power consumer "increased reliability, better economy, and regional planning to meet regional and local consumer needs" as a result of their self-proclaimed public spirited action.

The MAPP sponsors acknowledged by their prepared press release that there are important public interest considerations involved in power production and transmission. We must now consider whether or not it is possible and likely that private utility management will develop power pools that satisfy today's public interest requirements.

I suggest that we reject immediately any notion that utility management can alone develop power pools that serve the broad public interest without satisfying well-established guidelines and undergoing review by individuals whose responsibilities and obligations relate directly to the public. Private utility management represents the stockholder and the investor—and it should. We should not expect the president of an investor-owned utility to represent the electric consumers or the public.

Having come to the conclusion that power pools can represent and serve the public interest only if they are developed along guidelines established by public officials, we come logically to the next conclusion, that representatives of the public should participate in developing the pool documents. When and if a power pool is to be established, there should be substantial participation by individuals who represent the general public in the preparation of the basic documents. Such representatives, of course, should be knowledgeable, responsible citizens with a record of public service.

The National Grid bill is directed towards achieving the following public interest objectives:

1. Providing electric power supply at low cost and with high standards of reliability;

2. Sound conservation and use of resources at the highest possible levels of efficiency;

3. Minimum adverse effects on the environment from the construction and operation of necessary generating stations and transmission facilities; and

4. Preservation of the pluralistic electric system to avoid nationalization of the industry as has occurred in almost every other country.

To achieve and maximize these important public interest objectives, power pool documents must:

(a) Establish completely open membership so that all utilities, regardless of size or ownership, can participate completely in all pool functions. To eliminate management problems and to save manpower and reduce costs, small utilities should be permitted complete participation. Financial assessments levied against these subgroups should be on a rate consistent with the subgroup's total demands on the pool.

(b) Maximize economic benefits and minimize environmental damage by using the best available technology to supply the bulk power requirements of all utilities in the region. To make certain that this occurs, the documents must make specific provision for joint ownership of generating stations in which all utilities must be allowed to participate, individually or through subgroups, utilizing their own sources of capital.

(c) Establish a region-wide, common carrier, completely supported transmission system that provides access for all utilities to the generating stations. To eliminate the construction of unnecessary transmission lines with resulting degradation of the landscape, the documents must establish clear and specific guidelines to make certain that the needs of all utilities are considered and served, as additions to the transmission system are constructed in the region. All transmission facilities, regardless of size, should be available to all utilities, both to facilitate participation in new pool-planned generating stations, and to encourage the exchange of economy energy, stand-by and reserves among utilities.

(d) Provide planning procedures for all additions to the region's power supply system that are open to all utilities and the public generally. All facilities for the generation or transmission of electric power planned or constructed by a pool member must be subject to the requirements for open planning and joint ownership.

(e) Establish management, planning and policy control mechanisms that provide for participation by investor-owned companies, consumer-owned systems and the public, in such a way as to completely and absolutely safeguard the interests of all groups.

After reading the documents filed by the intervenors with the FPC, I have concluded that the MAPP arrangement fails to meet the guidelines enumerated above. The same comment is no doubt appropriate for many, if not all, other existing pooling arrangements in the U.S.

The public generally is rapidly relearning the unique social and economic role the electric power industry enjoys through the grant of franchises which in effect, convey governmental powers to a private company. The public is becoming increasingly aware of the enormous impact of decisions made by utility managers on a broad range of values that affect us all.

As we observe the interaction among concerned public men, private utility executives and the public generally, the signals are clear. In the near future, National Power Grid legislation will be enacted, unless a way is found to develop and establish power pools that meet the public interest tests required by the '70s. We have a long way to go before voluntary power pools satisfy the legitimate requirements the public expects from electric utilities.

S. 1025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Energy Resources Improvement Act of 1973".

TITLE I—NATIONAL POWER GRID AND REGIONAL BULK POWER DISTRIBUTION

SEC. 101. DEFINITIONS.

For purposes of this Act:

(1) The term "National Grid" means the National Power Grid Corporation, established by section 102.

(2) The term "national board" means the board of directors of the National Grid.

(3) The term "regional corporations" means a regional bulk power supply corporation established by the National Grid under section 103.

(4) The term "corporation" means the National Grid or any regional corporation.

(5) The term "regional board" means the board of directors of a regional corporation.

(6) The term "region" means a bulk power supply region established under section 103(a)(1).

(7) The term "electric utility" means any person or public agency whose functions include the sale of electric power.

SEC. 102. NATIONAL POWER GRID CORPORATION.

(a) There is created a body corporate by the name of the "National Power Grid Corporation" which shall establish and operate a national power grid system. The National Grid shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate, in accordance with section 202, and which shall direct the exercise of all of the functions of the National Grid.

(b) The National Grid shall establish and operate a national power grid system, consisting of large electric power generating facilities, and a system of very high voltage transmission lines which, to the extent practicable shall interconnect such generating facilities and the transmission systems of each regional corporation. Such system may be established by constructing generating facilities and transmission lines, or by acquisition of existing facilities and lines under section 105, or both.

(c)(1) The National Grid shall contract to sell electric power to regional corporations at rates which shall be uniform throughout the United States and which shall be set at the lowest possible level consistent with sound business principles and the environmental protection requirements of section 201, taking into account the charges necessary to pay the operating expenses of the National Grid (including depreciation) and to amortize the indebtedness of the National Grid.

(2) The National Grid shall provide base load, peaking, or other power to regional corporations to meet requirements of which the National Grid has at least seven years notice. Any notice of requirements under this paragraph shall be accompanied by an offer to contract for the required power.

(3) The National Grid is authorized to purchase for resale by the National Grid surplus electric power generated by any electric utility on schedules and at rates agreed upon with such electric utility.

SEC. 103. REGIONAL BULK POWER SUPPLY CORPORATIONS.

(a) Subject to section 105(a)(2), the National Grid shall establish by regulation—

(1) a number of bulk power supply regions which in the aggregation shall comprise the entire United States, and

(2) a regional bulk power supply corporation in each such region.

(b) Each regional corporation shall have a Board of Directors which shall be composed of three members appointed by the national board with the approval of the President in accordance with section 202, and which shall direct the exercise of all of the powers of such regional corporation. A member of a regional board may be removed by the national board for cause (including failure to carry out any order of the national board issued under subsection (f)).

(c)(1)(A) A regional corporation shall be the exclusive marketing agency for the National Grid within the region for which such corporation was established. Any electric utility, publicly or privately owned, may enter into a contract for services with a regional corporation. A regional corporation shall sell electric power to any electric utility the needs of which it has adequate notice except in cases of failure of such utility to meet its financial obligations, on proof of fraudulent application, or because of willful failure of such utility to comply with wheeling orders under subparagraph (B) or other requirements of such regional corporation.

(B) A regional corporation may not enter into contract for services with any electric utility unless such utility agrees to permit (at such times and to such extent as such corporation may order) the use of its excess transmission capacity for the purpose of wheeling power from facilities of such corporation or of the National Grid to load centers of other electric utilities contracting to purchase electric power from such corporation.

(2) Any transmission lines of any agency the facilities of which are transferred to the corporation under section 105(a)(1) may be transferred by the National Grid to the regional corporation for the region in which such lines are located and shall be operated by such corporation. Each regional corporation shall obtain such transmission capacity, in addition to the capacity acquired under the preceding sentence, as may be necessary to sell electric power generated by the National Grid to each electric utility in the region, and to transmit to National Grid transmission lines such electric power as the National Grid may purchase from such utilities. A regional corporation may obtain such additional capacity (A) by lease of or contract for all or part of the capacity of existing transmission lines of electric utilities, (B) by modification of existing facilities of electric utilities, or (C) by construction of new transmission lines by such regional corporation. Any excess transmission capacity of a regional corporation may be made available to electric utilities on a contract carrier basis.

(d) Electric power marketed for the National Grid by the regional corporation shall be sold at a rate equal to the uniform rate established by the National Grid under section 102(c)(1), plus a transmission rate charged by such regional corporation. Such transmission rate shall be set at the lowest possible level consistent with sound business principles and the environmental protection requirements of section 201, taking into account the charges necessary to pay the operating expenses of the regional corporation (including depreciation) and to amortize the indebtedness of the regional corporation.

(e) A regional corporation shall have the authority to issue bonds in accordance with section 206, but such bonds shall not be guaranteed by the United States unless issued with the approval of the national board.

(f) Any electric utility aggrieved or adversely affected by any action of a regional corporation may obtain administrative review of such action by the national board. The national board may, on the basis of such review, order the regional board to take appropriate remedial action.

SEC. 104. RESEARCH AND DEVELOPMENT

(a) The National Grid shall carry out a program of research and development in the area of electric power generation and transmission. In carrying out such program, the National Grid—

(1) may conduct research and development activities directly or through contracts with any person or public agency,

(2) shall to the extent practicable coordinate its program with programs of other public agencies, and

(3) shall develop priorities for carrying out such program.

In developing priorities under paragraph (3), the National Grid shall give preference to environmental protection and land use research including, but not limited to, underground high voltage transmission technology, sulfur oxide control, and other technology to improve the performance of fossil fuel plants, development and demonstration of utility corridors, development and demonstration of improved methods for disposing

of waste heat, and development of alternative methods of electric power generation (including but not limited to thermonuclear fusion, magnetohydrodynamics, and fuel cells).

(b)(1) The National Grid shall expend at least 2 percent of its revenues in each fiscal year to carry out the program under this section.

(2) There are authorized to be appropriated to the National Grid for each fiscal year to carry out the program under this section an amount equal to (A) $250,000,000 less (B) the amount the National Grid is required to expend under paragraph (1) to carry out such program.

SEC. 105. TRANSFER OF CERTAIN EXISTING FEDERAL-OWNED FACILITIES

(a) Effective 180 days after the date of enactment of this Act:

(1) There are transferred to the National Grid all electric power generating and transmission facilities of the following agencies:

(A) Bureau of Reclamation.

(B) Army Corps of Engineers.

(C) Southwestern Power Administration.

(D) Southeastern Power Administration.

(E) Bonneville Power Administration.

(F) Alaska Power Administration.

(2) After amortization, hydroelectric power projects, together with associated Federal transmission facilities, which are transferred to the National Grid under this subsection shall provide financial assistance to water resource development, the reclamation fund, and the basin accounts, in accordance with the laws and procedures under which they were authorized.

(3)(A) The Tennessee Valley Authority shall be designated as the regional corporation for the region consisting of the area in which it operates on the date of such designation, and for such additional areas as the National Grid may designate by regulation. Such Authority shall retain and operate all of its transmission facilities, but all of its generating facilities shall be transferred to the National Grid.

(B) Payment of principal and interest on bonds of such Authority outstanding on such one hundred and eightieth day shall be guaranteed by the United States. The National Grid shall assume all liability with respect to such portion of the outstanding bonds as the President may determine, taking into account the proportion of the Authority's power revenues attributable to the facilities transferred to the National Grid under this paragraph.

(b) Title II of this Act shall not apply to the Tennessee Valley Authority unless expressly so provided.

TITLE II—GENERAL PROVISIONS APPLICABLE TO NATIONAL GRID AND TO REGIONAL CORPORATIONS

SEC. 201. ENVIRONMENTAL PROTECTION

(a) Each corporation shall be subject to Federal, State, and local environmental standards. For purpose of this subsection, the term "environmental standard" means a law or regulation prescribing a standard or limitation for the purpose of control or abatement of air or water pollution or for the purpose of some other aspect of environmental protection.

(b)(1) Prior to applying to any public agency for authority to construct any proposed facility, the corporation which proposes to construct such facility shall hold a public hearing, after adequate public notice, and shall allow interested persons to submit comments on such proposal.

(2) Each corporation shall treat all decisions regarding the siting and design of facilities as a significant aspect of land use planning in which all environmental, economic, and technical issues with respect to a facility should be resolved in an integrated fashion. In the resolution of these possibly competing demands such corporation shall give all possible weight to the protection of the environment.

(c) This section shall apply to the Tennessee Valley Authority.

SEC. 202. BOARDS OF DIRECTORS.

(a) Of the members appointed to the board of directors of any corporation, one member shall be representative of the interests of privately owned electric power companies, one member shall be representative of the interests of publicly or cooperatively owned electric utilities, and one member shall be representative of the interests of consumers. Not more than two members of any board may be members of the same political party. Not more than two members of the national board may reside on the same side of the 100th meridan.

(b)(1) Members of the board of directors of each corporation shall be appointed for terms of 6 years, except that the terms of office of the members of any such board first taking office after the date of enactment of this Act, shall expire as designated by the President (or the National Grid in the case of members of a board of a regional corporation) at the time of nomination, one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year, after such date. A successor to a member of a board shall be appointed in the same manner as the original member and shall have a term of office expiring six years from the date of the expiration of the term for which his predecessor was appointed. No member may be appointed for all or part of more than two terms.

(2) The members of the national board first appointed shall be deemed the incorporators of the National Grid and the incorporation shall be held to have been effected from the date of the first meeting of the national board.

(c) Any member appointed to fill a vacancy in a board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in a board, so long as there shall be two members in office, shall not impair the powers of such board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such board.

(d) The Chairman of each board shall be elected by the members thereof.

(e) Each of the members of the national board shall receive compensation at the rate provided for level II of the Executive Schedule (5 U.S.C. 5313), to be paid by the National Grid. Each of the members of a regional corporation board shall receive compensation at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5315), to be paid by such corporation. No member of any such board shall, during his continuance in office, be engaged in any other business.

SEC. 203. OFFICERS AND EMPLOYEES OF CORPORATIONS.

(a) The board of directors of a corporation may without regard to the provisions of title 5, United States Code, governing appointments in the competitive service—

(1) appoint a manager of the corporation who shall be compensated at the provided for level II of the Executive Schedule, and

(2) appoint such other officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and general schedule pay rates), define their duties, and require bonds of such of them as such board may designate.

Any appointee of a board of directors may be removed in the discretion of such board.

(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the corporation is a party shall be considered a contract to which the United States is a party.

(2) If work, which if let by contract would be subject to paragraph (1), is done directly by a corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

(c) In the appointment of officials and the selection of employees for a corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of a board of directors who is found by the President of the United States to be guilty of a violation of this subsection shall be removed from office by the President of the United States, and any appointee of a board of directors who is found by the board to be guilty of a violation of this subsection shall be removed from office by such board.

SEC. 204. CORPORATE POWERS GENERALLY.

(a) Except as otherwise specifically provided in this Act, a corporation shall have the same powers as a District of Columbia nonprofit corporation has under subsections (a), (b), (c), (d), and (e) of section 5 of the District of Columbia Nonprofit Corporation Act, and in addition—

(1) May make contracts to carry out its functions under this Act.

(2) May adopt, amend, and repeal bylaws.

(3) Shall have power to acquire real property for the construction of generating facilities, transmission lines, and other structures and projects.

(4) Shall have power in the name of the United States of America to exercise the right of eminent domain, in accordance with section 207.

(5) Shall have such powers as may be necessary or appropriate for the exercise of the powers specifically conferred in this Act upon such corporation.

(b) In order to enable a corporation to exercise the powers and duties vested in it by this Act—

(1) The exclusive use, possession, and control of all property to be acquired by such corporation in its own name or in the name of the United States of America, are entrusted to such corporation for the purposes of this Act.

(2) The President of the United States is authorized to provide for the transfer to such corporation of the use, possession, and control of such other real or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such corporation as stated in this Act.

(c) Each corporation shall maintain its principal office at a place determined by it.

(d) Section 101 of the Government Corporation Control Act is amended by inserting "any corporation established under the National Power Grid Act;" after "Tennessee Valley Authority;".

(e) A corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States. A corporation may contract with the Federal Power Commission to participate with the staff of such corporation in system planning and load forecasting.

SEC. 205. ACCOUNTS AND CONTRACTS.

(a) A corporation shall at all times maintain complete and accurate books of accounts. Each corporation shall determine its own system of administrative accounts and the forms and contents of its contracts and other business documents except as otherwise provided by law.

(b) Subject to the other provisions of this Act, a corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it may deem necessary, including the final settlement of all claims and litigation by or against such corporation; and, notwithstanding the provisions of any other law governing the expenditure of public funds, the General Accounting Office, in the settlement of the accounts of the accountable officer or employee of such corporation, shall not disallow credit for, nor withhold funds because of, any expenditure which the board of directors thereof shall determine to have been necessary to carry out the provisions of this Act.

(c) All purchases and contracts for supplies or services, except for personal services, made by a corporation, shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the board of directors thereof shall determine to be adequate to insure notice and opportunity for competition; except that advertisement shall not be required when, (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any puchase of supplies or procurement of services does not exceed $2,500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards a board of directors may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

SEC. 206. BONDS FOR FINANCING POWER PROGRAMS.

(a) (1) Each corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") to assist in financing its activities and to refund such bonds.

(2) The aggregate outstanding amount of bonds issued by the National Grid and by all regional corporations shall not exceed $15,000,000,000 at any time. This paragraph shall not apply to bonds issued by a regional corporation and not guaranteed by the United States.

(b) Subject to section 103(e), payment of principal and interest on bonds issued by a corporation under this section shall be guaranteed by the United States. Proceeds realized by a corporation from issuance of such bonds and from power operations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

(c) (1) Subject to paragraph (2), bonds issued by a corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than fifty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of such corporation in such manner and at such times and redemption premiums, and shall be subject to such other terms and conditions as such corporation may determine.

(2) At least fifteen days before selling each issue of bonds under this section (exclusive of any commitment shorter than one year) a corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions, and expected rates of interest of the proposed issue in the fullest detail possible and, if the Secretary shall so request, shall consult with him or his designee thereon, but the sale and issuance of such bonds shall not be subject to approval by the Secretary of the Treasury except as to the time of issuance and the maximum rates of interest to be borne by the bonds. If the Secretary of the Treasury does not approve a proposed issue of bonds hereunder within seven working days following the date on which he is advised of the proposed sale, such corporation may issue to the Secretary interim obligations in the amount of the proposed issue, which the Secretary is directed to purchase. In case such corporation determines that a proposed issue of bonds under this section cannot be sold on reasonable terms, it may issue to the Secretary interim obligations which the Secretary is authorized to purchase. Notwithstanding the foregoing provisions of this subsection, obligations issued by a corporation to the Secretary shall not exceed $750,000,000 outstanding at ony one time, shall mature on or before one year from date of issue, and shall bear interest equal to the average rate (rounded to the nearest one-eighth of a percent) on outstanding marketable obligations of the United States with maturities from dates of issue of one year or less as of the close of the month preceding the issuance of the obligations of such corporation. If agreement is not reached within eight months concerning the issuance of any bonds which the Secretary has failed to approve, such corporation may nevertheless proceed to sell such bonds on any date thereafter without approval by the Secretary in amount sufficient to retire the interim obligations issued to the Treasury and such interim obligations shall be retired from the proceeds of such bonds. For the purpose of any purchase of a corporation's obligations the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of such corporation's obligations hereunder. A corporation may sell its bonds by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids; may designate trustees, registrars, and paying agents in connection with such bonds and the issuance thereof; may arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms (which audits and reports shall be in addition to those required by sections 105 and 106 of the Government Corporation Control Act) may, subject to any covenants contained in any bond contract, invest the proceeds of any bonds and other funds under its control which derive from or pertain to its power program in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and may perform such other act not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section. Bonds issued by a corporation under this section shall contain a recital that they are issued pursuant to this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such bonds and of their validity.

(d) Bonds issued by a corporation under this section shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of a corporation acquired by them under this section.

(e) Bonds issued by a corporation under this section shall be exempt both as to principal and interest from all taxation now or hereafter imposed by any State or local taxing authority except estate, inheritance, and gift taxes. Interest on such bonds shall not be included in gross income for purposes of any tax imposed by subtitle A of the Internal Revenue Code of 1954.

(f) This section shall apply to bonds of the Tennessee Valley Authority, only if such bonds are guaranteed by the United States, in accordance with section 103(e).

SEC. 207. CONDEMNATION PROCEEDINGS.

A corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity or existing facilities referred to in section 103(C) (2) (A) or (B), which, in the opinion of such corporation, are necessary to carry out the provisions of this Act. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and sections 2 and 4 of the Act entitled "An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain", approved February 26, 1931 (46 Stat. 1421).

SEC. 208. REPORTS.

(a) Each corporation shall report to the President annually, and the President shall transmit the report to the Congress with such comment and recommendations as he deems appropriate.

(b) Each corporation shall file with the President and with the Congress, in December of each year, a financial statement and a complete report as to the business of such corporation covering the preceding fiscal year.

Mr. ABOUREZK. Mr. President, today the distinguished Senator from Montana (Mr. METCALF) and I, together with other Senators, introduce the National Power Grid Act, a bill that is three or four major power failures ahead of its time.

Taken as a whole, the Nation's present electric power supply system is a crazy quilt patchwork.

This bill seeks to bring order.

It seeks to take advantage, on national and regional scales, of the efficiencies of giant power generation.

It seeks to take advantage of differences in peak load demand over variations in time, season, and region.

It seeks to assure the entire Nation a planned, reliable supply of electric power.

It seeks to eliminate the environmental destruction, economic waste, and just plain inefficiency which stem from over-

building generating capacity locally, because we have no way to take advantage of superhuge pooling and generation.

I regard the bill as being in the enlightened self-interest of all factions of the power industry—the private utilities as well as the public systems.

More importantly it is very much in the best interest of every single electric power consumer in the Nation—industrial, commercial, and individual consumers alike.

It is very much in the best interest of any living creature who breathes American air or lives near, with, or in American streams. It is an environmental bill from top to bottom.

The National Power Grid Act would create a national power grid corporation and several regional bulk power supply corporations to generate power on a massive scale, wheel it to any marketer who wants to buy and to conduct very substantial research into future power supply questions.

Very simply put, it would create sort of an interstate highway system for electric power.

We are now in the throes of a deepening energy crisis.

I maintain that most of that crisis was manufactured. Part of it seems to have been manufactured as ransom for higher prices in certain fossil fuel industries.

Part of it has been manufactured by the shortsightedness of nearly everyone concerned in not moving more quickly and honestly in a direction which nearly everyone concedes we are evolving anyway; namely, toward ever larger generation and transmission pools for electric power.

Part of it was manufactured by this Government's failure to produce a coordinated energy policy which does anything more than consume paper.

The Federal Government's energy policy systems are every bit as much a crazy-quilt patchwork as the energy industry itself.

I respectfully submit that sometime after we have suffered the next three or four blackouts, it is going to become obvious to millions of people that we have the means, if you look at them at the national level, to prevent that sort of thing.

It just makes commonsense that western electricity should be used to power an awakening New York City while California is still asleep. The only question will be how do we get that power from West to East or North to South. The answer, ultimately, must be a national power grid.

By Mr. CURTIS:

S. 1027. A bill to amend the National Labor Relations Act with respect to refusals to bargain. Referred to the Committee on Labor and Public Welfare.

Mr. CURTIS. Mr. President, today I introduce an amendment to section 8(a)(5) of the National Labor Relations Act. The purpose of this amendment is to prevent the National Labor Relations Board from circumventing the employee election provisions of section 9 of that statute. My amendment would prevent the Labor Board from using such discredited devices as the card check to force employers and employees to accept a particular union as the bargaining agent.

It may be useful at this point, Mr. President, to cite a little history of this situation. Under the 1935 Wagner Act the National Labor Relations Board justified the card check practice by a reliance on the statute as then written. Section 9(c) of the Wagner Act authorized a "secret ballot—or any other suitable method" to determine the wishes of employees as to union representation. In passing the Taft-Hartley Act in 1947, however, Congress struck out the language authorizing "any other suitable method." This was done to prevent the Labor Board from using the card check or any other device which would saddle employees with a union they had not chosen by secret ballot.

One would have thought, Mr. President, that such a clear directive by Congress would have caused the Labor Board to stop completely the discredited use of card checks in either representation proceedings or in refusal to bargain proceedings. Regrettably, this has not been the case. In recent years, through a long series of cases, the Labor Board has reinstituted the card check practice as though Congress had never spoken at all.

Mr. President, my amendment would not disturb the practice under which for years thousands of employers and thousands of unions have entered into collective bargaining arrangements, based on the employer's voluntary and lawful recognition of a union which is in fact the legitimate representative of the majority of employees in a bargaining unit. My amendment does provide, however, that if there is not such a voluntary and lawful recognition, then there must have been a secret ballot election among the employees before the National Labor Relations Board can force an employer to deal with a union as the representative of the employees concerned. By this means the discredited card check practice will be eliminated without interfering with the rights of employees and employers to enter into voluntary lawful recognition arrangements where a union is in truth the representative of the majority of employees concerned.

Mr. President, I can think of no amendment more in keeping with the basic American sense of justice and fair play than this one. The secret ballot is an honored element in American life. I know of no reason why this Congress should permit it to be denied to the working men and women of America.

It should be noted that the three new members of the NLRB appointed by President Nixon have caused a shift in Board decisions ordering bargaining on the basis of card checks. Card checks are honored only when the employer has committed a major unfair labor practice.

While I commend the different approach, there still remains hundreds of decisions of the Board and courts holding card checks to be a valid substitute for the secret ballot election. Each year a new member is appointed to the NLRB or a present member is reappointed. This results in a changing ideology of the Board's majority. Four years ago the majority's reliance upon card checks was unrestrained. Four years from now that picture could again obtain card checks in lieu of secret ballot elections, which is indefensible. Congress must again tell the NLRB in unmistakable terms that card checks are not permitted. This amendment is a must.

By Mr. CURTIS (for himself, Mr. BENNETT, Mr. FANNIN, and Mr. TOWER):

S. 1028. A bill to amend the National Labor Relations Act to require a vote by employees who are on strike, and for other purposes. Referred to the Committee on Labor and Public Welfare.

EMPLOYEE STRIKE VOTE ACT OF 1973

Mr. CURTIS. Mr. President, today I am introducing a bill to assure the working men and women of America the right to vote in a secret ballot election to decide whether or not they want to be represented by a union in dealing with their employers. Today I introduce another bill which will assure the same working men and women the same secret ballot on another issue equally critical to their employment status. This bill, Mr. President, will require that employees be given the right to vote in a secret ballot to decide whether they want to strike against their employer—or, if they are already on strike, to vote by secret ballot to determine if they want to stay on strike.

In my judgment, Mr. President, this bill will cure a major defect in our present labor-management laws. There is no assurance today that the working men and women of America have any effective voice in the decision of their union officers to call a strike against their employer. Some unions provide in their constitutions and bylaws that there will be an employee vote before a strike. However, as a practical matter, this vote means very little, because it is all too often a show of hands by those who attend a meeting in the union hall—where the opportunity for thoughtful reflection and rational discussion is normally very limited.

The nearest thing we have in present law to a strike vote is the provision of section 203 of the Taft-Hartley law. That provides that the Federal Mediation and Conciliation Service will try to persuade the parties to settle their dispute by some means other than work stoppages. The statute says this will include "submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot." This, of course, is a purely voluntary undertaking and there is no requirement in the statute that a vote be held. Also, the statutory language indicates that any vote, if one is taken at all, shall be prior to the occurrence of a strike. In these circumstances there is no true opportunity to assess the "last offer" proposed by the employer. What we have is a vote of general confidence, or solidarity, or broad approval of a union's efforts at that particular stage—and I have no intention of intruding on that. I want

only to provide a more effective and continuing voice for all employees.

The amendment I offer here today, Mr. President, has several significant provisions that improve upon anything now available. First and foremost is the provision permitting a vote 30 days after a strike has started, with authority to repeat that vote at succeeding 30-day intervals. Obviously, it would be necessary that a majority of those voting control whatever action would be taken pursuant to my amendment. However, the vote itself—either prior to the strike, or at the appropriate times provided during the strike—could be called on the petition of the union, the employer, or 10 percent of the employees in the bargaining unit.

The vote would be conducted by the National Labor Relations Board, following its normal secret balloting procedures. It would be an unfair labor practice for a union to call a strike or continue a strike after a majority of the employees had voted against it in this election. Further, any employee would lose his status as an employee under the law if he took part in a strike after the majority of his fellow employees voting in such an election had rejected that strike.

Finally, Mr. President, to make the amendment effective, I would also amend section 10(1) of the National Labor Relations Act. This would authorize petitions by appropriate parties for injunctive relief in Federal courts. It would be necessary to show reasonable cause to believe a strike is being carried on in violation of this secret ballot decision of the employees.

Mr. President, this bill will introduce a much needed measure of responsibility in the calling or continuing of strikes. It in no way impairs or infringes upon the right of employees to strike. But it will make certain that when such strikes do occur, the working men and women who have the most at stake will be given a real voice in the decisions.

By Mr. TAFT:

S. 1029. A bill to provide, in cooperation with the States, benefits to individuals who are totally disabled due to employment-related respiratory disease and to the surviving dependents of individuals whose death was due to such disease or who were totally disabled by such disease at the time of their deaths. Referred to the Committee on Labor and Public Welfare.

RESPIRATORY DISEASE BENEFITS ACT

Mr. TAFT. Mr. President, the Federal Coal Mine Health and Safety Act of 1969 and the Black Lung Benefits Act of 1972 were passed in recognition of the sacrifice which America's coal miners have made to provide a better standard of living for all Americans. Every time we flip a light switch we are depending upon coal miners to go into the mines and risk their lungs and even their lives by contracting black lung disease.

Such occupational diseases, however, are not limited to the coal mining industry. Each year there may be as many as 390,000 cases of occupational disease among America's 80 million employees. Many of these are respiratory diseases similar to black lung.

The burden of occupational disease should not be borne by the worker alone. This principle has been recognized in many of our laws. Costs are spread and risks are shifted through social security insurance benefits, through State workmen's compensation laws, and through a variety of private insurance plans. The Federal Coal Mine Health and Safety Act of 1969 and the Black Lung Benefits Act of 1972 provide meaningful benefits for coal miners who have been crippled through occupationally related respiratory disease. But no provision was made in those statutes for the disabilities of workers in industries other than coal mining.

I believe the time has come for us to recognize that we should benefit not only coal miners but other American employees who contract occupational respiratory diseases. Workers who suffer from beryllium poisoning, for example, deserve the same benefits as coal miners who contract black lung disease. The question of compensation should not turn on the number of workers involved or their political influence. Instead, our determination should be based upon the severity of these occupational diseases and how they affect the lives of the workers who contract them.

Under workmen's compensation laws, occupational disease coverage has lagged behind that of accidental injuries. In addition, coverage for various dust diseases has lagged behind that of other occupational diseases. Consequently, an individual suffering from a dust disease is usually in a less favorable position than a person disabled from an accident or from another occupational disease.

In two States, workmen's compensation laws do not cover dust diseases at all. Ohio and 18 other States which do cover occupational diseases place a special limitation on benefits for asbestosis and silicosis.

The effectiveness of State workmen's compensation systems for respiratory diseases is further limited as a result of the slow developing character of these diseases. This makes proof of the classical, causal relationship between such diseases and the job more difficult to establish than is true in the case of industrial accidents. Moreover, the State laws covering occupational diseases contain numerous qualifying requirements that the worker must meet in order to establish his eligibility for compensation, such as restrictive time limits that apply to length of exposure, to manifestation of the disease, and to the filing of claims.

Twice as many States permit waiver of benefits for dust diseases as permit waivers for accidental injuries, and many States do not provide for permanent partial indemnity benefits in the case of occupational dust diseases.

These limitations have been placed on compensation benefits out of fear of excessive costs. It is true that actual costs have run behind some estimates. But this is due to the restrictive criteria used in awarding claims more than a limitation in the actual number of potential beneficiaries. If these criteria are relaxed through the application of Federal compensatory benefits systems along the lines of recent black lung legislation, there is reason to believe the number of claims awarded will rise significantly. In the late 1960's, occupational disease claims represented from about 0.5 to 4 percent of the total workmen's compensation caseload. This should be compared with the rapidly expanding funding requirements of the black lung program.

Social security benefits are also inadequate. The benefits payable through workmen's compensation are augmented by money disbursed by the Social Security Administration in response to disability claims. The payments made under this Federal program are limited by the definition of worker "disability" and by the standards of proof of disability.

Generally, to obtain social security benefits for occupational dust diseases, a worker must carry the burden of proof as to the existence of the disease and prove he is totally disabled for any gainful employment. The Black Lung Benefits Act makes exception for coal miners by shifting the burden of proof through a rebuttable presumption and by defining disability with reference to coal mining.

What are some of the more serious respiratory diseases that are contracted by America's workingmen and women on the job?

First, silicosis. This condition is caused by the inhalation of silicon dust. The form of the dust and particle size have an effect on the nature of the tissue damage produced. The more chronic form of the disease is usually encountered after years of employment in an occupation where silica dust is a factor such as in foundries; stone cutting; clay products manufacturing; glass manufacturing; mining of lead, copper, silver, and gold; sandblasting, and so forth. The silica particles irritate the lung and cause a cellular reaction that leads to the formation of fibrous tissue and nodules. Some decrease in breathing capacity may accompany these changes. In later more serious stages, breathing capacity deteriorates significantly and emphysema frequently develops.

Clinical signs and symptoms include a cough, some sleep disturbance, chest pains, hoarseness, and later developments may lead to cyanosis and bronchopneumonia. Tuberculosis occurs with a frequency higher than is found in the general population. The diagnosis of silicosis is usually supported by X-ray examination. However, as in all pnuemoconioses, X-rays are not diagnostic of the real extent of the disability. In all cases recourse must be made to occupational history and descriptions of work environment.

Prevention by control of dust levels is the best means of eliminating or reducing the severity of the disease. Once fibrosis has developed in the lungs, there is no way of modifying the disease. Symptomatic treatment is used for advanced states.

The approximate number of workers exposed to silicosis-causing substances nationally is greater than 575,000. For Ohio the number is greater than 75,000.

Second, asbestosis. Three-and-one-

half million American workers exposed to asbestos face a dual threat. They are subject to the lung-scarring pneumoconiosis of their trade, asbestosis, and to cancer of the lung and body cavity—mesothelioma—associated with the inhalation of asbestos fibers.

Asbestosis is a term used to refer to a pulmonary fibrosis which may be accompanied by a severe respiratory impairment. The disease is slow in onset and progresses very slowly. Symptoms include a cough, loss of weight, and some cyanosis. Acute pneumonia may develop.

Recent research suggests very strongly that there may be a distinct relationship between lung cancer and asbestosis. There seems to be no progression in the disease—except for the development of cancer—once exposure stops. Treatment is for symptoms. Occupations in which exposure occurs include mining of asbestos, insulation production and installation, milling of asbestos fibers, maintenance of structures insulated with asbestos—shipbuilding trades—3.5 million workers nationally. Prevention is obtained by controlling levels of asbestos fibers in the air to a sufficiently low level to prevent development of the disease.

An exceedingly rare cancer, cancer of the mesothelia, has been found almost exclusively among asbestos workers.

The Occupational Safety and Health Administration is charged with protecting the health and safety of workers in the asbestos industry by setting acceptable asbestos dust exposure limits.

There has been considerable criticism of the exposure standards set by OSHA. In a recent report to the industrial union department of the AFL–CIO, doctors from Mount Sinai Hospital in New York predicted that tens of thousands of workers would die because of the inadequate regulations. "If our experiences of the past several years are a guide, 100,000 will die of lung cancer, 35,000 of chest cancer, and 35,000 of asbestosis." NIOSH confirming these warnings, currently projects 3,000 deaths each year due to past asbestos exposure among workers. Despite such warnings OSHA declined to substantially alter its exposure standards before 1976.

In Manville, N.J., as a result of exposure to asbestos, it is estimated that up to 30 percent of the 15,000 residents, including 75 percent of Johns-Manville employees, suffer from coughing and shortness of breath, which are among the principal symptoms of asbestosis.

Interestingly enough, the Office of Federal Employees' Compensation has accepted responsibility for the occurrence of mesothelioma among individuals formerly employed in Government shipyards during World War II, even though such exposure may have ended 30 years ago.

Third, berylliosis. This disease is an occupational hazard associated with the handling and extraction of beryllium from ore and in the manufacturing processes utilizing beryllium. A few instances have been reported in individuals living near the facility handling beryllium. A chronic disease has been described which may in some instances be associated with many years of exposure to low levels of the compound or it may occur with only brief exposures. The diagnosis is similar to that of silicosis; X-rays supported by clinical symptoms such as cough and chest pain. The chronic form of the disease often results in progressive loss of respiratory function. Some success has been achieved in treatments with the adrenocortical steroids.

Fourth, byssinosis. This term refers to a respiratory infection believed to be caused by some sensitizing protein in cotton fibers. The condition occurs as a bronchospasm after a long period of exposure to cotton or flax dust in the textile industry and then a brief absence from exposure followed by a new exposure.

As the disease progresses, chronic bronchitis may develop, followed by emphysema later on. This has been a confusing disease to characterize because of the similar effect of some climatic conditions, heavy smoking in the occupational population, and the fact that certain forms of air pollution produce the same kind of symptoms. However, pulmonary function tests such as airway resistance provide objective evidence for the concept of byssinosis as a separate disease entity. There is a characteristic X-ray pattern, according to the medical literature, and there does not seem to be the type of lung fibrosis associated with the other pneumoconioses.

Until recently—pre-1966—only a few cases of byssinosis had been described in U.S. medical literature, these observed by doctors and patients seeking advice. However, the experience of European countries suggests that one or two cases in a textile mill may indicate a byssinosis occurrence as high as 80 percent of risk-exposed work force.

Persons with byssinosis have been found to represent a significant proportion of groups of cotton textile workers who suffered from a shortness of breath in a recent U.S. survey. The approximate number of workers exposed to byssinosis-causing substances nationally is greater than 900,000. For Ohio, the number is greater than 9,000.

Fifth, bagassosis. This lung disease is produced by the inhalation of dust from stored bagass, which is the fibrous material left after the juices have been expressed from sugar cane. This fibrous material is used for the manufacture of insulating materials as well as for the manufacture of paper, fertilizers, explosives, animal feed, and brick.

The disease is evidenced as an acute pneumonitis or bronchiolitis. Some fever, cough, and irritation may be present. As the disease progresses, more severe symptoms will appear, such as cyanosis, weakness, nausea, and weight loss. An X-ray will show characteristic shadows similar to one form of tuberculosis. Some disturbance of pulmonary function occurs. Most individuals improve dramatically once they are removed from the source of irritation. Most cases have occurred in Louisiana and Puerto Rico.

The approximate number of workers exposed to bagassosis-causing substances nationally is greater than 770,000. For Ohio the number is greater than 50,000.

Sixth, diatomite pneumoconiosis. Diatomite or diatomaceous earth is composed of the siliculose skeletons of tiny aquatic plants known as diatoms. This nonmetallic mineral has found many industrial uses, such as filters, insulators, absorbents, and polishes.

As with most pneumoconiosis-causing dusts, the longer the exposure the more the chance of developing demonstrable lung changes. Exposure to this dust for as little as 1 to 3 years may produce definite X-ray evidence of pneumoconiosis. In this type of pneumoconiosis other symptoms correlate poorly with X-ray changes, except where pulmonary disability is extreme.

The approximate number of workers exposed to diatomite pneumoconiosis-causing substances nationally is greater than 275,000.

Seventh, talcosis. Commercial talc is a mixture of minerals which meets the physical requirement of being a smooth, bland powder. The material has a wide variety of uses. Effected occupations include cosmetic workers, paintmakers, papermakers, rubber cable coaters, rubber tiremakers, talc millers, talc miners, and talcum powdermakers. This disease results after prolonged inhalation of talc. Characteristic X-ray evidence of talc lung lesions is usually demonstrable.

The approximate number of workers exposed to talcosis-causing substances nationally is 715,000. In Ohio the number is greater than 100,000.

Eighth, Shaver's disease. Shaver's disease is produced as a result of the inhalation of fumes emitted by electric furnaces used for the manufacture of corundum. Both silica fumes are believed to be capable of causing lung damage and these materials are present in the fumes from manufacturing corundum. Unlike silicosis, Shaver's disease may develop quickly. Shaver's disease results in typical fibrosis in the lungs, attacks of breathlessness, and coughing with chest pain. Advanced stages of the disease will show a worsening of these symptoms leading in some instances to X-rays which suggest the development of emphysema.

The approximate number of workers exposed to substances causing Shaver's disease nationally is 20,000.

Ninth, lung cancer. There is rather convincing evidence that as to some occupations the incidence of lung cancer varies according to the area of work and the duration of employment. A report by the National Institutes of Health shows, for example, that men working topside of coke ovens 5 years or more have an incidence of lung cancer 10 times that of other steelworkers.

Because respiratory diseases are of critical importance to thousands of America's working men and women, I am today introducing the Respiratory Disease Benefits Act. This measure is designed to extend the same benefits which we have provided to America's coal miners to other categories of workers which I have described today. If we are able to pass this bill, thousands of America's workers will receive the same bene-

fits which are now provided under the Black Lung Benefits Act of 1972 to the coal miners of our country.

As to most of these diseases, it is easy to determine that they are occupationally related, because the worker has virtually no other way of contracting them. As to lung cancer, however, it is difficult to determine whether an employee has contracted lung cancer through natural causes, through smoking, or because of his working conditions.

We faced this same problem with respect to black lung disease last year. Autopsies showed that approximately 25 percent of black lung cases were not revealed through X-rays. Before we passed the 1972 law, many coal miners were being denied benefits solely because their disease could not be detected by an X-ray. To rely solely on the X-ray was to deny benefits to many men who in fact had contracted black lung disease. To eliminate the X-ray requirement, on the other hand, meant that we would be paying some men with respiratory disability who might not have black lung but might have another respiratory ailment.

I offered an amendment which struck a balance and resolved this problem. My amendment provided that, where a worker was engaged in coal mining for a specified period of time, there would be a presumption of black lung disease where there was other evidence of respiratory impairment, notwithstanding a negative X-ray.

In adopting this approach, Congress recognized the impossibility of determining which respiratory disabilities were occupationally related and which were not. To continue relying upon X-rays would mean the continued denial of benefits to many men who had been crippled with black lung disease.

The alternative, which we adopted, necessarily pays some men who would have contracted respiratory impairment even if they had never been near a coal mine. The presumption which the Taft amendment established was based upon the medical evidence that there was a strong correlation between respiratory impairment and black lung disease where a man had worked for an extended period of time in coal mining. I believe that a similar approach is necessary with respect to lung cancer under this bill.

The incidence of lung cancer for coke-oven workers, for example, with 5 years or more experience at topside jobs, is 10 times that of other steelworkers. The fact that coke-oven workers have such a high incidence of lung cancer indicates that most of these cases are occupationally related. Since we cannot determine the source of their lung cancer we must either provide benefits for all or benefits for none. Under these circumstances, I would rather provide benefits for all.

Therefore, this bill provides coverage for lung cancer victims where they have been employed for a period of not less than 5 years at a place of work which has an incidence of lung cancer among employees and former employees at least three times as great as the incidence of lung cancer among the general population.

Two months ago I requested the Department of Health, Education, and Welfare to calculate the cost of this bill. I am informed that they are apparently unable to do so at the present time. I, therefore, would hope that the committee could have the costs of this measure calculated so that we can allocate the resources at our disposal to those most in need.

We can no longer tolerate the unfair situation of providing benefits for one type of disabled workers and denying them to others. Those who are disabled with crippling respiratory diseases in the beryllium industry or in the asbestos industry are just as entitled to the benefits of this program as are America's coal miners. I hope that the compassion and the concern which the Congress and the President showed for America's coal miners can be extended to these other categories of workers who are just as much in need.

I ask unanimous consent that there be printed at this point in the RECORD the following:

"Long-Term Mortality Study of Steel Workers, Parts 4, 5, and 6," which appeared in the Journal of Occupational Medicine;

Articles entitled "A New Jersey Town Is Dying Fast," and "A Man With 8 Months to Live," by Robert Vare, which appeared in the New York Post, April 25 and 26, 1972;

"Pneumoconiosis in Ferrosilicon Workers—A Followup Study," by A. Swenson, M.D., et al., which first appeared in the Journal of Occupational Medicine;

"Respiratory Disease Associated with Beryllium Refining and Alloy Fabrication, 1968 Followup," by Jan Lieben, M.D., and Robert R. Williams, M.D., published in the Journal of Occupational Medicine;

"Byssinosis in Carding and Spinning Workers," by Eugenija Zuskin, M.D., et al.;

"Prevalence of Chronic Respiratory Disease, Asbestosis in Ship Repair Workers," by Benjamin G. Ferris, Jr., M.D., et al.; and

The text of the Respiratory Disease Benefits Act which I am introducing today.

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

LONG-TERM MORTALITY STUDY OF STEELWORKERS—IV. MORTALITY BY WORK AREA

(By J. William Lloyd, SC.D.; Frank E. Lundin, Jr., M.D., DR. P.H.; Carol K. Redmond, SC.D.; and Patricia B. Geiser, R.N., M.S.)

This report is the fourth of a series concerned with the study of chronic disease mortality in relation to prior occupational history. This paper examines the relationship between employment within specified areas of the steel industry and mortality from all causes during the period 1953–1961. By comparison of deaths observed among workers from each work area with the number of deaths predicted by the experience of the total steelworker population, those areas which are significantly high or low are identified. For work areas exhibiting significant deviation in total mortality, cause-specific patterns of mortality are evaluated under two definitions of population at risk. Possible explanations for these differences in terms of potential occupational hazards and selection for health are considered. Subsequent reports will consider those work areas which, while exhibiting about the expected level of mortality from all causes, show significant differences in mortality from certain specific causes.

Before attributing an unusual disease occurrence to factors in the working environment or, conversely, before concluding that no relationship exists, account must be made of factors which may produce spurious relationships. Several major sources of nonetiologic associations have been identified; therefore, it is important that they be considered in the epidemiological approach to the study of occupational disease.

An important source of bias which may lead to incorrect inferences is the choice of a comparison or control group. The general problem of selecting adequate comparison groups for occupational studies has been discussed by Enterline, and an earlier paper in this series has shown more specifically that the total steelworker population experienced lower mortality than the general population. In the present report, the total group of steelworkers was used for comparison with men employed in each of the work areas within the industry. This is preferable to comparison with the general population in that it overcomes selection related to employability, but it should be recognized that uncontrolled selective factors are probably operant. Principal among these is selection for health which may be expected to occur within specific work areas. Thus, for certain occupations that are very demanding and require good health for initial and continued employment, the less healthy individual would be expected to choose work in other areas or, by company policy, be assigned to less demanding areas when ill health develops. Consequently, certain work areas may show marked deficits or excesses in mortality unrelated to exposure in the occupational environment. Since little is known concerning these selective factors, differences in mortality by work area must be interpreted with caution.

It is also important to note that incorrect inferences regarding occupational disease may result from failure to consider factors unrelated to the occupational environment. If the study and control groups are different with respect to characteristics related to differential mortality, account must be made for these factors in measuring differences in mortality. Another advantage in using the total steelworker population for comparison is that mortality rates can be calculated over several of these variables for which general population rates are not available.

MATERIALS AND METHODS

Details of the data collection procedure have been noted previously. Each of the 58,828 steelworkers employed in 1953 was classified by work area at initial observation in 1953, and by areas in which a minimum of five years of employment was completed sometime before the end of 1961. The number of steelworkers included in this report differs slightly from that originally reported, as subsequent review of work histories identified a small number of men who were not employed in 1953.

The number of deaths expected in each work area for specified race, age, nativity, and residence was calculated by applying the specific rate of the total steelworker population to the number at risk in the work area. Expectations over the various levels of these characteristics were then obtained by summation. In order to point out the more striking differences between observed and expected mortality for specified work areas and within the demographic subdivisions, a one degree of freedom summary chi-square was calculated.

FINDINGS

The number employed in each work area in 1953 and standardized mortality ratios for all causes are shown in Table I. These ratios by work area were divided fairly evenly above and below the total steelworker rate,

25 areas showing a greater than expected mortality; and 28, a lower than expected mortality. Although such a division is not unexpected, it should be noted that approximately half the work areas show a lower mortality rate than expected. Because of concern with potential hazards in the occupational environment, most studies of occupationally related disease have been directed at the identification of employed groups showing excess disease, and deficits have been mostly ignored. However, deficits in mortality may indicate the selection of more healthy individuals into certain work areas and, as a possible consequence, the assignment of less healthy individuals to other areas. For that reason, an evaluation of the relationship between area of employment and consequent mortality must include an assessment of excesses and deficits.

TABLE I.—NUMBER EMPLOYED IN 1953, OBSERVED AND EXPECTED DEATHS FROM ALL CAUSES AND STANDARDIZED MORTALITY RATIOS STEELWORKERS 1953–1961

[Steelworkers 1953–61]

Work area	Number employed	Observed deaths	Expected deaths	SMP[1]
All steelworkers	58,828	4,685	4,685.0	100
Annealing normal zing	1,367	121	109.2	111
Batch pickling sheet dry	76	6	5.8	103
Billet bloom and slab	3,136	290	277.5	105
Blacksmith shop	271	26	28.2	92
Blast furnace	3,455	244	265.6	92
Carpenter shop	406	29	40.9	[2]71
Coating	332	19	23.4	81
Coke plant	2,552	206	198.9	104
Continuous pickling and electric cleaning	205	12	9.8	122
Cold reducing mills	1,499	100	87.1	115
Electric maintenance assignment	1,616	118	127.3	93
Electric furnace	742	46	43.8	105
Electric shop	561	39	49.5	79
Foundry	1,143	90	101.1	89
General administration and clerical	3,312	224	240.8	93
General finish and shipping	473	38	40.2	95
General receiving and stores	196	17	19.0	89
General technical	2,373	123	130.1	95
General labor	969	84	78.4	107
Heat treatment and forging	1,015	75	78.1	96
Hot pack mills	572	55	66.6	83
Hot strip mill	161	19	17.0	112
Hot strip rolling	1,014	63	73.9	85
Janitors	521	113	84.5	[3]134
Loco and car repair	129	11	11.7	94
Machine shop	1,450	151	130.2	[2]116
Machine NOS	71	6	9.0	67
Mason department	1,742	99	96.6	102
Mechanical maintenance assignment	2,744	278	237.3	[2]117
Merchant mills	2,524	206	226.4	91
Open hearth	7,629	560	587.2	95
Paint shop	263	22	19.2	115
Pattern shop	68	5	6.2	81
Pipe shop	744	64	63.0	102
Plant protection	676	91	77.4	118
Plate mill	1,789	160	155.9	103
Power and fuel	1,393	103	115.1	89
Rail mill finishing	445	39	35.7	109
Rail mill rolling	380	32	35.2	91
Riggers and structural	1,180	96	106.0	91
River	219	23	22.6	102
Roll shop	377	34	34.9	97
Sheet finishing and shipping	1,770	154	129.8	[3]119
Soaking pits	111	4	6.9	58
Stain anneal picking and processing	47	9	5.6	161
Steel yards	69	8	5.8	128
Structural mill	1,437	112	106.9	105
Temper pass and cold roll	369	18	21.0	86
Tin finishing and shipping	399	26	29.5	88
Transportation and yard	1,634	131	128.4	102
Tube finishing	227	21	18.3	115
Weld shop	642	39	40.5	96
All other work areas	333	26	26.1	100

[1] $SMR = \frac{\text{Observed deaths}}{\text{Expected deaths}} \times 100$. Significance based on summary chi-square with 1° of freedom. [2] 5 percent level. [3] 1 percent level.

Five of the 53 work areas considered displayed a statistically significant difference in mortality from that predicted by total steelworker experience. One of these, the carpenter shop, had an all-causes mortality rate 29 per cent lower than expected. Higher than expected mortality was observed for janitors (33.7 per cent), machine shop (16.0 per cent), mechanical maintenance assigned (17.2 per cent), and sheet finishing and shipping (18.6 per cent). Examination of race-specific rates for each work area revealed one additional area with significant variation from expectation. Fourteen deaths from all causes were noted among nonwhite steelworkers employed in the cold reducing mills as compared to 7.4 deaths expected. White steelworkers employed in this area showed about the expected level of mortality.

The distribution of observed and expected deaths from selected causes for each of these areas is shown in Table II. In this and subsequent tables, deaths for the two races are presented separately only when at least five deaths from all causes were either observed or expected.

TABLE II.—OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CAUSES, 1953–61: MEN EMPLOYED IN SPECIFIED WORK AREAS IN 1953

Work areas and race	Malignant neoplasms			Vascular lesions affecting CNS		
	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR
Carpenter shop: Total	6	8.5	71	2	3.6	(1)
Cold reducing mill:						
White	17	15.9	107	3	5.1	59
Nonwhite	1	1.6	(1)	3	.8	(1)
Janitors:						
White	13	11.0	118	8	5.0	160
Nonwhite	9	8.4	107	5	3.0	167
Machine shop: Total	36	27.6	130	18	10.7	[2]168
Mechanical maintenance assignment: Total	53	51.1	104	18	18.4	98
Sheet finishing and shipping: Total	30	26.6	113	15	9.5	158

Work areas	Heart disease			Accidents			All other causes		
	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR
Carpenter shop	11	17.8	62	3	2.7	(1)	7	8.4	83
Cold reducing mill	33	31.5	105	6	7.0	86	27	20.2	134
	4	1.9	(1)	2	.7	(1)	4	2.3	(1)
Janitors	31	20.9	[2]148	3	2.2	(1)	13	9.2	141
	12	11.7	103	4	2.6	(1)	15	10.6	142
Machine shop	58	54.9	106	6	9.0	67	33	28.0	118
Mechanical maintenance assignment	128	100.8	[3]127	21	16.5	127	58	50.6	115
Sheet finishing and shipping	60	55.6	108	12	10.2	118	37	27.9	133

[1] Less than 5 deaths
[2] 5 percent level
[3] 1 percent level

Several patterns by cause were seen within these groups. Men employed in "mechanical maintenance assigned" and white steelworkers employed as janitors showed a significant excess in deaths from heart disease. Nonwhite janitors, on the other hand, had about the expected number of deaths from this cause. Although none of the cause-specific deficits seen for "carpenter shop" were significant, the greatest deficit was observed for deaths from heart disease. A significant excess in deaths from vascular lesions affecting the central nervous system was observed for men employed in the machine shop and, although not statistically significant, the greatest excess for men employed in sheet finishing and shipping was also due to this cause. The significant excess in all-causes mortality for nonwhite steelworkers employed in the cold reducing mills did not appear to be due to any specific cause. How-

ever, the small number of deaths expected in this area does not allow a firm conclusion.

Another common method for relating mortality to area of employment is to define the population at risk as those men employed in a work area for some minimal period, e.g., five years. If disease response is a function of length of exposure, limiting the definition to those employed at a single point in time may mask differences by the inclusion of many men with short periods of exposure. The next consideration then, is the group of men employed in each work area for at least five years. Because some of these men will have attained five years employment at a later date than the initial observation in 1953, they would not have been at risk of death during the total interval 1953–1961. For that reason, the number of persons at risk in a work area was specified in terms of person-years at risk. That is, for each man the time at risk from attainment of five years in a work area to the end of observation (date of death or December 31, 1961) was calculated. For men attaining five years prior in 1953, the initial date at risk was January 1, 1953.

The determination of the number of deaths expected in each work area also required a redefinition of the comparison group. If the mortality experience of those with short time exposures is different from the mortality experience for those with long exposures, the total steelworker population would not be an appropriate comparison group, since men with short exposures would be included in the control but not in the work area population. The group chosen for comparison, therefore, was the set of all steelworkers attaining five years employment in the industry prior to or during the period 1953–1961. Age, race, residence, and nativity-specific rates for this group were applied to the comparable person-years at risk for each area to determine the number of expected deaths.

Those work areas exhibiting significant excesses or deficits in mortality from all causes for either race are shown in Table III. Of the differences noted, seven indicated greater than expected mortality; and four, a rate lower than expected. It is interesting to note that in each area in which numbers were sufficient to contrast the two races, the difference was limited to only one race. Although five of the six areas showing marked differences for those employed in 1953 were also included here (mortality for machine shop employees was not significantly greater than expected), six additional areas were seen to have significant excess or deficits in all-causes mortality when length of employment was considered. A review of the findings for those employed in these six work areas in 1953 demonstrates that the limitation of the group at risk to those having five years employment in the area has, in most cases, accentuated differences which had been suggestive.

For example, the deficits for general finishing, and shipping, maintenance NOS, and the merchant mills and the excess mortality for coke plant workers were observed for men employed in 1953, but the differences were not significant. On the other hand, the significantly greater mortality of white steelworkers employed at least five years in general labor contrasted sharply with a slight deficit seen for those employed in 1953. This suggests that the inclusion of short-term employees may have masked important differences.

Observed and expected deaths from selected causes are shown in Table IV for the work areas considered in Table III. The excess in all-causes mortality for men employed in batch pickling-sheet drying and for white steelworkers employed either as laborers, as janitors, or in mechanical maintenance assigned is seen to be associated with a significant excess in deaths from heart disease. Each of these work areas also showed excess mortality for noncardiac causes as a group although none of the cause-specific excesses were significant and several deficits were observed. The same pattern of association between heart disease and other causes of death was also observed for several areas with lower than expected mortality from all causes. Heart disease mortality for men employed in maintenance NOS was only 23 percent of the expected level ($p < .01$) and mortality from other causes was only 44 percent of that predicted by total steelworker experience. Although the number of deaths was too small for drawing firm conclusions, it should also be noted that the deficit mortality for nonwhites in general finishing and shipping followed this same pattern. The deficit in heart disease mortality observed for carpenters employed in 1953 was also apparent for men employed at least five years but the difference was still not significant. A significant deficit in deaths from malignant neoplasms, which was suggested for those employed in 1953, was now observed. Mortality from causes other than malignant neoplasms and heart disease were at about the expected level for carpenters. Another interesting feature of the findings for heart disease was that, when numbers were sufficient to compare the experience of the two races, the differences were limited to only one race.

TABLE III.—PERSON YEARS AT RISK, OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR ALL CAUSES, 1953–61

[Men employed at least 5 years in specified work areas]

Work area and race	Person years at risk	Observed deaths	Expected deaths	Standardized mortality ratio
Batch pickling-sheet drying: Total	525	18	9.9	[1] 182
Carpenter: Total	2,963	30	44.4	[1] 68
Coke plants:				
White	11,549	130	130.8	99
Nonwhite	6,509	96	78.7	[1] 122
Cold reducing mills:				
White	8,204	71	70.7	100
Nonwhite	593	14	6.3	[2] 222
General finish and ship:				
White	4,385	69	64.4	107
Nonwhite	1,041	8	16.9	[1] 47
General labor:				
White	4,989	102	81.6	[1] 125
Nonwhite	3,636	49	46.1	106
Janitors:				
White	1,117	54	34.5	[2] 157
Nonwhite	2,015	33	33.1	100
Maintenance NOS: Total	2,246	10	28.9	[2] 35
Mechanical maintenance assignment:				
White	22,313	377	318.4	[2] 118
Nonwhite	721	16	14.3	112
Merchant mills:				
White	18,372	253	266.9	95
Nonwhite	2,966	28	42.4	[1] 66
Sheet finisher and shipper:				
White	13,466	158	133.5	[1] 118
Nonwhite	438	5	7.3	68

[1] 5 percent level

[2] 1 percent level

TABLE IV.—OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CAUSES, 1953–61: MEN EMPLOYED AT LEAST 5 YEARS IN SPECIFIED AREAS

Work areas and race	Malignant neoplasms			Vascular lesions affecting CNS		
	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR
Batch pickling, sheet drying: Total	3	2.4	(1)	1	0.8	(1)
Carpenter shop: Total	3	9.7	[2] 21	2	3.9	(1)
Coke plant:						
White	29	28.3	102	15	10.4	144
Nonwhite	40	19.6	[1] 204	9	6.8	132
Cold reducing mills:						
White	17	14.6	116	3	5.1	59
Nonwhite	1	1.4	(1)	3	.7	(1)
General finishing and shipping:						
White	10	14.1	71	7	5.3	132
Nonwhite	1	4.4	(1)	2	1.4	(1)
General labor:						
White	16	18.4	87	9	7.1	127
Nonwhite	14	11.4	123	4	4.4	(1)
Janitors:						
White	9	7.9	114	6	3.4	176
Nonwhite	11	8.6	128	4	3.0	(1)
Maintenance, NOS: Total	2	6.2	32	1	2.1	(1)
Mechanical maintenance assignment:						
White	76	70.1	108	26	26.4	98
Nonwhite	3	3.8	(1)	2	1.4	(1)
Merchant mills:						
White	65	59.1	110	19	22.9	83
Nonwhite	5	10.7	47	4	3.8	(1)
Sheet finishing and shipping: Total	36	30.0	120	18	10.5	[2] 171

Footnotes at end of table.

TABLE IV.—OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CAUSES, 1953–61: MEN EMPLOYED AT LEAST 5 YEARS IN SPECIFIED AREAS—Continued

Work areas and race	Heart disease			Accidents			All other causes		
	Observed deaths	Expected deaths	SMR	deaths	Expected Deaths	SMR	Observed deaths	Expected deaths	SMR
Batch pickling; sheet drying: Total	9	3.9	[2] 231	2	0.5	[1]	3	2.2	[1]
Carpenter shop: Total	13	19.5	67	3	2.2	[1]	9	9.2	98
Coke plant:									
White	54	56.3	96	9	7.4	122	23	28.4	81
Nonwhite	19	24.2	79	5	5.2	96	23	22.9	100
Cold reducing mills:									
White	30	29.9	100	1	4.6	[1]	20	16.5	121
Nonwhite	4	1.9	[1]	2	.4	[1]	4	1.9	[1]
General finishing and shipping:									
White	39	28.6	136	3	3.4	[1]	10	13.1	76
Nonwhite	2	5.4	37	1	1.0	[1]	2	4.8	[1]
General labor:									
White	48	35.2	[2] 136	8	4.1	195	21	16.8	125
Nonwhite	11	14.2	77	2	2.9	[1]	18	13.2	136
Janitors:									
White	26	15.1	[3] 172	4	1.4	[1]	9	6.7	134
Nonwhite	8	10.5	76	1	1.8	[1]	9	9.2	98
Maintenance NOS: Total	3	13.1	[3] 23	1	1.5	[1]	3	6.0	50
Mechanical maintenance assignment:									
White	177	140.4	[3] 126	19	16.5	115	79	65.0	122
Nonwhite	5	4.5	111	0	.7	[1]	6	4.0	150
Merchant mills:									
White	108	114.4	94	16	13.8	116	45	56.7	79
Nonwhite	14	13.6	103	1	2.2	[1]	4	12.1	[2] 33
Sheet finishing and shipping: Total	61	61.6	99	11	8.5	129	37	30.2	123

[1] Less than 5 deaths.
[2] 5 percent level.
[3] 1 percent level.

In contrast with the foregoing, steelworkers employed in sheet finishing and shipping had about the expected level of mortality from heart disease, but showed excess mortality for each of the other causes. The excess in mortality from vascular lesions affecting the central nervous system was significant. Nonwhite steelworkers employed in the merchant mills also showed about the expected level of heart disease mortality, but deaths from "all other causes" were significantly lower than expected. A review of more specific causes within this grouping did not identify any single cause to account for this difference.

The most striking disparity in mortality for the two races was seen in the coke plant. Nonwhite steelworkers employed in this area showed more than double the expected level of mortality from malignant neoplasms; white mortality from this cause was as expected. As a group, mortality from nonmalignant causes for coke plant workers of either race was similar to expectation. The small number of deaths observed for nonwhite steelworkers employed in the cold reducing mills was insufficient for attributing the excess in mortality to any specific cause.

DISCUSSION

There are several criteria which may be used to differentiate between excessive mortality as a consequence of environmental exposures and excesses associated with selection for health. First is the specificity of the response. If the excess were limited to a single cause of death or a single organ system, there would be an inclination to suspect a causative agent in the occupational environment, since movement from one work area to another due to ill health would be expected to involve more than one cause of illness. The converse does not follow; i.e., if excess disease were seen for many causes or systems, the occupational environment cannot necessarily be ruled out as a causative factor.

How, then, to differentiate between the real and the spurious association in this circumstance? It is here that the identification of areas with deficit mortality becomes important. If certain patterns of excess mortality are associated with selection for health, compensatory patterns of deficit mortality for other areas might be expected. Such a configuration was observed in the present study. A number of work areas were noted to have a significant excess of deaths from heart disease concomitant with a less striking excess for most other causes. A similar pattern of deficit mortality (a more marked deficit for heart disease than for other causes of death) was observed in two of the work areas.

The question arises, then, as to why selection for health should be more likely for steelworkers dying from heart disease. Information from two sources suggests that migration from one work area to another may be more likely among persons with heart disease. *First,* men exhibiting symptoms of cardiac insufficency, such as shortness of breath, move to more sedentary jobs upon recommendation of a physician or on their own volition; and men who have recovered from an attack of coronary heart disease are often returned to employment at less demanding work. Two areas to which these men are frequently assigned are those of janitor and mechanical maintenance assigned. *Second,* the steelworker who died from heart disease was more apt to have been known to the 1953 employer at the time of death than men who died from other causes. Although such a finding most probably results from a combination of selective factors which have yet to be identified, it suggests the possibility that persons with heart disease may be more likely to be continued in employment after the recognition of disease.

Since general labor seems an unlikely area to assign men with recognized heart disease, the excess mortality from this cause for laborers probably cannot be explained by the movement of less healthy persons into the work area. Rather, the disparity between the slight deficit in mortality for men employed in this area in 1953 and the excess noted for those employed at least five years suggests that the heart-disease excess, if due to selection, may have resulted from movement out of the area of the more healthy steelworker. A definitive determination of factors associated with intra- and extra-plant migration must await more detailed analysis; however, at least one mode of possible selection is worth mentioning. Since the general labor group may serve as a pool for persons selected for promotion to more skilled occupations, and since health factors such as sick absences may be related to selection for promotion, the more healthy individual may have a greater chance to move out of this area.

Two work areas were noted in which heart disease was at the expected level but other causes of death were markedly different from expectation. Deaths from all causes among nonwhite steelworkers employed in the merchant mills were only two-thirds the number expected, even though the heart disease rate for these men was at the expected level. This deficit cannot be attributed to any specific cause. In contrast, steelworkers employed in sheet finishing and shipping who showed the expected level of heart disease mortality had a significant excess in mortality from vascular lesions of the central nervous system and a 22 per cent excess in mortality from causes other than heart disease and vascular lesions of CNS. There was no apparent explanation for either of these differences in terms of selection for health. Examination of the disease pattern by age for men employed in sheet finishing and shipping showed that the excess for vascular lesions of CNS was not limited to the older ages. It is also interesting to note that all the excess from other causes was among men under 55 years of age. The absence of any explanation for health selection limited to the younger ages suggests that these excesses may be related to factors in the work environment.

A second criterion for differentiating effects due to occupational exposures and those associated with selection for health is consistency of findings within a work area over the various subgroups of the population such as race, nativity, and residence. Thus, unless reasonable explanations for differential selection for health or susceptibility to disease can be postulated, disease resulting from exposure in the occupational environment would be expected to be evident in both white and nonwhite steelworkers. It has been seen, however, that many of the cause-specific differences appear to be limited to only one race. In the case of the heart-disease excess for janitors and men employed in mechanical maintenance assigned, a different pattern for the two races may be explained in part by the assignment of men with heart disease to these areas. It was noted in the first report of this series that the heart-disease risk for white steelworkers, as indicated by mortality from arteriosclerotic and degenerative heart disease, was 52 per cent greater than the risk for nonwhite steelworkers. Thus, if selection for health is more likely for the steelworker with heart disease, selection among the nonwhites may not be obvious.

The most striking difference between the two races was seen in mortality from malignant neoplasms for men employed in the coke plant. The fact that one of the other

work areas, the carpenter shop, showed a significant deficit for this disease might suggest that selective factors are operating. The differing distribution by race, however, ruled out such an explanation since men employed in the carpenter shop were predominantly white and no excess of malignant neoplasms was seen for white coke plant workers. Nonwhite steelworkers employed in the coke plant, on the other hand, experienced double the expected rate of mortality from malignant neoplasms.

A more detailed examination of deaths from malignant neoplasms of specific sites revealed that all the excess for nonwhite coke plant workers was due to malignant neoplasms of the respiratory system: 25 deaths from this cause were observed among nonwhite steelworkers employed at least five years in the coke plant, whereas only 7.3 deaths would be expected. The comparable number of deaths for whites employed in this area were seven observed and 8.4 expected. Thus, although this was the only work area to show a specific disease response, the experience of the two races with respect to the response was quite different. Although there is no immediate explanation for the differences between the races, there is no reason to believe that such a striking excess of disease to one system could be due to selection for health. It is, therefore, suggested that the excess of malignant neoplasms of the respiratory system was due to factors in the coke plant environment.

Environmental factors cannot be completely ruled out but the data presented here suggest that many of the excesses in mortality for specific work areas in the steel industry may have been due to selection for health rather than environmental exposures. It should be recognized, however, that the present paper provides only a glimpse of a very complex problem. An understanding of the relationships between health and changes in occupational status requires study of many factors not considered here.

SUMMARY

This paper, the fourth of a series concerning the mortality of steelworkers, examines the variation in all-causes mortality by work area for the 58,828 men employed in 1953. Age, race, nativity, and residence-specific rates for the total steelworker population were applied to the number at risk in each area to determine the expected number of deaths. Four of 53 work areas showed a statistically significant excess of deaths; and one area, a significant deficit in mortality. One work area had an excess of mortality limited to nonwhite steelworkers.

Data are also presented for men employed five years or more in each work area. Six additional areas of excess or deficit mortality were identified in this way. For work areas exhibiting significant deviation in total mortality, under either definition of population at risk, cause-specific patterns of mortality were evaluated in terms of health effects on job mobility.

Of general interest to the study of occupational disease are the following observations:

1. Limiting the study population to men employed at a single point in time may mask differences of etiological significance.

2. Cause-specific configurations of excess and deficit mortality for certain work areas suggest that a number of these differences may be due to health selection.

3. Two exceptions which did *not* appear to be due to selection for health were the excess mortality from vascular lesions of the central nervous system for men employed in sheet finishing and shipping and excess mortality from malignant neoplasms of the respiratory system for nonwhite coke plant workers. It is suggested that these differences may be due to factors in the working environment.

LONG-TERM MORTALITY STUDY OF STEELWORKERS—V. RESPIRATORY CANCER IN COKE PLANT WORKERS

(J. William Lloyd, Sc. D.)

("I take it that no pathological question is ever so thoroughly settled or so deeply buried but that it contains the germs of new questions in pathology, often more complex and more difficult to answer than the original question. Sooner or later these present themselves, not always in a welcome fashion, and not always to the original inquirer, but with a repeated intrusion which at length compels attention."—Butlin)

In the fourth paper of this series we reported that mortality from respiratory cancer for men employed in the coke plant is two times the rate observed generally among steelworkers. We also noted that all of the difference in mortality from this disease is due to a three-fold excess for nonwhite workers.

The purpose of the present paper is to delineate further the source of the respiratory cancer excess within the coke plant environment; to clarify, to the extent possible, the apparent differential in mortality for white and nonwhite workers; and to relate the differences observed to other reports of unusual cancer mortality in occupations with related environmental exposures.

By reference to work histories, the study population is further classified according to calendar period and duration of employment within several subdivisions of the coke plant. Race-specific mortality for malignant neoplasm of the respiratory system and for other selected causes is presented for each subdivision. The patterns of mortality observed within these groups are then evaluated by comparison with expected mortality based on total steelworker population experience. Finally, we contrast the cancer experience of the several groups of coke plant workers with that reported for other industrial groups with similar environmental exposures, and consider the implications of differences in site-specific cancer mortality.

BACKGROUND

The primary function of the coke plant is the production of metallurgical coke for use at the blast furnace. A secondary function is the recovery of chemical by-products during the transformation (high temperature carbonization) of bituminous coal into coke. Prior to World War I the main source of metallurgical coke in the United States was the beehive coke oven. These ovens were used solely for the production of coke, and the volatile matter produced during carbonization was emitted into the atmosphere. The by-product coke plant, which allows for recovery of tar, oils and chemicals from the volatiles, was introduced around the turn of the century and by 1931 by-product ovens accounted for 80 per cent of coke production. In recent years, except for brief periods during World War II and the Korean War, this figure has been about 95 per cent. All of the coke plant workers included in the present report were employed at by-product plants.

In addition to the production of metallurgical coke, there are several other methods of coal carbonization which are of interest because of common exposure to the volatiles and their by-products, and there are previous reports of unusual cancer experience in workmen employed in these areas. Major among these processes are the production of household gas in vertical and horizontal retorts and the generation of producer gas for industrial use.

MATERIALS AND METHODS

One of the most challenging tasks in the long-term study of occupational disease is the classification of the work force according to distinctive environmental exposures. Even when detailed work histories are available, as in the present study, the variable use of many job titles and abbreviations among firms and over long periods of time makes categorization difficult. Classification according to well-defined work areas is also precluded by the use of generic terms which describe neither the specific occupation nor the specific work area, or by the use of titles appropriate to more than one work area. The title "laborer, coke plant," for example, defies categorization in the absence of other information. Fortunately, the great majority of coke plant titles noted in the steelworker histories could be assigned to discrete work areas. It should be noted, however, that the classification scheme used for the present report produces some changes in work area designation from that shown in an earlier report. This results primarily from further clarification of obsolete job titles and a reinvestigation of work histories which included generic titles. These reclassifications produce only slight changes in mortality by work area from that reported earlier.

The modern by-product coke plant is a semicontinuous operation which may be subdivided into three rather distinct work areas in terms of function and potential exposure to environmental hazards. These are: (1) the coal handling area where coal is received by rail or barge and where provision is made for the handling, storage and blending of several types of coal before transfer to the coke ovens; (2) the coke ovens, grouped into one or more batteries, with equipment for charging and discharging the ovens and the quenching of coke; and (3) a by-products plant for recovery of gas and chemical products. Variation in work area definition among plants and our desire to subdivide the coke plant population according to potential areas of exposure required some interpretation of work areas designations stated in the occupational history. Because of prior reports of higher lung cancer rates for men engaged primarily in the coal carbonization process, our interest centered on men employed at the coke ovens or in the immediate vicinity. Therefore, certain occupational titles indicating employment some distance from the coke ovens were assigned to a nonoven group, even though the work area noted in the occupational history was "ovens." The nonoven group included all job titles which designate employment only in the coal handling and by-product areas and general coke plant occupations which would rarely require employment in the immediate vicinity of the coke ovens. Conversely, certain coke plant maintenance titles which require periodic employment at the ovens were included in the coke oven group, although the indicated work area may not have been "ovens." The coke oven group includes all job titles requiring some part of the working day spent at the topside of the ovens or the side of the ovens, including the quenching station, the coke wharf and the coke screening station. In this way each period of employment for the individual coke plant workers was designated as coke oven or non-coke oven.

The mortality experience from 1953 to 1961 of men employed in each of the two areas and certain subdivisions is contrasted with the experience predicted by the age-, race- and nativity-specific rates for the total population of steelworkers, and significant differences are deterined by a summary X-square test.

THE POPULATION AT RISK

The number of men employed in coke oven and nonoven areas in 1953 and in prior years is shown in Table I. Of the 58,828 steelworkers employed in 1953, 2,552 worked in the

coke plant. However, an additional 978 steelworkers employed in other work areas in 1953 had been employed at the coke plant in some prior year. We have noted previously the effect of excluding part of the population at risk by restricting the study group to those employed at a single point in time. In the present case, limiting the study to men employed in 1953 would exclude 28 per cent of men with prior coke plant exposure and 35 per cent of men with prior coke oven exposure.

Differing distributions by race within the two work areas of the coke plant are seen for 1953 and for prior years. Eighty-nine per cent of nonwhite workers were employed at the coke ovens in 1953 compared to only 32 per cent of white workers. A marked difference in these proportions is still evident after inclusion of men employed in the coke plant only in prior years (nonwhite, 91 per cent; white, 42 per cent). It is also interesting to note that a greater proportion of white coke oven workers would be excluded by limiting work area classification to a single year. Forty-eight per cent of white workers with prior coke oven exposure were not employed at the coke oven in 1953, whereas only 24 per cent of nonwhite coke oven workers were in this category.

MORTALITY OF MEN EMPLOYED IN 1953

Observed and expected deaths by area of employment in 1953 are shown in Table II. All causes mortality for coke oven and nonoven workers is seen to be only slightly higher than that predicted by total steelworker experience, with both groups showing the same relative risk (SMR=104). On the other hand, both groups show significant deviation from expectation for certain causes of death. The excess mortality from respiratory neoplasms for coke plant workers is seen to be limited to men employed at the coke ovens with 20 deaths observed, compared to 7.5 expected. In contrast, the nonoven workers, whose mortality from respiratory neoplasms is about as expected, show a significant excess of deaths from nonmalignant diseases of the respiratory system (8 observed versus 3.7 expected).

The mortality patterns by race for coke oven and nonoven workers employed in 1953 present a mixed picture. A three-fold excess for nonwhite workers accounts for almost all of the difference in respiratory neoplasm mortality for coke oven workers (17 observed versus 5.7 expected). However, the experience of nonwhite workers employed in the nonoven area suggests a similar risk (4 observed versus 1.1 expected). White workers employed in the nonoven area show a deficit of deaths from respiratory neoplasms, while the experience of white coke oven workers is consistent with an excess, but based on insufficient numbers to draw conclusions (3 observed versus 1.9 expected). Both white and nonwhite workers employed in the nonoven area in 1953 show excess mortality from diseases of the respiratory system, but neither difference is significant.

TABLE 1.—DISTRIBUTION OF COKE PLANT WORKERS BY WORK AREA, RACE, AND PERIOD OF EMPLOYMENT

	Coke plant	Coke oven		Nonoven	
		Number	Percent	Number	Percent
Employed in 1953:					
Total	2,552	1,327	52.0	1,225	48.0
White	1,645	520	31.6	1,125	68.4
Nonwhite	907	807	89.0	100	11.0
Employed in 1953 or prior years:					
Total	3,530	2,048	58.0	1,482	42.0
White	2,369	993	41.9	1,376	58.1
Nonwhite	1,161	1,055	90.9	106	9.1

TABLE II.—OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CAUSES BY RACE, 1953 TO 1961; MEN EMPLOYED IN COKE PLANT AND SUBDIVISIONS IN 1953

Cause of death	Coke plant			Coke oven			Nonoven		
	Observed deaths	Expected deaths	SMR[1]	Observed deaths	Expected deaths	SMR[1]	Observed deaths	Expected deaths	SMR[1]
All causes (total)	206	198.9	104	100	96.6	104	106	102.3	104
Malignant neoplasms—respiratory system	25	14.3	[2] 175	20	7.5	[2] 267	5	6.8	74
Malignant neoplasms—digestive organs and peritoneum	16	14.8	108	4	6.5	62	12	8.3	145
Other malignant neoplasms	18	14.8	122	10	7.6	132	8	7.0	114
Vascular lesions affecting central nervous system (CNS)	19	16.2	117	7	7.9	89	12	8.3	145
Heart disease	64	73.0	88	22	31.7	69	42	41.3	102
Diseases of respiratory system	12	7.7	156	4	4.0	[3]	8	3.7	[4] 216
All other causes	52	58.1	90	33	31.3	105	19	26.8	71
All causes (white)	114	121.1	94	25	31.4	80	89	89.7	99
Malignant neoplasms—respiratory system	4	7.5	53	3	1.9	[3]	1	5.7	18
Malignant neoplasms—digestive organs and peritoneum	11	9.8	112	1	2.4	[3]	10	7.4	135
Other malignant neoplasms	7	8.0	88	2	2.1	[3]	5	6.0	83
Vascular lesions affecting CNS	13	9.4	138	1	2.3	[3]	12	7.2	167
Heart disease	47	50.2	94	9	12.8	70	38	37.4	102
Diseases of respiratory system	6	4.1	146	0	1.0	[3]	6	3.1	194
All other causes	26	31.9	82	9	8.9	101	17	23.0	74
All causes (nonwhite)	92	77.8	118	75	65.2	115	17	12.6	135
Malignant neoplasms—respiratory system	21	6.8	[2] 309	17	5.7	[2] 298	4	1.1	[3]
Malignant neoplasms—digestive organs and peritoneum	5	4.9	102	3	4.1	[3]	2	.8	
Other malignant neoplasms	11	6.7	164	8	5.6	143	3	1.2	[3]
Vascular lesions affecting CNS	6	6.8	88	6	5.6	107	0	1.1	[3]
Heart disease	17	22.8	75	13	18.9	69	4	3.9	[3]
Diseases of respiratory system	6	3.6	167	4	3.0	[3]	2	.6	[3]
All other causes	26	26.2	99	24	22.4	107	2	3.8	[3]

[1] SMR = (Observed deaths / Expected deaths) × 100. Significance based on summary X-square with 1 degree of freedom.

[2] 1 percent level.
[3] Less than 5 deaths.
[4] 5 percent level.

TABLE III.—OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CASES BY RACE, 1953-61; MEN EMPLOYED IN COKE PLANT AND SUBDIVISIONS IN 1953 AND PRIOR YEARS

Cause of death	Coke plant			Coke oven			Nonoven		
	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR
All causes (total)	320	300.5	106	184	173.1	106	136	127.4	107
Malignant neoplasms—respiratory system	37	21.8	[1] 170	33	13.3	[1] 248	4	8.5	47
Malignant neoplasms—digestive organs and peritoneum	27	21.5	126	9	11.8	76	17	9.7	[2] 175
Other malignant neoplasms	22	23.7	93	16	14.1	113	6	9.6	62
Vascular lesions affecting CNS	28	24.3	115	15	14.2	106	13	10.1	129
Heart disease	111	113.2	98	49	61.5	80	62	51.7	120
Diseases of respiratory system	14	11.3	124	7	6.8	103	7	4.5	156
All other causes	81	84.7	96	55	51.4	107	27	33.3	81

TABLE III.—OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CAUSES BY RACE, 1953–61; MEN EMPLOYED IN COKE PLANT AND SUBDIVISIONS IN 1953 AND PRIOR YEARS—Continued

Cause of death	Coke plant			Coke oven			Nonoven		
	Observed Deaths	Expected deaths	Observed SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR
All causes (white)	199	193.8	103	80	80.2	100	119	113.6	105
Malignant neoplasms–respiratory system	11	12.2	90	8	5.0	160	3	7.3	41
Malignant neoplasms–digestive organs and peritoneum	21	14.9	141	6	6.1	98	14	8.8	159
Other malignant neoplasms	10	14.0	71	6	5.8	103	4	8.2	49
Vascular lesions affecting CNS	17	15.3	111	6	6.4	94	11	8.9	124
Heart disease	87	81.5	107	29	32.9	86	58	47.6	122
Diseases of respiratory system	7	6.5	108	2	2.5	(3)	5	3.9	128
All other causes	46	49.3	93	23	20.5	112	24	28.9	83
All causes (nonwhite)	121	106.7	113	104	92.9	112	17	13.8	123
Malignant neoplasms–respiratory system	26	9.6	[1]271	25	8.4	[1]298	1	1.2	(3)
Malignant neoplasms–digestive organs and peritoneum	6	6.6	91	3	5.7	53	3	.9	(3)
Other malignant neoplasms	12	9.7	124	10	8.3	120	2	1.4	(3)
Vascular lesions affecting CNS	11	9.0	122	9	7.8	115	2	1.2	(3)
Heart disease	24	31.6	76	20	27.6	72	4	4.1	(3)
Diseases of respiratory system	7	4.8	146	5	4.2	119	2	.6	(3)
All other causes	35	35.3	99	32	31.0	103	3	4.4	(3)

[1] 1 percent level. [2] 5 percent level. [3] Less than 5 deaths.

TABLE IV.—OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR MALIGNANT NEOPLASMS OF DIGESTIVE ORGANS AND PERITONEUM BY LENGTH OF EMPLOYMENT AND SITE 1953–61; MEN EMPLOYED ONLY IN NONOVEN AREA IN 1953 AND PRIOR YEARS

	Total			5 or more years of employment			Less than 5 years of employment		
	Observed	Expected	SMR	Observed	Expected	SMR	Observed	Expected	SMR
All malignant neoplasms of digestive system	17	9.7	[1]175	12	6.7	180	5	3.0	167
Stomach	4	3.0	(2)	3	2.1	(2)	1	.9	(2)
Intestines except rectum	7	2.8	[1]249	6	1.9	[3]316	1	.9	(2)
Rectum	1	1.1	(2)	0	.8	(2)	1	.4	(2)
Pancreas	3	1.3	(2)	2	.9	(2)	1	.4	(2)
Other digestive organs	2	1.5	(2)	1	1.0	( )	1	.4	(2)

[1] 5 percent level.
[2] Less than 5 deaths.
[3] 1 percent level.

MORTALITY OF MEN EVER EMPLOYED IN THE COKE PLANT

To further clarify the differences in mortality between coke oven and nonoven workers, we next consider the experience of men employed in these areas in 1953 or in prior years. For this purpose, the population of men employed at the coke plant during that period is subdivided into those who had ever worked at the coke ovens and those who had never worked at the coke ovens. The mortality experience of these two groups (designated coke oven and nonoven) is depicted in Table III. Three hundred twenty deaths from all causes were observed among men employed in the coke plant in 1953 or prior years, an increase of 55 per cent over the number observed among men employed in 1953. The inclusion of men employed prior to 1953 has also allocated an additional 84 deaths to the coke oven area, an increase of 84 per cent.

An excess of mortality from all causes is noted for men who had ever been employed at the coke plant, the difference being somewhat greater than observed for men employed in 1953. This increase, which is observed for both oven and nonoven workers, indicates a higher mortality for men employed in prior years. A significant excess of respiratory neoplasms is again noted for coke oven workers, with observed deaths being almost 2½ times the number expected. It is interesting to note that 13 of the 33 respiratory neoplasm deaths in this group were among men employed at the coke ovens prior to 1953, but not employed in that area in 1953. A comparison of the observed and expected deaths in Tables II and III shows that coke oven workers employed only prior to 1953 experienced more than twice the number of expected deaths from respiratory neoplasms.

Examination of the differences by race again shows that respiratory neoplasm mortality for nonwhite coke oven workers is significantly different from expectation, with an almost three-fold excess (25 versus 8.4). Of the 25 deaths, 23 were attributed to malignant neoplasm of the lung. These data also indicate that white coke oven workers may be more liable to respiratory neoplasms with eight deaths observed compared to five expected, but the difference is not significant. All of the eight respiratory neoplasm deaths among white coke oven workers were attributed to neoplasm of the lung. Further examination of Table III shows that coke oven worker mortality from diseases other than malignant neoplasm of the lung is little different from expectation.

Subdivision of the population by areas of prior employment also demonstrates that nonoven workers are not at excess risk for respiratory neoplasms. Of the 25 respiratory neoplasm deaths in nonwhite coke oven workers, eight (32 per cent) were among men employed at the coke oven prior to 1953 only. The apparent excess for nonwhites employed in the nonoven area in 1953 is, therefore, explained by allocation of former coke oven workers to the nonoven area. There is no indication in these data that either white or nonwhite coke plant workers employed only in the nonoven area experienced other than the expected level of respiratory neoplasm deaths.

Further examination of the mortality pattern for men employed only in the nonoven areas shows that the excess for diseases of the respiratory system, while still apparent, is no longer significant (7 versus 4.5). On the other hand, a significant excess of neoplasms of the digestive organs is now observed for nonoven workers (17 versus 9.7). Although neither of the differences by race is significant, they suggest that both white (14 versus 8.8) and nonwhite workers (3 versus 0.9) may be more liable to death from this cause. The breakdown of nonoven worker deaths from malignant neoplasms of digestive organs is displayed in Table IV. Here it is seen that the excess is observed for both long- and short-term employees and is not limited to a single site. The greatest differences are noted for malignant neoplasm of the pancreas and malignant neoplasm of intestine excluding rectum, the latter difference being significant for men employed five or more years (6 versus 1.9). Because population figures are not immediately available for the subdivisions of the nonoven area, the possible relationship to employment in more specific work areas cannot be considered at present. However, examination of work histories of the decedents does not suggest that the differences are associated with employment in any single area. Of the three men dying from cancer of the pancreas, one had been employed in the by-products area and two had been employed in the coal handling area. Of the six deaths from cancer of the intestine observed for men with more than five years of employment, four had worked in coal handling, and two had worked in by-products. Al-

though the proportion of foreign-born among nonoven workers is little different than for all steelworkers (17 per cent versus 15 per cent), it is also interesting to note that three of these six men were foreign-born (two Hungarians and one Italian) and two were of foreign parentage (Austrian and German). Higher digestive cancer rates have been reported for immigrants from several of these countries by Haenszel.

Although these findings suggest that men employed in the nonoven area may be more liable to death from digestive cancers, the observation of comparable risks for long- and short-term workers, the nonspecificity by work area, the concentration of foreign-born, and the paucity of numbers suggest caution in attributing these differences to exposure in the coke plant environment. Records of steelworker deaths for 1961 to 1966 are now being collected, and when the information becomes available this question will be re-examined.

SUBDIVISION OF THE COKE OVEN POPULATION

To further delineate the relationship between lung cancer mortality and prior employment at the coke ovens, we next consider length of employment and differential mortality within the several work divisions of the coke ovens. A brief description of the coke oven operation will clarify the further subdivision of the study population. Before charging of a coke oven, the doors on the ends are closed to effect complete sealing. The oven is then charged with 16 to 20 tons of coal through ports at the top, and the ports are sealed. When coking is completed (16 to 20 hours), the doors at the ends of the oven are opened and a pusher ram shoves the entire charge of coke into a railway car. After the car has been moved to a water quenching station, the coke is taken to a wharf for further cooling and later screening. To provide efficient operation the coke ovens are grouped into batteries of 10 to 100 ovens in a parallel configuration. In terms of exposure to coke oven effluents, the work force can be divided into those who work on the top of the batteries, and who have considerable exposure, and men who work at the side of the ovens and have less exposure. A further subdivision can be made in terms of time spent at the topside of the ovens. There are three occupations which require full-time work on top of the coke batteries. These are the larry car operator who charges the ovens, the lidman who opens and seals the ports and the standpipe man who maintains an offtake pipe through which the volatiles pass. Several other occupations require only occasional periods of work at the topside of the battery. Included here are the foreman, the heater and occasional maintenance workers such as pipefitters. The remainder of the coke oven work force are employed at the side of the oven, which includes the quenching station, the coke wharf and the screening station.

As shown in Table V, the excess mortality in coke oven workers is associated primarily with employment at the full-time topside occupations. The total mortality experience of men employed only at the side of the oven differs little from expectation, and in contrast with the previously noted differential by race, both white and nonwhite workers show similar patterns of relative risk. Moreover, the differential in lung cancer risk for men employed only at the side of the ovens is the reverse of that previously noted, with nonwhite workers showing no excess (5 versus 5.4) while white workers experienced more lung cancer deaths than expected (5 versus 2.7). Mortality for men employed in partial topside jobs also shows little deviation from that predicted and no excess of lung cancer is noted.

Deaths among men employed at the full-time topside jobs account for all of the coke oven worker excess in total mortality and almost all of the excess mortality from cancer of the lung. Mortality from all causes for these men is 68 per cent greater than expected, the same relative risk being indicated for both white and nonwhite workers. The observed deaths from malignant neoplasm of the lung for full-time topside workers are seven times expectation (19 versus 2.6), the risk for nonwhite workers being eight times greater than expected (18 versus 2.2). The limitation of small numbers precludes a conclusion concerning the lung cancer risk for the white workers (1 versus 0.5). It should be noted, however, that the differing lung cancer response for white and nonwhite coke plant workers is now seen to be due in large part to the differing distribution by work area (19.1 per cent of nonwhites were employed at full-time topside jobs compared to 3.4 per cent of whites) and the unusually high lung cancer rate for full-time topside workers. The lung cancer experience of coke plant workers never employed at full-time topside jobs is comparable to that observed for other steelworkers, and the relative risks for white (10 versus 11.2) and nonwhite workers (5 versus 6.5) do not suggest a different response by race. Nonwhite workers employed at full-time topside jobs also experience more than the expected number of deaths from other malignant neoplasms (7 versus 4.3), but the difference is not significant.

The findings in Table V also serve to illustrate how occupationally related diseases might be masked by limiting study to broad occupational groups. Since the full-time topside workers constitute only 15 per cent of coke oven workers and only 9 per cent of coke plant workers, the seven-fold lung cancer risk for topside workers is reflected as a considerably lower relative risk for the broader work groups (coke oven, 2.5; coke plant, 1.7). If the lung cancer rate for full-time topside workers had been only double the rate for other steelworkers, we would have failed to note a significant excess for coke oven workers, while a five-fold risk would have been insufficient to demonstrate a significant excess for coke plant workers. A similar diluting effect may result from inclusion in the study group of coke oven workers with too few years of observation to allow for the appearance of latent effects. The extent to which mortality estimates may vary in relationship to the length of the observation period was not determined in the present study since the study population was observed for only nine years. It should be noted, however, that the present estimates of lung cancer mortality may be conservative since the average latent period for the occupational lung cancers ranges from 15 to 25 years. If disease response is related to degree of exposure, inclusion of short-term employees also would result in an underestimate of disease rate. We next consider, therefore, the relationship between cause-specific mortality and length of employment at the coke ovens.

TABLE V.—NUMBER EMPLOYED, OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CAUSES BY RACE, 1953–61; MEN EMPLOYED IN SUBDIVISION OF THE COKE OVEN IN 1953 AND PRIOR YEARS

Work area and race	Number employed	All Causes			Malignant neoplasms of lung			Other malignant neoplasms			Heart disease			All other causes		
		Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR
Total coke oven	2,048	184	173.1	106	31	12.3	[1]252	[2]27	26.9	100	49	61.5	80	77	72.4	106
White	993	80	80.2	100	8	4.7	170	12	12.2	98	29	33.9	86	31	29.4	105
Nonwhite	1,055	104	92.9	112	23	7.6	[1]303	[2]15	14.8	101	20	27.6	72	46	43.0	107
Side oven [3]	1,431	106	114.6	92	10	8.0	125	[2]13	17.5	74	34	40.0	85	49	49.1	100
White	606	45	47.2	95	5	2.7	185	6	7.3	82	18	19.9	90	16	17.4	92
Nonwhite	825	61	67.3	91	5	5.4	93	[2]7	10.3	68	16	20.1	80	33	31.6	104
Partial topside [4]	315	24	26.3	91	2	1.7	([5])	6	4.0	150	5	10.9	46	11	9.7	113
White	307	22	25.1	88	2	1.6	([5])	5	3.8	132	5	10.5	48	10	9.2	109
Nonwhite	8	2	1.2	([5])	0	.1	([5])	1	.2	([5])	0	.3	([5])	1	.5	([5])
Full topside	302	54	32.2	[1]168	19	2.6	[1]731	8	5.4	148	10	10.6	94	17	13.6	125
White	80	13	7.8	167	1	.5	([5])	1	1.2	([5])	6	3.5	171	5	2.8	179
Nonwhite	222	41	24.4	[1]168	18	2.2	[1]818	7	4.3	163	4	7.2	56	12	10.8	111

[1] 1 percent level.
[2] Includes 2 respiratory cancer deaths other than lung.
[3] Never partial or full topside.
[4] Never full topside.
[5] Less than 5 deaths.
[6] 5 percent level.

TABLE VI.—NUMBER EMPLOYED, OBSERVED AND EXPECTED DEATHS, AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CAUSES, 1953-61, BY LENGTH OF EMPLOYMENT AS OF JAN. 1, 1953, AND RACE; MEN EMPLOYED AT COKE OVENS IN 1953 AND PRIOR YEARS

Length of coke oven employment and race	Number employed	All causes			Malignant neoplasms of lung			Other malignant neoplasms			Heart diseases			All other causes		
		Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR
Less than 5 years	1,144	67	72.8	92	4	4.7	(1)	7	10.5	67	24	25.7	93	32	31.8	101
White	593	41	39.1	105	3	2.2	(1)	5	5.9	85	15	16.1	93	18	14.9	121
Nonwhite	551	26	33.8	77	1	2.6	(1)	2	4.6	(1)	9	9.6	94	14	17.0	82
5 or more years	904	117	100.3	117	27	7.6	355	20	16.4	122	25	35.7	70	45	40.5	111
White	400	39	41.1	95	5	2.6	192	7	6.3	111	14	17.8	79	13	14.5	90
Nonwhite	504	78	59.2	[2] 132	22	5.1	[3] 431	13	10.1	129	11	18.0	61	32	26.0	123

[1] Less than 5 deaths.
[2] 1 percent level.
[3] 5 percent level.

Observed and expected deaths by length of employment as of January 1, 1953, are shown in Table VI. Here it is seen that men employed less than five years at the coke ovens showed little deviation from expected mortality. Additionally, there was no indication in this group of excess mortality from malignant neoplasm of the lung or of other sites. A further breakdown of those employed less than five years by work area within the coke oven (figures not shown) also showed no differences of consequence in cause-specific mortality. Among the 209 men employed at partial or full-time topside jobs, 14 deaths were noted, compared to 13.3 deaths expected, and no lung cancer deaths were observed in this group. It is thus seen that the unusual mortality experience of coke oven workers is a reflection of a higher risk for the 44 per cent of the population employed five or more years in that area. Men employed at the coke ovens for five or more years showed total mortality 17 per cent in excess of expectation and a lung cancer mortality 3½ times that predicted (27 versus 7.6). The excess in total mortality was limited to the nonwhite workers with observed deaths 32 per cent greater than expectation. On the other hand, while the greater part of the lung cancer excess was accounted for by a four-fold risk for nonwhite workers (22 versus 5.1), a greater lung cancer risk also was seen for white workers employed five or more years at the coke ovens (5 versus 2.6).

Examination of mortality within the coke oven subdivisions for men employed five or more years further clarifies the differences already noted. As seen in Table VII, total mortality for men employed only at the side of the oven or with less than five years employment at full-time topside jobs differed little from expectation, whereas the number of deaths for men employed five or more years at full-time topside jobs was double the expected number (35 versus 17.4). Almost all of the latter difference was accounted for by a 10-fold risk of lung cancer for full-time topside workers (15 versus 1.5). A greater than expected lung cancer risk, of considerably less magnitude, is also noted for the other groups with five or more years employment at the coke ovens. Among men with less than five years of full-time topside employment, six lung cancer deaths were observed, compared to 2.1 deaths expected. The relative contribution of topside and nontopside exposure to this difference cannot be determined, but the much greater risk indicated for the former group suggests that a large part of the difference is associated with employment at the full-time topside occupations. However, the possibility that part of this difference may be associated with long-term employment at the side of the ovens also should be considered. Although the differences are not statistically significant, it should be noted that the slight excess of lung cancer observed for men employed only at the side of the ovens is limited to men with five or more years employment.

The figures in Table VII also indicate that excess mortality from nonpulmonary neoplasms may be associated with topside employment. A significant difference between observed and expected deaths is seen for men employed five or more years at the coke oven who had less than five years of full-time topside employment (9 versus 4.3). This difference cannot be accounted for solely by employment at the full-time occupations since six of the deaths from nonpulmonary malignancies were seen in men with five or more years partial topside employment who had never been employed at the full-time occupations, whereas 2.7 deaths would have been expected. Review of observed and expected deaths for more detailed sites, as seen in Table VIII, shows that this difference is not limited to a single anatomical site. No difference in mortality from nonpulmonary malignancies was noted for men employed five or more years only at the side of the ovens.

Nonwhite workers employed five or more years at full-time topside jobs also show a significant excess of deaths from "all other causes" (11 versus 6.1). Most of this difference is accounted for by deaths from vascular lesions of the central nervous system (4 versus 1.2), and tuberculosis (2 versus 0.6).

Although the differences are not significant, one further point of interest concerning coke oven worker mortality is worth noting because of similar observations for gas retort workers and workers in coal gas and coke. Mortality from heart disease for coke oven workers is only 80 per cent of expectation, the deficit being more marked for men with five or more years experience, and is apparent for both white and nonwhite workers. No deficit in heart disease is seen for the non-oven workers. It does not appear that this difference is due solely to competing causes of death since the heart disease deficit for coke oven workers is least apparent for the group with the highest lung cancer risk. We have previously noted that differences in heart disease mortality within the steelworker population may be related to selection for health.

DISCUSSION

It has long been recognized that some agent produced during the combustion or distillation of bituminous coal is carcinogenic for the skin of man, and since the turn of the century it has been demonstrated that a variety of industrial populations exposed to coal tar products have a special liability for cancer of the skin. More recent studies of men employed in some of these areas indicate that exposure to coal tar products also may result in increased liability for cancer of other organ systems.

TABLE VII.—NUMBER EMPLOYED, OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR SELECTED CAUSES, 1953-61; MEN EMPLOYED 5 OR MORE YEARS AT COKE OVENS AND SUBDIVISIONS AS OF JAN. 1, 1953

Work area and race	Number employed	All causes			Malignant neoplasms of lung			Other malignant neoplasms			Heart diseases			All other causes		
		Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR	Observed deaths	Expected deaths	SMR
Side oven only	496	53	55.1	96	6	4.1	146	7	8.9	79	15	19.4	77	25	22.7	110
White	171	16	18.7	86	2	1.1	(1)	1	2.9	(1)	6	8.1	74	6	6.6	91
Nonwhite	325	37	36.4	102	4	3.0	(1)	5	6.0	83	9	11.3	80	19	16.1	118
Side and topside (less than 5 years full topside)	276	29	27.9	104	6	2.1	[2] 286	9	4.3	[3] 209	5	10.8	46	9	10.7	84
White	202	19	19.4	98	2	1.3	(1)	5	2.9	172	5	8.4	60	7	6.9	101
Nonwhite	74	10	8.4	119	4	0.8	(1)	4	1.4	(1)	0	2.4	(1)	2	3.8	(1)
Full-time topside	132	35	17.4	[2] 201	15	1.5	[3] 1,000	4	3.2	(1)	5	5.6	89	11	7.1	155
White	27	4	3.0	(1)	1	0.2	(1)	0	0.5	(1)	3	1.3	(1)	0	1.0	(1)
Nonwhite	105	31	14.4	[2] 215	14	1.3	[3] 1,077	4	2.8	(1)	2	4.3	(1)	11	6.1	[3] 180

[1] Less than 5 deaths.
[2] 1 percent level.
[3] 5 percent level.

TABLE VIII.—OBSERVED AND EXPECTED DEATHS AND STANDARDIZED MORTALITY RATIOS FOR MALIGNANT NEOPLASMS BY SITE, 1953-61; MEN EMPLOYED 5 OR MORE YEARS IN THE COKE PLANT AND SUBDIVISIONS AS OF JAN. 1, 1953

Cause of death	5 years coke plant			5 years coke plant, never oven			5 years coke oven			5 years side oven, never topside			5 years coke oven, less full topside			5 years full-time topside		
	Observed	Expected	SMR	Observed	Expected	SMR	Observed	Expected	SMR	Observed	Expected	SMR	Observed	Expected	SMR	Observed	Expected	SMR
Malignant neoplasms, all sites	68	44.8	[1] 152	19	18.4	103	47	24.0	[1] 196	13	12.9	101	15	6.4	[1] 234	19	4.7	[1] 404
Bronchus, lung and trachea	29	13.6	[1] 213	1	5.3	19	27	7.6	[1] 355	6	4.1	146	6	2.1	[1] 286	15	1.5	[1] 1,000
Other respiratory system	2	1.0	[2]	1	.3	[2]	1	.7	[2]	1	.4	[2]	0	.1	[2]	0	.2	[2]
Nonrespiratory system	37	30.2	123	17	12.8	133	19	15.7	121	6	8.5	71	9	4.2	[3] 214	4	3.1	[2]
Buccal and pharynx	1	1.2	[2]	0	.6	[2]	1	.5	[2]	0	.2	[2]	1	.2	[2]	0	.1	[2]
Stomach	4	4.9	[2]	3	2.1	[2]	1	2.5	[2]	0	1.4	[2]	1	.7	[2]	0	.5	[2]
Intestines, excluding rectum	9	4.0	[3] 225	6	1.9	[1] 316	3	1.8	[2]	2	1.0	[2]	1	.5	[2]	0	.3	[2]
Rectum	1	1.6	[2]	0	.8	[2]	1	.8	[2]	1	.4	[2]	0	.3	[2]	0	.1	[2]
Pancreas	3	2.2	[2]	2	.9	[2]	1	1.3	[2]	0	.7	[2]	1	.4	[2]	0	.2	[2]
Other digestive organs	2	2.0	[2]	1	1.0	[2]	1	.8	[2]	0	.4	[2]	1	.3	[2]	0	.1	[2]
Prostate	6	3.3	182	1	1.1	[2]	4	2.1	[2]	3	1.2	[2]	0	.4	[2]	1	.5	[2]
Other genital organs	0	.2	[2]	0	.1	[2]	0	.1	[2]	0	0	[2]	0	0	[2]	0	0	[2]
Kidney and other urinary organs	3	1.9	[2]	1	.8	[2]	2	1.1	[2]	0	.5	[2]	2	.2	[2]	0	.4	[2]
Brain and central nervous system	1	1.1	[2]	0	.4	[2]	1	.7	[2]	0	.4	[2]	0	.2	[2]	1	.1	[2]
Other and unspecified sites	3	4.8	[2]	1	2.0	[2]	2	2.6	[2]	0	1.5	[2]	0	.7	[2]	2	.4	[2]
Leukemia	1	1.5	[2]	1	.6	[2]	0	.9	[2]	0	.4	[2]	0	.3	[2]	0	.2	[2]
Lymphoma	3	1.5	[2]	1	.6	[2]	2	.8	[2]	0	.4	[2]	2	.2	[2]	0	.2	[2]

[1] 1 percent level.
[2] Less than 5 deaths.
[3] 5 percent level.

The history of the "coal tar" cancers begins with the observation on the scrotal cancers in London chimney sweeps by Percivall Pott in 1775. He noted that this disease was peculiar to persons employed as chimney sweeps and originated from what was described in the trade as a soot-wart. Pott attributed these cancers to the lodgment of soot in the folds of the scrotum. Little was added to these observations until 1892, when Butlin undertook an extensive review of the question. At that time the incidence of "chimney sweeps" cancer was thought to be declining due to the introduction of mechanical sweeping equipment, but a review of official statistics showed an eight-fold excess of cancer deaths among men employed at that trade. Butlin concluded that scrotal cancer remained a serious problem for British sweeps but was an extremely rare disease elsewhere. He attributed this difference to the British practice of burning bituminous coal (rather than wood or nonbituminous coal) in open grates, and the poor personal hygiene of the British chimney sweeps.

Volkmann, in 1873, was the first to observe that "chimney sweeps cancer" was not limited to persons of that trade. He reported three cases of scrotal cancer in men handling tar and paraffin recovered through the carbonization of lignite, a "young coal." Volkmann noted that this extremely rare disease "agreed to the last detail with the so-called chimney sweep cancer of the British." The first cases of scrotal cancer associated with exposure to by-product of bituminous coal carbonization were reported three years later by Manouvriez. He had observed seven cases of scrotal cancer and three cases of facial epithelioma in French briquette workers exposed to coke oven tar and pitch. Other reports of unusual skin cancer experience among coal carbonizers and handlers of various by-products soon appeared. Ball noted a high skin cancer rate in Irish tar workers and Butlin, in his survey of "chimney sweeps cancers," reported skin cancers in gas workers and in men handling anthracene and pitch. Although scrotal cancers in men not employed as chimney sweeps had been observed in the United States as early as 1837, we have no record of specific occupations. The first American cases associated with exposure to coal tar products were carbon workers reported by Leuke in 1907. In the same year, the British included "scrotal epithelioma occurring in chimney sweeps and epitheliomatous cancer or ulceration of the skin occurring in the handling or use of pitch, tar, and tarry compounds," in the Workman's Compensation Schedule, and these diseases later became notifiable under the Factories Act.

Experimental studies on cancer induction further demonstrated the carcinogenicity of the coal tars and eventually led to the isolation of the first pure chemical carcinogen. In 1915, Yamagiwa and Ichikawa showed that coal tar was carcinogenic for the skin of the rabbit and in 1922, almost 150 years after Pott's observation, Passey induced cancer with an ether extract of chimney soot. Following many years of research on the constituents of the coal tar distillates, 3,4-benzpyrene, a potent carcinogen, was isolated.

The extent of the skin cancer problem among coal tar workers and the variation in incidence within occupations are reported in a comprehensive review by Henry. Unfortunately, comparisons of rates must be limited to the fatal cases of scrotal cancer, since notified cases of skin cancer relate to current occupation. In contrast with a general population rate of 4.2 per million, Henry reported the following minimal estimates for persons exposed to coal tar products:

Chimney sweeps	754.7
Patent fuel workers	504.2
Tar distillery workers (excluding those at gas works)	212.9
Skilled makers of coal gas and coke	123.9
All coke oven workers	21.1
All gas workers	19.9
Producer gas men	10.9
Dyers and dyers laborers	7.9

While each of these groups shows higher than expected mortality from scrotal cancer, there is considerable variation in response by level of coal tar processing. Thus, the rate for tar distillery workers is 10 times that observed for men employed at coal carbonization. On the other hand, scrotal cancer mortality for patent fuel workers is more than double the rate for tar distillery workers. These men are exposed to pitch, the residue following distillation of the coal tar. These differences suggest the possibility that the carcinogenic agent may become more concentrated with successive distillation. Two other points of interest in these data are the differences between the two classes of gas workers and coke oven workers and the indicated excess for dyers. The mortality rate shown for skilled makers of coal gas and coke is considerably higher than for other workers in these areas. This group would presumably include the men engaged in the operation of the ovens or the retorts and thus would include the topside workers. While the excess mortality from scrotal cancer for dyers is not as striking (Henry shows a range on the estimated mortality of 7.9 to 9.2), it is of interest because of the recognized bladder cancer hazard for persons employed in the production of coal tar dyes.

Among the 4,716 steelworker deaths reported in this series, eight skin cancer deaths were noted. However none of these men had ever been employed in any area of the coke plant. Henry, on the other hand, noted 84 cases of epitheliomatous ulceration or cancer of the skin (40 scrotal) for British coke oven workers for the period 1920 to 1943, and 11 fatal scrotal cancers among men with prior coke oven employment. Because of the relatively low rate for this disease and the high survival rate for skin cancer, it is impossible to determine whether the absence of skin cancer deaths in our coke plant workers is a reflection of differential response, sampling variation or other factors such as differences in medical care. Skin cancers have been observed in American coke oven workers, but the literature is too sparse for estimating the level of risk. Heller has reported a much higher skin cancer rate for tar distillery workers handling gas works tar than for those handling coke over tar. The limited data available for comparison does suggest a differential scrotal cancer response for British and American workers. The British mortality rates per million for males 25 and over in 1921 and 1931 were 6.5 and 6.3, respectively, whereas the rate for the U.S. Death Registration States in 1926 was only 1.2. It has also been noted that 7 to 8 per cent of fatal skin cancers in England originate on the scrotum as compared to 1.2 per cent for the United States.

Butlin had suggested in 1892 that the coal tars might be responsible for cancer of internal organs, and many investigators during the early part of the 20th century speculated that the increasing rate or lung cancer might be attributed to the increased use of tar and tar products. However, prior to 1936, the evidence linking lung cancer to coal tar exposures was limited to single case reports and the observation by Kennaway that a high proportion of noncutaneous cancers in chimney sweeps were situated in the respitory tract and the alimentary canal above the stomach. As Brockbank pointed out in 1932, no adequate study of occupational lung cancer had been made, and occupations cited in case reports were generally too vague for meaningful analysis. He noted four primary lung cancers in gas workers among 898 cases cited in the literature to 1932.

The first report of unusual lung cancer experience for men engaged in coal carboniza-

tion concerned Japanese producer gas workers. Producer gas is a fuel generated to meet power needs of the plant in which it is produced. Included under this term are a great variety of fuels which differ according to the carbonizing process, the product used (coal, coke, etc.) and the additives employed (water, oil, etc.). The operation described by the Japanese involved the destructive distillation of bituminous coal to generate fuel for open hearth furnaces. Of malignant neoplasms observed in men working at these gas generators, 80 per cent were lung cancers (12 out of 15 cases). In 1936, lung cancer was a relatively rare disease in Japan and accounted for only 3.1 per cent of all malignant neoplasms. The extremely high lung cancer rate for gas generator workers was even more striking in contrast with the experience of other employees at the same steel plant. Not a single lung cancer was noted among the 46 malignant neoplasms observed for other employees. Although a direct estimate of the relative cancer risk cannot be made (the population by work area is not given), the proportionate number of lung cancer to total cancer deaths suggests a 26-fold excess over general population mortality and a considerably greater excess in comparison with other Japanese steelworkers. A recent report on men transferred from this facility, when it was closed in 1953, shows that lung cancer for the period 1954 to 1960 was 33 times the rate observed for other steelworkers.

In the same year that the Japanese reported on lung cancer in gas generator workers, Kennaway and Kennaway noted an excess for British gas producermen. Furthermore, their survey of death certificates for England and Wales, 1921 to 1932, showed that other coal carbonization and by-product workers might have experienced higher than expected lung cancer mortality. In this and a subsequent report for 1921 to 1938, the Kennaways reported excess lung cancer mortality for gas producermen, chimney sweeps and several categories of gas works employees. The excess indicated for "gas stokers and coke-oven chargers" was approximately three-fold. More recent reports for England and Wales also show higher than expected lung cancer mortality for men employed in the production of coal and coke but the differences are not as striking, the indicated excess being only "32 percent." Estimates of disease risk based on death certificate ascertainment of occupation, although informative, are subject to substantial biases and can only be taken as suggestive of occupational differences.

Population-based studies of three classes of coal carbonization workers have confirmed the Keenaway findings. The experience of the Japanese generator workers has already been described. Doll, in a study of gas works pensioners (gas retort workers) in 1952, observed "an 81 per cent excess of lung cancer deaths in comparison with the general population." More recently, he has confirmed a high risk for British gas workers and has noted differential rates by type of retort and by level of exposure.

Although it had been suggested prior to the present report that coke oven workers might be more liable to lung cancer, the evidence appeared to be contradictory. No lung cancer deaths were reported for Japanese steelworkers not employed at the gas generators, although this group included coke oven workers; the British report of a three-fold excess for "gas stokers and coke-oven chargers" was in marked contrast to a deficit of lung cancer for "tar distillery workers and coke-oven workers" (52 per cent of expectation). Reid and Buck compared the mortality experience of British coke plant workers with that predicted by a "large industrial organization." They observed 14 lung cancer deaths for nonretirees with prior coke oven experience compared to 10 deaths expected. Proportionate mortality comparisons for retirees (population data were not available) did not suggest any difference for lung cancer. These authors concluded that "the mortality in the coking industry from cancer in general and cancer of the lung in particular is not as excessive as had been feared, and may in fact be negligible." Christian, on the other hand, reported a 24-fold excess of lung cancer for men working in coke (not otherwise specified) at a large public utility. The apparent discrepancies between these findings may be explained in part by differences in the definition of the study populations and the comparison groups, and by the fact that the extremely high risk is limited to a small proportion of the coke oven population. In the British coke plant study, the number of lung cancer deaths observed may have been deficient, since only men dying while "on the books" of the coking plants during the period 1949 to 1954 were included. The authors indicate that men are removed from the books after prolonged absence from work. It should also be noted that the population at risk and the distribution by age and area of prior employment was based on estimates which excluded retirees and those who had left employment. On the other hand, the excessively high relative risk reported by Christian is not adjusted for age and sex, and the average population for the years 1946 to 1961 is taken as the population at risk. The extremely high lung cancer risks reported for other occupational groups which might be expected to have normal risk (for example, 8 observed versus 2.7 expected for field representatives) suggests that the relative risk for "coke" workers was overestimated.

Several authors have suggested that workers handling by-products may be more liable to lung cancer, but the evidence is scanty and contradictory. Kennaway and Kennaway reported a 64 per cent excess of lung cancer for "paviours, street masons, concreters and asphalters" and noted three lung cancer deaths in patent fuel laborers compared to 0.5 expected. At the same time, they reported a deficit of lung cancer for "tar distillery workers and coke-oven workers." Hueper refers to lung cancers observed in a group of tar distillery workers but given no indication of the level of risk. A recent study by Selikoff and Hammond showed no unusual lung cancer experience for roofers working with pitch and the lung cancer mortality of nonoven workers included in the present study was somewhat lower than expected.

Although evidence of a bladder cancer excess for coal tar workers has appeared only in recent years it has long been recognized that certain synthetic dyes produced from coal tars contain a potent bladder carcinogen. The first cases were reported to the German Surgical Society in 1895 by Rehn. Following many years of research, during which a great number of cases were identified among synthetic dye workers, it was demonstrated that the specific agent responsible for the bladder cancer was β-naphthylamine. Since the manufacture of synthetic dyes was far removed from the carbonization and distillation process (β-naphthylamine exposure occurs during the manufacture of intermediate dye compounds using benzene, toluene, xylene, naphthalene and anthracene which are recovered from coal tar), the possibility of a bladder cancer problem among men engaged in the initial processes apparently was ignored. The first evidence of a bladder cancer excess for "coal tar" workers was presented by Henry et al. in 1931. In their review of bladder cancer deaths for 1921 to 1928, they reported a greater than expected mortality for nine occupational groups exposed to coal gas, tar and pitch. Furthermore, of the 15 occupational groups exhibiting an excess of 50 per cent or more, five were among the "coal tar" occupations. Their finding of a higher rate for gas retort workers has since been verified by Doll et al. Bruusgaard, who noted a high frequency of cancers in Swedish gas workers (41 out of 125 autopsies), also reported five cancers of the bladder. An indication that these tumors may result from the same source as those of the dye workers comes from Battye's observation of β-naphthylamine in gas retort effluents. This author also reported five bladder cancers in a population of 467 retort house workers compared to no response among 546 men employed outside of the retort houses.

It is difficult to assess the extent of the bladder cancer problem among "coal tar" workers because of the lack of population data. The findings of Henry et al., which are admittedly limited, suggest a greater level of risk for byproduct workers (28 versus 15.8) than for men engaged in the carbonizing process (45 bladder cancer deaths were observed in gas stokers and coke oven chargers compared to 33.7 expected). Unfortunately, this group cannot be separated to obtain an estimate for the coke oven chargers (larrymen). For all coke oven workers they report six bladder cancer deaths compared to 4.9 expected, an insufficient difference to conclude that coke oven workers have an excess. No bladder cancer deaths were observed among the coke plant workers in our series. The three deaths from cancer of the urinary system shown in Table VIII were of the kidney, and no excess mortality is indicated, the expected number being 2.7. The bladder cancer findings for British coke oven workers is also negative. We would have to conclude, then, that there is currently no evidence of unusual bladder cancer experience among coke oven workers. However, recognizing that this is a comparatively rare disease with a long latent period and that β-naphthylamine has been isolated from coking pitch, further follow-up of the coke oven workers is advisable.

Evidence of an excess risk for cancer of several other sites also has been reported for certain populations exposed to coal tars. This comes primarily from review of occupations noted on death certificates and isolated reports of rare tumors. It should be pointed out that these findings have not been confirmed by other investigators and are subject to certain biases. They are presented to complete the picture of cancer in "coal tar" workers and to allow for contrast with the pattern of nonpulmonary cancers shown in Table VIII. Kennaway and Kennaway reported a two-fold excess of cancer of the larynx for gas stokers and coke oven chargers using death certificates for England and Wales, 1921 to 1938. Interestingly, five coal tar occupations (including other coke oven workers) showed a deficit in mortality from this cause. Jenkins reported a single case of nasal sinus cancer in a gas works laborer, and Bruusgaard reported two cancers of this site in his series. The Registrar General's Report from death certificates for 1949 to 1953 shows a 44 per cent excess of stomach cancer among makers of coal gas and coke. We have noted that coke plant workers not employed at the coke ovens may have experienced some excess from digestive cancer, but the difference was in large part due to cancer of the intestine.

The Registrar General's Report also shows a significant excess of pancreatic cancer in these workers with 21 deaths observed compared to 12 expected. This observation is of particular interest because of the report by Mancuso and El-Attar of an excess of pancreatic cancer for men exposed to β-naphthylamine and benzidene. We have noted three deaths from cancer of the pancreas in nonoven workers compared to 1.3 expected. An excess of leukemia among skilled workers in coal gas and coke also is reported by the Registrar General. This observation is of interest because exposure to benzene, a suspected leukemogen, could occur in the by-

products area. Our data do not suggest any excess for this disease.

Our understanding of cancer in man, its etiology and its eventual prevention depends upon the identification of common factors which differentiate groups within the population according to degree and specificity of response. A number of common factors related to disease response become evident when we consider the cancer experience of men employed in the production and processing of coal tar products. It has been observed, for example, that all of the "coal tar" occupations are at increased risk of developing cancer at one or more sites. Such a broad response over so many diverse groups suggests a common causative factor in each of the working environments which is not present at the same level in the general population environment. Furthermore, the appearance of a greater risk for more than one site in several of these occupations suggests that a common agent may be responsible for cancer at more than one anatomical site. Although such a hypothesis is in sharp contrast to the frequently observed site specificity of occupational cancers, it is consistent with experimental findings and the observations on cigarette smoking and cancer.

On the other hand, the possibility of exposure to multiple carcinogens must be considered since a number of carcinogenic agents have been identified in these environments. With the exception of the bladder tumors in gas retort workers, which may be attributed to exposure to β-naphthylamine, no single carcinogen present in coal tar has been uniquely associated with the high cancer risk of "coal tar" workers. We have, however, from experimental findings and from the observations on these populations, a number of clues concerning the characteristics and the distribution of the causative factor or factors within the working population. We have noted, for example, that (1) it is available in greater concentration in certain well-defined areas of the working environments; (2) it is probably present in different physical states within the several working environments making access to different organ systems variable; and (3) in the case of skin cancer, the response increases with successive distillations and varies with the source of the coal tar.

TABLE IX.—TEMPERATURE RANGE OF CARBONIZING CHAMBERS AND EXCESS OF LUNG CANCER REPORTED

Carbonizing chamber	Temperature range	Percent excess of lung cancer reported
Vertical retorts	400–500 C	27%
Horizontal retorts	900–1100 C	83%
Coke ovens	1200–1400 C	255% (table VI)
Japanese gas generators	≥1500 C	800% (see text)

A most important relationship which should provide leads for identifying site-specific carcinogens is the relationship between cancer response and the temperature of carbonization or distillation. As early as 1925 Kennaway had observed that coal tars produced at higher temperatures were far more carcinogenic than those produced at the lower temperatures. He reported that the cancer producing agent was formed in very small amounts below 450 C, increased rapidly between 450 and 560 C, and continued to increase at a slower rate over the range of 560 to 1,250 C. as shown in Table IX, there also appears to be a positive relationship between temperatures attained during carbonization and the lung cancer response for men employed in the several areas. The figure shown for coke oven workers is for men with five or more years experience to provide contrast with the British gas workers who had worked at least five years at the retorts. Although the relative excess for Japanese gas generator workers appears to be well beyond that observed for other carbonization workers, available data are insufficient for an exact determination of the lung cancer excess. The percentage excess indicated during the period 1954 to 1960 for men reported as gas generator workers in 1953 was 3,200 per cent (6 deaths observed versus 0.18 expected). This may be an underestimate of the response among men initially included in this group, since a decrease in lung cancer rate was noted following changes in equipment. On the other hand, while it is not stated explicitly, an early description of the work area for the lung cancer cases suggests that many of these men may have been working on top of the gas generator so that exposure to effluents would have been greater. On the basis of the experience for topside coke oven workers, a more conservative estimate of the excess for all gas generator workers would be one-fourth of that reported. We therefore show as a crude estimate 800 per cent. We have already commented on several possible sources of discrepancy between the findings for British coke oven workers and findings from the present study. With regard to the figures shown in Table IX, two other factors should be mentioned which might account for a smaller reported lung cancer excess for British workers. First, the study population may have included many men with limited service. In the present study the amount of excess for all coke oven workers was 152 per cent (Table V) compared to 225 per cent for men employed five or more years (Table VI). Second, American coke ovens are generally operated at higher temperatures than the British coke ovens.

The observation of a relationship, albeit crude, between lung cancer response and temperature of carbonization provides another lead in the search for causative factors. It is apparent that more detailed study of these populations, with particular emphasis on environmental measurements, should contribute greatly to our understanding of the human cancer problem.

SUMMARY

In this, the fifth of a series of papers concerning the mortality of steelworkers, we examine the variation in mortality of coke plant workers according to calendar period and length of employment at several work stations within the coke plant. Differences in the composition of the study population and the distribution of deaths by cause for men employed in 1953 and in prior years are considered and differences in patterns of mortality are noted. The cause-specific mortality experience of men employed in each of the coke plant areas is contrasted with the mortality predicted by the age-, race- and nativity-specific rates for the total steelworker population. Site-specific patterns of cancer mortality also are contrasted with those for other industrial groups engaged in the carbonization of bituminous coal or in handling of coal tar by-products.

The findings of particular interest are:

1. The excess of respiratory cancer previously reported for coke plant workers is limited to men employed at the coke ovens, the relative mortality for this disease being 2½ times that predicted.

2. The greatest part of this excess is accounted for by an almost five-fold risk of lung cancer in men working on the tops of the coke ovens.

3. A 10-fold risk of lung cancer is observed for men employed five or more years at full-time topside jobs. Fifteen lung cancer deaths were observed among the 132 men in this group compared to 1.5 deaths expected.

4. The apparent differential in respiratory cancer rates for white and nonwhite coke plant workers, reported in the fourth paper of this series, is accounted for by differing distributions by work area and the unusually high lung cancer risk for topside workers. Lung cancer mortality for white and nonwhite coke plant workers employed at work stations other than the top of the coke oven is comparable.

5. A deficit of deaths from heart disease, previously reported for similar occupational groups, is also seen for coke oven workers.

6. Coke plant workers employed only in the nonoven area may be at excess risk of digestive cancer.

A review of the literature on cancer mortality of men employed in the "coal tar" industries shows that all of these occupations evidence excess cancer of one or more sites. The lung cancer excess for coke oven workers also is observed for other groups engaged at coal carbonization, and it appears that the lung cancer response is positively correlated with the temperature of carbonization.

LONG-TERM MORTALITY OF STEELWORKERS—VI—MORTALITY FROM MALIGNANT NEOPLASMS AMONG COKE OVEN WORKERS

(By Carol K. Redmond, Sc.D.; Antonio Ciocco, Sc.D.; J. William Lloyd, Sc.D.; and Hugh W. Rush)

In the fourth paper of this series we reported that men working in the coke plant have a risk of lung cancer 2½ times greater than men in the total steelworkers' cohort. In the fifth paper Lloyd showed that the variations of lung cancer risks within the coke plant are related to work area, duration of employment, and race. Employment at the top of the coke ovens is associated with an almost five-fold excess risk, while the lung cancer risk for men working topside increases to tenfold when only men with five or more years experience at full-time topside jobs are considered. A difference in respiratory cancer rates between white and non-white coke oven workers is apparently explained by differential job exposures.

These findings, based on detailed analysis of the 3,530 men ever employed at the coke plant among the 58,828 men in the study county cohort, established the need for an expanded investigation of coke oven worker mortality in order to evaluate more fully the nature and extent of the cancer risk among coke oven workers. Accordingly, The Department of Biostatistics, University of Pittsburgh, with cooperation and funding from the United States Public Health Service and the American Iron and Steel Institute, has designed and carried out a study to consider further the mortality patterns among coke oven workers from various geographic areas.

The purposes of this paper are: (1) to present the cause specific mortality findings for oven workers at ten selected study plants in diverse parts of the United States and Canada; (2) to compare these results with the findings for coke oven workers in the original study county (Allegheny County, Pennsylvania); and (3) to show the relationships of the mortality findings for coke oven workers to variables such as race, work area, and length of employment.

MATERIALS AND METHODS

In order to facilitate comparisons, methods of data collection, processing, and analysis in this study are as compatible as possible with the original investigation. In Allegheny County all men employed in seven plants during 1953 comprised the cohort for study, thus allowing for comparisons of coke oven worker mortality with that of the total steelworkers' population. A study of this magnitude was not feasible in the expansion of the study to a larger geographic area. Therefore, theoretical and practical aspects of selecting samples of workers from the plants had to be considered in the design.

Since primary interest was focused on coke oven workers, we included as study subjects all men at the ten study plants who had worked at the coke ovens at any time in the five year period 1951 through 1955. This

group had the advantage of allowing for a period of follow-up comparable in time to the study county cohort, where requirement for inclusion was employment in 1953. A five year time span was selected for defining the cohorts in order to increase the size of the coke oven samples for the plants. Men working only in the coal and coke handling or by-product areas of the coke plant were not included, due to Lloyd's observation that these men were not subject to an excess risk of respiratory cancer.

Other criteria, which were used to determine eligibility for inclusion in the study as a coke oven employee, were: (1) the man must have had a total of at least 30 consecutive days of employment at the coke ovens, and (2) individuals hired strictly as vacation replacements were not eligible. It was generally possible to identify the coke oven workers by reference to seniority rosters kept by the employer.

The selection of a suitable comparison group of men employed at the same plant during the period 1951 through 1955 was a more difficult matter. Ideally, we attempted to select two men employed at the same plant during the period 1951 through 1955 who were matched by race and date of initial employment to the coke oven worker. Identification of this non-oven group was a complicated process, particularly since the record-keeping systems differ among the steel plants included in the study.

Although varying a little in details, the sampling schemes were always one of two basic types. (An empirical sampling study which we have done using the Allegheny County steelworkers' population indicates that the differences in sampling schemes probably do not produce differences of consequence in results. This will be discussed in a future publication):

A. Sampling scheme I

This method was applicable for the six plants where permanent numbers were assigned sequentially to men at the time of first employment. The nonoven workers were selected by examining the records of the men closest in number to the coke oven workers. The first two men who met all criteria were then selected for the study.

B. Sampling scheme II

At four plants no sequential number was assigned on the basis of starting date. A systematic sample of one out of five of all records in the plant files was microfilmed and returned to the Pittsburgh office, where two non-oven workers were selected for each oven worker on the basis of closest starting date, race, and eligibility according to other study criteria.

In addition to having the same race and starting date as the coke oven worker, criteria for selection for the comparison group were: (1) The man must have been actively employed sometime in the period 1951 through 1955; (2) The man must never have held a job at the coke ovens but could have worked in the coal, coke handling, or by-products areas; (3) The man must have had at least 30 days consecutive employment; (4) Vacation replacements were also excluded from the comparison group.

Table 1 shows the distribution by race and plant of the study cohort at the ten non-Allegheny County plants and indicates the sampling scheme used for selection of the comparison group. Note that for some plants there are not exactly twice as many non-oven workers as coke oven workers, since it was not always possible to obtain two men satisfying all study criteria.

TABLE 1.—DISTRIBUTION BY PLANT, RACE, COKE OVEN STATUS, AND FOLLOWUP STATUS THROUGH DEC. 31, 1966, OF STUDY GROUP OF MEN EMPLOYED DURING 1951-55 AT 10 NON-ALLEGHENY COUNTY STEEL PLANTS

Plant [1]	White employees			Nonwhite employees		
	Number in study	Number lost	Percent lost	Number in study	Number lost	Percent lost
Plant A:						
Coke oven	78	"	"	244	"	"
Nonoven (II)	156	1	0.6	487	5	1.0
Plant B:						
Coke oven	66	"	"	90	4	4.4
Nonoven (I)	130	"	"	178	"	"
Plant C:						
Coke oven	242	2	.8	52	"	"
Nonoven (I)	484	[2](1)5	1.0	87	2	2.3
Plant D:						
Coke oven	237	3	1.3	"	"	"
Nonoven (I)	474	(2)4	.8	"	"	"
Plant E:						
Coke oven	120	5	4.2	366	8	2.2
Nonoven (I)	240	6	2.5	684	(5)15	2.2
Plant F:						
Coke oven	90	1	1.1	815	(3)10	1.2
Nonoven (II)	180	2	1.1	1,630	(4)36	2.2
Plant G:						
Coke oven	222	"	"	18	"	"
Nonoven (II)	444	"	"	5	"	"
Plant H:						
Coke oven	87	1	1.1	274	(1)5	1.8
Nonoven (I)	174	"	"	516	(2)4	.8
Plant I:						
Coke oven	82	(1)1	1.2	1	"	"
Nonoven (I)	164	"	"	"	"	"
Plant J:						
Coke oven	221	"	"	"	"	"
Nonoven (II)	442	"	"	"	"	"
Total:						
Coke oven	1,445	(1)13	.9	1,860	(4)27	1.5
Nonoven	2,888	(3)18	.6	3,587	(11)62	1.7

[1] Roman numerals refer to sampling scheme used in selection of nonoven comparison group. (See text for explanation.)

[2] Numbers in parentheses are those men lost to follow-up who are possibly dead, but no death certificate can be located.

From the microfilmed employment histories of all men selected for the study, reproductions were prepared for coding and processing at the central study office. The reproductions were inserted in envelopes with specially designed coding forms printed on the front jacket. Information pertinent to follow-up on those men who had left employment between 1951 and December 31, 1966, was recorded on the back.

Specific jobs held by the men were coded using the four digit cassification code developed in the original steelworkers' study. It was necessary to expand the code in order to allow for jobs and work areas not encountered in the earlier research. Occupational terminology varied from plant to plant and over time, so that it was not always possible to define arbitrarily jobs which would entail coke oven exposures at all plants. When there was ambiguity in the job titles used, personnel at the specific plant were consulted to clarify whether the job in question was at the coke ovens. Information was also coded on employment in areas other than the coke ovens and interruptions in employment at the plant.

For men who had left employment prior to the study cut-off date, December 31, 1966, follow-up to determine vital status was initiated. A previous publication has described in detail the follow-up scheme employed for the Allegheny County steelworkers' study. The same general format was used for non-Allegheny County plants, although it was necessary to modify the follow-up procedures somewhat since information from local agencies was not as readily obtainable. For Canadian employees, follow-up was conducted with the assistance of the plant personnel and the officials of the Division of Occupational Health Sciences, Environmental Health Branch, Department of Health, and other agencies of the Province of Ontario.

The results of the intensive followup efforts are presented in Table 1, which gives the number and percentage of individuals in each plant whose status is still not known. The greatest losses to follow-up occurred at two midwest plants which appeared to have a highly mobile population. The importance of identifying all deaths cannot be overstressed because of our particular interest in causes of death with relatively low frequencies of occurrence, such as lung cancer. There were 19 individuals among those "lost" to follow-up who were indicated as deceased by one or more sources, but for whom death certificates could not be located. The numbers in parentheses in Table 1 show how these "possible deaths" are distributed by plant and race. Table 1 shows that the 19 "possible deaths" are not concentrated in any particular plant and are divided among the coke oven and comparison groups. It was felt by the investigators that the losses to follow-up are insufficient in any plant to affect seriously the results of the study. The "possible deaths" have not been included among the deaths shown in succeeding tables.

TABLE 1A.—DISTRIBUTION BY PLANT, RACE, AND COKE OVEN STATUS OF STUDY GROUP OF MEN EMPLOYED AT 2 ALLEGHENY COUNTY STEEL PLANTS IN 1953 AND SUMMARY OF STUDY GROUP FOR ALL 12 PLANTS

Plant	White employees		Nonwhite employees	
	Number coke oven	Number never coke oven	Number coke oven	Number never coke oven
Plant K	129	11,349	223	1,233
Plant L	405	5,547	599	407
Total, Allegheny County	534	16,896	822	1,640
Total, non-Allegheny County	1,445	2,888	1,860	3,587
Total, 12 plants	1,979	19,784	2,682	5,227

For all decedents, copies of death certificates were requested from the appropriate state or other office of vital statistics. A nosologist trained at the National Vital Statistics Division of the U.S. Public Health Service coded the underlying cause of death from the death certificates according to the

Seventh Revision of the International Classification of Diseases (I.D.C.).

An additional phase of this investigation has been extension of follow-up on the Allegheny County cohort through 1966 with a loss to follow-up of only 61 (0.1%) of the 58,828 men in the study. In order to parallel the definitions used outside Allegheny County, only the two Allegheny County plants with coke oven operations have been included in the analysis presented here. The coke oven group for these two plants is defined as all men who were employed at the coke ovens at some time during 1953, and the comparison group is all men who never worked at the coke ovens at these plants. Men who had coke oven experience at some time other than 1953 were excluded from analysis in order to have coke oven cohorts compatible to those at the ten non-Allegheny County plants.

Since the number of men in the study was insufficient for plant and age specific comparisons, tables have been constructed for the coke oven workers and controls by first classifying each plant's cohort by race, age at entry to the study, and the calendar years of follow-up: 1951–1957, 1958–1962, 1963–1966. An expected number of deaths for the coke oven workers was calculated for each of these subclasses with the underlying assumption that both coke oven workers and controls have the same rate within each subgroup. The total expected number of deaths is the sum of the specific rates for each subgroup multiplied by the number of coke oven workers at risk in the subgroup, while the expected number of deaths for coke oven workers at all plants is the sum of the expected number of deaths for the individual plants. The relative risk is a weighted average of the observed and expected number of deaths for each subgroup, where the weights used are approximately proportional to the precision within each subgroup. To test whether the relative risks differ significantly from one, a summary chi-square with one degree of freedom has been calculated. In instances where the expected number of deaths was insufficient for the chi-square test to be reliable, we have so indicated in the tables. The reader should note that, because the relative risk is a weighted average, it cannot be obtained directly by dividing the total observed deaths by the total expected deaths.

The Population at Risk

The number of men employed in the coke ovens from 1951 through 1955 and the comparison groups for the ten non-Allegheny County plants are shown in Table 1, while Table 1A shows the corresponding groups for the two Allegheny County plants. Of the 4,661 coke oven workers in the total study, 1,979 (42.5%) were white, and 2,682 (57.5%) were non-white.

The comparison group for the Allegheny County white coke oven workers is considerably larger than that for the ten non-Allegheny County plants, since all men employed in the plant in 1953 were included in the original cohort. Because of the smaller percentage of non-whites in the steelworkers' population, and the relatively high percentage who were employed at the coke ovens, the number of non-white employees in other areas was less than the number of coke oven employees for Plant L. This illustrates well the difficulties one can encounter in the selection of a suitable comparison group. The weights used in estimating the relative risks take into account this variability in sample size among the plants in this study.

MORTALITY OF COKE OVEN WORKERS IN OTHER GEOGRAPHIC AREAS

Summary relative risks for selected causes of death for the coke oven cohorts from other areas and the Allegheny County cohort are shown in Table 2. The mortality from all causes for white coke oven workers is somewhat less than expected in the non-Allegheny County plants, while for the non-whites the relative risk of 1.01 indicates that the mortality of coke oven workers is essentially the same overall as that of non-whites working in other parts of the plant. All causes mortality for whites and non-whites in Allegheny County does not differ appreciably from the all causes mortality of men working in other areas of the same plants.

Examination of the cause specific mortality reveals certain consistent and significant differences between coke oven workers and other employees. Combined estimates for all 12 plants indicate a highly significant excess risk of lung cancer for both white and non-white coke oven workers, with estimated relative risks ranging from 2.06 for the whites to 3.35 for the non-whites, for an average relative risk of 2.85 when the races are combined. In the ten non-Allegheny County plants the relative risk of dying from lung cancer is three times ($P<.01$) that of the comparison group for both whites and non-whites. In Allegheny County a highly significant risk of 3.77 is observed for lung cancer among non-white coke oven workers. However, the white Allegheny County coke oven workers have only a slight observed excess risk of lung cancer, resulting in an overall risk of 2.69 ($P<.01$) for Allegheny County.

Another cause group which appears to show a trend of excess relative mortality for the coke oven workers is cancer of the genito-urinary system. The overall relative risk for the twelve study plants 2.05 ($P<.01$) for deaths from this cause. Although the numbers of deaths observed are small, both the whites in Allegheny County and the non-whites in non-Allegheny County have a relative risk significantly greater than one for genito-urinary malignancies. Unlike the lung cancer risk where the excess mortality is more pronounced for the non-whites, the findings for cancers of the genito-urinary system indicate that the white coke oven workers may be a greater risk. Mortality from other cancer sites tends to be less than expected for coke oven workers.

A consistent non-significant deficit of between 10% and 20% is observed for the cardiovascular renal diseases. This observation of a deficit in CVR has been previously reported for similar occupational groups.

Mortality from other causes shown is not remarkably different between the races or the two geographic subdivisions. Because of the general consistency which has been observed for the mortality findings among the plants, only the combined estimates for all 12 plants are shown in succeeding tables. The relative risks shown always are weighted averages according to the precision of the estimate within each plant. Therefore, only differences in mortality which indicate general trends among the plants will be stressed in the following analyses.

TABLE 2.—OBSERVED AND EXPECTED DEATHS, 1951–66, AND RELATIVE RISK FOR SELECTED CAUSES BY RACE FOR COKE OVEN WORKERS EMPLOYED DURING 1951–55 AT 10 NON-ALLEGHENY COUNTY PLANTS AND FOR COKE OVEN WORKERS EMPLOYED DURING 1953 AT 2 ALLEGHENY COUNTY STEEL PLANTS

Cause of death	Non-Allegheny County			Allegheny County			All plants		
	Observed deaths	Expected deaths	Related risk[1]	Observed deaths	Expected deaths	Related risk[1]	Observed deaths	Expected deaths	Related risk[1]
WHITE									
All causes	129	139.0	0.88	56	56.6	0.99	185	195.6	0.92
Malignant neoplasms—lung, bronchus, and trachea	13	7.5	[2]3.02	4	3.4	([3])	17	10.8	[4]2.06
Malignant neoplasms—genito-urinary organs	2	1.8	([3])	5	.9	[4]6.99	7	2.7	[4]3.49
Other malignant neoplasms	9	16.0	.42	3	6.6	.43	12	22.6	[4].42
Tuberculosis of the respiratory system	1	1.0	([3])	0	.2	([3])	1	1.3	([3])
Other diseases of the respiratory system	8	6.0	1.63	2	1.8	([3])	10	7.8	1.44
Cardiovascular renal diseases	60	65.3	.87	25	30.5	.80	85	95.8	.84
Accidents	23	23.3	.98	6	3.7	1.68	29	27.1	1.10
All other causes	13	18.0	.61	11	9.4	1.35	24	27.4	.84
NONWHITE									
All causes	259	257.5	1.01	145	143.1	1.03	404	400.6	1.02
Malignant neoplasms—lung, bronchus, and trachea	23	13.4	[4]2.99	29	17.3	[4]3.77	52	30.7	[4]3.35
Malignant neoplasms—genito-urinary organs	10	5.7	[2]3.02	4	4.9	([3])	14	10.6	1.60
Other malignant neoplasms	28	26.6	1.09	15	18.1	.72	43	44.7	.94
Tuberculosis of the respiratory system	3	3.1	([3])	4	3.3	([3])	7	6.4	1.17
Other diseases of the respiratory system	13	14.2	.87	7	6.0	1.33	20	20.2	.98
Cardiovascular renal diseases	117	124.6	.90	52	58.4	.82	169	183.0	.87
Accidents	24	23.4	1.04	9	9.9	.84	33	33.3	.98
All other causes	41	46.4	.83	25	25.3	.98	66	71.7	.88
TOTAL									
All causes	388	396.4	.96	201	199.7	1.01	589	596.1	.98
Malignant neoplasms—lung, bronchus, and trachea	36	20.9	[4]3.00	33	20.7	[4]2.69	69	41.5	[4]2.85
Malignant neoplasms—genito—urinary organs	12	7.5	[2]2.42	9	5.8	1.76	21	13.3	[4]2.05
Other malignant neoplasms	37	42.6	.80	18	24.7	.61	55	67.2	.72
Tuberculosis of the respiratory system	4	4.1	([3])	4	3.5	([3])	8	7.6	1.08
Other diseases of the respiratory system	21	20.2	1.06	9	7.8	1.25	30	28.0	1.17
Cardiovascular renal diseases	177	190.0	.89	77	88.9	.81	254	278.8	.86
Accidents	47	46.7	1.01	15	13.6	1.15	62	60.4	1.04
All other causes	54	64.4	.77	36	34.7	1.11	90	99.2	.86

[1] Significance of relative risk based on summary chi-square with 1 degree of freedom.
[2] 5 percent level.
[3] Less than 5 deaths.
[4] 1 percent level.

SUBDIVISION OF THE COKE OVEN POPULATION

In order to delineate further the relationships between work area and the mortality findings for coke oven workers, it is necessary to consider three basic subdivisions of the coke oven population. Men who work full time at the top of the ovens have considerably more exposure to the effluents than do men employed at the side of the ovens. In addition, there are several jobs which require part-time exposure at the top of the ovens, while the remainder of the coke oven jobs are at the side of the ovens. We have used the terms full topside, partial topside, and side oven to indicate the job classifications for the coke oven workers.

Table 3 shows the distribution of the coke oven workers by work area and by length of employment at the start of follow-up. Among the white coke oven workers 15.6% were employed fulltime at the top of the ovens at the time of entry to the study, while 27.3% of the non-white coke oven workers were fulltime topside workers. Of the white coke oven workers 27% were classified as partial topside, as contrasted to 2.3% of the non-white coke oven workers. The remainder of the workers were employed at the side of the ovens.

In terms of length of exposure, 41.5% of the non-whites and 29.8% of the whites had been employed at the coke ovens for five or more years at the time of entry to the study. Only 41 (2.1%) of the whites had been employed five or more years full topside, but an additional 11.2% had five or more years partial topside experience. On the other hand, 10.7% of the non-whites had five or more years full topside experience, and only 0.8% had five or more years partial topside experience. Eleven percent of white coke oven workers and 23.6% of non-white coke oven workers had five or more years experience which was all at the side of the ovens. The other oven group consists of individuals who had less than five years topside or partial topside experience, but five or more years total oven history.

Table 4 shows mortality for specified causes by area of employment at the time of entry to the study. Mortality from all causes is highest for full topside workers (Relative Risk: 1.12), somewhat lower for partial topside workers (1.07), and lowest for side oven workers (0.92). The race specific mortality for all causes among the full topside workers indicates an apparent contradiction in results. White full topside workers have a highly significant deficit in mortality, while nonwhite full topside workers have a significant excess in mortality. The relative risks are 0.42 and 1.32 respectively.

Examination of the plant specific comparison revealed that one of the non-Allegheny County plants, which contributed 88 (28.6%) of the full topside white oven workers, had a significant deficit in mortality from all causes (Relative Risk: 0.19). There were no nonwhite workers at the coke ovens for this plant. This particular plant was the only in the study where it was not possible to include in the study all coke oven workers from 1951 through 1955 because plant personnel were unable to furnish us with necessary information. There were 22 men whose names appeared on the 1951 through 1955 coke oven seniority rosters for whom employment forms were not available. All of these individuals had terminated employment during the early 1950s, and for at least 10 of the 22 the reason for termination of employment was indicated as death. We are currently making further attempts to ascertain information on cause of death and area of employment for these men. If this plant were eliminated from the analysis, the relative risk of dying from all causes for full topside white workers would not differ significantly from one. The mortality for other coke oven subdivisions at this plant is of the same order of magnitude as that of the other 11 plants. We have included the plant in the analysis shown here, since the cause specific mortality, although perhaps underestimated, exhibits the same general trends observed for coke oven workers at other plants.

TABLE 3.—DISTRIBUTION OF COKE OVEN WORKERS, BY RACE, COKE OVEN SUBDIVISIONS, AND LENGTH OF EMPLOYMENT

	White		Nonwhite		Total	
	Number	Percent	Number	Percent	Number	Percent
Area of employment at time of entry to study:						
Full topside	308	15.6	733	27.3	1,041	22.3
Partial topside	534	27.0	63	2.3	597	12.8
Side oven	1,137	57.5	1,886	70.3	3,023	64.9
Total, coke oven	1,979	100.0	2,682	100.0	4,661	100.0
Length of employment and work area at time of entry to study:						
Full topside more than 5 years	41	2.1	287	10.7	328	7.0
Partial topside more than 5 years [1]	222	11.2	21	.8	243	5.2
Side oven more than 5 years [2]	218	11.0	633	23.6	851	18.3
Other oven more than 5 years [3]	109	5.5	173	6.5	282	6.1
Subtotal, coke oven more than 5 years	590	29.8	1,114	41.5	1,704	36.6
Coke oven less than 5 years	1,389	70.2	1,568	58.5	2,957	63.4
Total, coke oven	1,979	100.0	2,682	100.0	4,661	100.0

[1] Less than 5 years full topside.
[2] Never partial or full topside.
[3] Less than 5 years full or partial topside.

TABLE 4.—OBSERVED AND EXPECTED DEATHS, 1951–66, AND RELATIVE RISK FOR SELECTED CASES BY RACE AND COKE OVEN SUBDIVISIONS FOR COKE OVEN WORKERS (ALL PLANTS COMBINED)

Cause of death	Full topside			Partial Topside			Side Oven		
	Observed deaths	Expected deaths	Relative risk [1]	Observed deaths	Expected deaths	Relative risk [1]	Observed deaths	Expected deaths	Relative risk [1]
WHITE									
All causes	13	26.3	[2] 0.42	65	57.3	1.17	107	114.1	0.92
Malignant neoplasms—lung, bronchus, and trachea	3	1.1	(4.49)	6	3.2	2.15	8	5.0	1.87
Malignant neoplasms—genito-urinary organs	0	0	([2])	2	.6	(3.48)	5	2.0	[3] (3.31)
Other malignant neoplasms	0	3.7	([2])	4	8.2	.40	8	12.2	.58
Tuberculosis of the respiratory system	1	.5	([2])	0	.2	([2])	0	.4	([2])
Other diseases of the respiratory system	0	1.0	([2])	5	2.6	2.28	5	4.1	1.29
Cardiovascular renal diseases	5	12.0	[3] .35	34	27.7	1.28	46	57.6	.74
Accidents	1	4.4	([2])	7	6.6	1.06	21	16.4	1.41
All other causes	3	3.4	([2])	7	8.2	.84	14	16.3	.83
NONWHITE									
All causes	144	117.8	[4] 1.32	8	11.9	.63	252	265.6	.92
Malignant neoplasms—lung, bronchus, and trachea	32	9.3	[4] 7.68	1	.5	(2.08)	19	14.3	1.66
Malignant neoplasms—genito-urinary organs	4	2.5	(1.80)	0	.3	([2])	10	7.1	1.65
Other malignant neoplasms	15	13.1	1.20	1	1.5	.66	27	29.2	.89
Tuberculosis of the respiratory system	2	1.8	([2])	0	.2	([2])	5	4.4	1.21
Other diseases of the respiratory system	7	6.0	1.20	0	0.5	([2])	13	13.7	.93
Cardiovascular renal diseases	55	56.4	.97	5	6.1	.79	109	123.3	.83
Accidents	9	9.0	1.00	0	.8	([2])	24	23.7	1.02
All other causes	20	19.7	1.02	1	2.1	([2])	45	49.9	.86
TOTAL									
All causes	157	144.1	1.12	73	69.2	1.07	359	379.7	.92
Malignant neoplasms—lung, bronchus, and trachea	35	10.4	[4] 7.24	7	3.7	2.14	27	19.4	[3] 1.73
Malignant neoplasms—genito-urinary system	4	2.5	(1.77)	2	.8	(2.36)	15	9.2	[3] 2.02
Other malignant neoplasms	15	16.8	.86	5	9.7	.44	35	41.4	.79
Tuberculosis of the respiratory system	3	2.3	([2])	0	.3	([2])	5	4.8	1.06
Other diseases of the respiratory system	7	7.0	.99	5	3.1	1.78	18	17.8	1.01
Cardiovascular renal diseases	60	68.5	.84	39	33.8	1.18	155	180.9	[3] .80
Accidents	10	13.4	.72	7	7.4	.94	45	40.1	1.19
All other causes	23	23.1	1.00	8	10.2	.76	59	66.2	.85

[1] Significance of relative risk based on summary chi-square with 1 degree of freedom.
[2] Less than 5 deaths.
[3] 5 percent level.
[4] 1 percent level.

Note: Figures in parenthesi based on less than 5 deaths.

The relative risks for cancers of the lung, bronchus, and trachea indicate a definite gradient in response with the highest response observed among men who were full-time topside; intermediate response for men who were partial topside; and lowest response for men working at the side of the ovens. Overall, the relative risks for malignancies of the lung, bronchus, and trachea are 7.24 for full topside workers, 2.14 for partial topside workers, and 1.73 for side oven workers. There is a difference in the relative risks between white and non-white full topside workers (4.49 versus 7.68), but this can be interpreted as being a reflection of the greater proportion of non-whites with five or more years of full topside experience. Comparisons of the lung cancer risks for partial topside workers and side oven workers indicate similar levels of risk by race.

In contrast to the lung cancer experience, the excess relative risks for cancers of the genito-urinary system do not differ greatly in magnitude among the work areas. The only work area where the numbers were sufficience to result in a statistically significant excess for this cause, however, was the side oven (Relative Risk: 2.02).

A deficit in cardiovascular renal diseases is seen for both topside and side oven workers, while partial topside workers have a non-significant excess. The tables indicate that mortality from respiratory diseases other than cancer does no differ from that of other workers in the plants. It also appears that the mortality patterns for other causes examined do not deviate significantly from what was predicted based on the experience of the non-oven workers.

Table 5 summarizes the mortality findings based upon length of employment at the coke ovens on entry to the study. It is interesting that, for men employed five or more years at the start of follow-up, mortality from all causes is about what one would expect or slightly greater. On the other hand, the relative risk for men with less than five years exposure is significantly low (Relative Risk: 0.83). It appears that the relative risk for lung cancer is the same for white oven workers regardless of length of employment. Among white coke oven workers with five or more years of exposure, the relative risks for lung cancer and other respiratory disease are both over two-fold, although the numbers are insufficient to be statistically significant. In contrast, the lug cancer risk is 4.28 ($P<.01$) for non-white coke oven workers with five or more years exposure, while mortality from other respiratory diseases is about what one would expect. Malignant neoplasms of the genito-urinary organs are signficantly greater among coke oven workers with five or more years experience, with a less pronounced excess for men with less than five years experience. A significant deficit in other malignancies is observed among coke oven workers with less than five years employment. Although a deficit in cardiovascular renal diseases is observed for both exposure groups, the deficit is more pronounced for the group with less exposure. It should be noted that the deficit is not significant for either group.

TABLE 5.—OBSERVED AND EXPECTED DEATHS, 1951-66 AND RELATIVE RISK FOR SELECTED CAUSES BY RACE, AND LENGTH OF EMPLOYMENT AT ENTRY TO STUDY FOR COKE OVEN WORKERS EMPLOYED DURING 1951-55 AT 10 NON-ALLEGHENY COUNTY PLANTS AND FOR COKE OVEN WORKERS EMPLOYED DURING 1953 AT 2 ALLEGHENY COUNTY STEEL PLANTS (ALL PLANTS COMBINED)

Cause of death	5 years or more coke oven			Less than 5 years coke oven		
	Observed deaths	Expected deaths	Relative risk [1]	Observed deaths	Expected deaths	Relative risk [1]
WHITE						
All causes	108	108.3	1.00	77	88.2	0.83
Malignant neoplasms—lung, bronchus, and trachea	11	6.4	2.13	6	3.5	2.13
Malignant neoplasms—genito—urinary organs	6	2.2	[2] 3.95	1	.6	([3])
Other malignant neoplasms	8	12.6	.55	4	10.8	[4] .29
Tuberculosis of the respiratory system	1	1.2	.....	0	.2	([3])
Other diseases of the respiratory system	8	4.2	2.35	2	3.0	([3])
Cardiovascular renal diseases	57	60.8	.92	28	36.0	.72
Accidents	5	7.2	.66	24	20.2	1.28
All other cases	12	13.8	.84	12	13.9	.84
NONWHITE						
All causes	275	257.6	1.12	129	146.9	.83
Malignant neoplasms—lung, bronchus, and trachea	44	21.6	[2] 4.28	8	6.4	1.45
Malignant neoplasms—genito—urinary organs	11	8.4	1.51	3	2.0	([3])
Other malignant neoplasms	34	31.4	1.14	9	15.2	.48
Tuberculosis of the respiratory system	4	3.8	.....	3	2.8	([3])
Other diseases of the respiratory system	12	12.5	.94	8	8.0	1.00
Cariovascular renal diseases	116	125.4	.89	53	60.4	.83
Accidents	15	14.8	1.02	18	18.5	.96
All other causes	39	39.6	.98	27	33.7	.74
TOTAL						
All causes	383	365.9	1.08	206	235.2	[4] .83
Malignant neoplasms—lung, bronchus, and trachea	55	28.0	[2] 3.48	14	9.9	1.70
Malignant neoplasms—genito—urinary organs	17	10.6	[4] 2.01	4	2.6	([3])
Other malignant neoplasms	42	44.0	.93	13	26.0	[2] .40
Tuberculosis of the respiratory system	5	5.0	1.00	3	2.9	([3])
Other diseases of the respiratory system	20	16.8	1.28	10	11.0	.88
Cardiovascular renal diseases	173	186.2	.90	81	96.4	.79
Accidents	20	21.9	.88	42	38.6	1.12
All other causes	51	53.4	.94	39	47.6	.77

[1] Significance of relative risk based on summary chi-square with 1 degree of freedom.
[2] 1 percent level.
[3] Less than 5 deaths.
[4] 5 percent level.

Since the results of the analyses thus far indicate that both the level and duration of exposure to coke oven effluents are positively associated with mortality from certain malignant neoplasms, Table 6 contains a detailed breakdown of the malignant neoplasms for specific sites by duration and area of employment at the coke ovens. It is seen that coke oven workers have highly significant mortality from malignant neoplasms, with a relative risk of 1.34. In addition, the excess appears to be concentrated in three particular sites: 1) bronchus, lung, and trachea, which accounted for 47.6% of the 145 malignant neoplasms among coke oven workers and had a relative risk of 2.85 ($P<.01$); 2) kidney, where eight deaths were observed for a relative risk of 7.49 ($P<.01$); and 3) prostate, where 12 deaths were observed for a relative risk of 1.64 (non-significant). The findings by length and area of employment are consistent with increased exposure producing an excess in the cancer mortality for these three sites, although the results for the lung cancers are more conclusive because of the larger number of deaths available for analysis. A significant excess in cancers of other and unspecified sites among full topside workers consists mainly of cancers where the primary site is unknown or not specified on the death certificate.

DISCUSSION

(1) *Malignant Neoplasms of the Respiratory System*

A review of the history of coal tar cancers has been presented by Lloyd in the fifth paper of this series. As he points out, however, prior to our recent studies, there had been conflicting information presented regarding the nature and extent of the lung cancer mortality risk for coke oven workers. Based upon the findings which we have presented here, the evidence indicates that coke oven workers experience 2½ to 3 times the number of lung cancer deaths which one would expect based upon the mortality experience of non-oven workers. In spite of the differences in the determination of the comparison groups, the relative risks obtained for the original cohort and the non-Allegheny County cohort of coke oven workers are remarkably similar for lung cancer, as well as for other causes of death. Due to the large number of white coke oven workers in the expanded study we can now conclude that, when length and type of exposure are taken into account, the relative risks for respiratory malignancies are of the same order of magnitude for both white and non-white coke oven workers.

TABLE 6.—OBSERVED AND EXPECTED DEATHS AND RELATIVE RISKS FOR MALIGNANT NEOPLASMS BY SITE, 1951-66: BY LENGTH OF EMPLOYMENT AT THE COKE OVENS AND SUBDIVISIONS AT ENTRY TO STUDY

Cause of death (I.C.D.—7th revision)	Total oven			5 years or more coke oven			5 years or more full time topside		
	Observed deaths	Expected deaths	Relative risk [1]	Observed deaths	Expected deaths	Relative risk [1]	Observed deaths	Expected deaths	Relative risk [1]
Malignant neoplasms, all sites (140–205)	145	122.1	[2] 1.34	114	82.6	[2] 1.69	41	20.0	[2] 2.74
Bronchus, lung and trachea (162–163)	69	41.5	[2] 2.85	55	28.0	[2] 3.48	25	7.4	[2] 6.87
Other respiratory system (160, 161–164)	1	2.4	([3])	1	1.8	([3])	0	.5	([3])
Buccal and pharynx (140–148)	3	3.4	([3])	1	2.2	([3])	0	.5	([3])
Digestive organs and peritoneum (150–159)	31	37.0	.77	25	26.0	.95	3	5.9	.46

TABLE 6.—OBSERVED AND EXPECTED DEATHS AND RELATIVE RISKS FOR MALIGNANT NEOPLASMS BY SITE, 1951–66: BY LENGTH OF EMPLOYMENT AT THE COKE OVENS AND SUBDIVISIONS AT ENTRY TO STUDY—Continued

Cause of death	Total oven			5 years or more coke oven			All plants		
	Observed deaths	Expected deaths	Related risk[1]	Observed deaths	Expected deaths	Related risk[1]	Observed deaths	Expected deaths	Relative risk[1]
Prostate (177)	12	8.8	1.64	11	7.4	1.83	4	2.0	(3)
Other genital organs (178–179)	0	.4	(3)	0	.3	(3)	0	.1	(3)
Kidney (180)	8	2.6	[2] 7.49	5	1.6	5.69	0	.1	(3)
Bladder and other urinary organs (181)	1	1.5	(3)	1	1.3	(3)	0	.3	(3)
Skin (190–191)	1	1.5	(3)	1	.8	(3)	0	.1	(3)
Leukemias and lymphomas (200–205)	9	10.8	.76	5	6.0	.77	2	1.4	(3)
Other and unspecified sites (170, 192–199)	10	12.1	.69	9	7.3	1.46	7	1.7	[2] 12.37

	5 years or more topside and side oven exposure			5 years or more side oven, never topside			Less than 5 years coke oven		
	Observed deaths	Expected deaths	Relative risk[1]	Observed deaths	Expected deaths	Relative risk[1]	Observed deaths	Expected deaths	Relative risk
Malignant neoplasms, all sites (140–205)	27	18.9	1.51	46	35.5	1.40	31	38.6	0.74
Bronchus, lung, and trachea (162–163)	15	5.5	[2] 3.22	15	8.7	[4] 2.10	14	9.9	1.70
Other respiratory system (160, 161–164)	0	.4	(3)	1	1.0	(3)	0	1.0	(3)
Buccal and pharynx (140–148)	1	1.0	(3)	0	.8	(3)	2	1.4	(3)
Digestive organs and peritoneum (150–159)	4	6.3	.62	18	14.2	1.37	6	12.2	.42
Prostate (177)	0	1.1	(3)	7	3.9	2.11	1	1.4	(3)
Other genital organs (178–179)	0	.1	(3)	0	.2	(3)	0	.2	(3)
Kidney (180)	3	.4	(3)	2	.7	(3)	3	.7	(3)
Bladder and other urinary organs (181)	0	.3	(3)	1	.8	(3)	0	.4	(3)
Skin (190–191)	0	.3	(3)	1	.3	(3)	0	.8	(3)
Leukemias and lymphomas (200–205)	3	2.1	(3)	0	2.3	(3)	4	5.3	.68
Other and unspecified sites (170, 192–199)	1	1.3	(3)	1	2.6	(3)	1	5.2	(3)

[1] Significance of relative risk based on summary chi-square with 1 degree of freedom.
[2] 1 percent level.
[3] Less than 5 deaths.
[4] 5 percent level.

We are now also able to delineate with greater precision the relative risks of lung cancer for subclassifications of the coke oven workers based upon the type and duration of exposure: it appears that topside workers have over a seven-fold risk, partial topside workers over a two-fold risk, and side oven workers a risk between 1½ to 2 times what one would expect (Table 4). In addition, Table 6 indicates a gradient in response related to both length and area of employment ranging from a relative risk of 6.87 for men employed five or more years full topside at entry to the study to a relative risk of 1.70 for men with less than five years exposure to coke ovens. (It should be kept in mind that men with less than five years of employment at entry could have accumulated at most 20 years by the end of the follow-up period). This pattern suggests the existence of a dose response relationship between some carcinogenic element or elements in the coke oven effluents and the development of lung cancer.

(2) Malignant Neoplasms of the Genito-Urinary System.

Although the possibility of excess bladder cancer among coal tar workers has been suggested, there is a lack of population data. Battye found β-naphthylamine, a potent bladder carcinogen in gas retort effluents, and it has also been isolated from coking pitch. However, among the 4,661 coke oven workers followed here, only one died of bladder cancer versus 1.5 deaths expected. Therefore, we conclude that the amount of exposure of coke workers to β-naphthylamine or other carcinogens is insufficient to produce an unusually high bladder cancer risk.

The negative finding for bladder cancer is overshadowed by a high relative risk for kidney cancer. Although only eight deaths were observed from this cause, kidney is a very rare cancer site, with the ratio of bladder cancer to kidney cancer deaths in the general population averaging about 2.5 to 1. In this study there were eight deaths from kidney cancer and only one from bladder cancer.

The kidney cancer deaths observed are not clustered in any plant or race group. Four deaths were observed in the Allegheny County cohorts, and four deaths in the Non-Allegheny County cohorts. Four of the deaths were among white coke oven workers, and four among non-white coke oven workers. In fact, the relative risks for both white and non-white workers are the same (Relative Risk: 7.5). Although the relative risk overall is greater for kidney than for lung cancers, the small number of kidney cancers makes it difficult to consider the nature of a dose response relationship. Since five of the deaths occurred among the 36.6% of the workers who had five or more years experience, and only three among the 63.4% with less than five years, the evidence is suggestive that duration of exposure is a factor. None of the deaths occurred among the workers who had five or more years extopside, even though this group had the highest lung cancer risk and also a highly significant excess for cancers of unspecified sites.

A great deal has been written about the occurrence of transitional cell bladder cancers in men occupationally exposed to certain chemical compounds. Little is known, however, about the etiology of kidney cancer in humans. Compounds which have been associated with kidney cancers on an expermental basis are the nitrosamines, but these have not been related to kidney tumors in humans. There have also been reports implicating phenacetin, an ingredient in analgesics, with the development of transitional cell tumors of the renal pelvis among chronic users of analgesics. Such an etiology among the coke oven workers appears unlikely, since only one of the eight cases was specified as a transitional cell carcinoma, and information available to us indicates that the kidney cancers among coke oven workers are mainly hypernephromas (adenocarcinomas).

A review of the literature on coke oven workers revealed only one study that suggests an elevated risk. The British Registrar-Generals' Report on death certificates from 1949 to 1953 shows six deaths among unskilled workers in coke ovens and gas works six observed versus there expected for men versus three expected for ages 20–64, and over 65 years of age. This is consistent with our finding, although indicative of a lower level of risk than was observed for coke oven workers in this study.

The relative risks of prostatic cancer are suggestive of a higher risk for long-term coke oven workers. Although none of the relative risks are significantly high, all of the excess for prostatic cancers occurred among men employed at the coke ovens for five or more years at the time of entry to the study. The Registrar-General's Report indicates an excess of nine observed deaths versus five expected for laborers in coke oven and gas works in the age group 20–64, but there is a deficit of 20 observed versus 32 expected for men 65 and over.

(3) *Other Malignant Neoplasms.* An excess of leukemia, which was previously reported among skilled workers in coal gas and coke is not substantiated by our findings. Although exposure to coal tars is also known to be associated with malignancies of the skin, only one skin cancer death was observed among the 4,661 coke oven workers in this study. Thus, even though skin cancers may occur among coke oven workers, they do not appear to be important as a cause of death.

Further follow-up of coke oven workers is advisable in order to evaluate more fully the findings for kidney and prostatic cancers. The evidence presented here does suggest, however, that the effluents of the coke ovens contribute to the development of cancer in multiple sites. There is an immediate need for further research relating to environmental measurements to morbidity and mortality among coke oven workers to serve as a basis for the establishment of proper standards for coke oven emissions.

SUMMARY

This sixth paper in the series considers in detail the long-term mortality findings for cohorts of coke oven workers at 12 steel plants. The cause specific mortality patterns for men employed in various sites and for varying lengths of time at the coke ovens are contrasted with those of men employed in other work areas of the plants, with appropriate adjustments made for plant, race, age at entry, and calendar years of follow-up. The conclusions of note are:

(1) The observation made by Lloyd in the fifth paper of this series that coke oven workers have an excess mortality for respiratory cancers is borne out by the expansion of the study to other geographic areas. Overall, mortality for this disease among coke oven workers is over 2½ times that predicted.

(2) When both type and duration of exposure are taken into account, white and non-white coke oven workers are seen to

have relative risks of about the same magnitude for lung cancer. The relative risks of lung cancer are 6.87 for men with five or more years employed at full topside, 3.22 for men with five or more years of mixed topside and side oven experience, 2.10 for men with five or more years side oven experience only, and 1.70 for all men with less than five years experience at start of follow-up.

(3) A new finding in this report is a highly significant, 7½-fold risk of dying from kidney cancers among coke oven workers.

(4) It is pointed out that measurements need to be made of the various coke oven effluents, and the relationships between environmental measures mortality, and morbidity studied in detail in order that meaningful threshold limit values may be established for coke ovens.

[From The New York Post, April 25, 1972]

A JERSEY TOWN IS DYING—FAST

(By Robert Vare)

MANVILLE, N.J.—The main street here is called "Main Street" and along the mile-long strip barber shops still offer $1.25 haircuts, the VFW post boldly promises "BINGO" every Thursday night and several neon reproductions of giant martini glasses declare the presence of workingmen's saloons.

By day the women of the town move about the street in haircurlers. By night their husbands and fathers assemble in the bars to talk of hunting, fishing and taxes.

As far as appearances go, there is nothing to distinguish this blue-collar community from the typical Factory Town, U.S.A.

Yet Manville, 40 miles southwest of New York City, is different, for this is a town where people are dying—faster.

CHEMICAL STRANGLEHOLD

According to a number of physicians and medical researchers, Manville is in the grip of a chemical stranglehold, an epidemic that will probably not run its chilling course for many years to come.

The source of Manville's woes is also the central fact of life in the town: a dingy, massive complex of buildings with the appearance of abandoned dockside warehouses. The buildings are the home of the world's largest asbestos-processing plant and of some 3000 residents who work there. The factory belongs to the Johns-Manville Corp., the biggest producer of asbestos materials on earth.

Asbestos is one of the most common substances in modern industrial society. Because of its imtable and non-flammable nature, every automobile, airplane, train, ship, missile and engine contains asbestos in some form or other and there is not a building, factory, or home in the U.S. where it cannot be found.

ASBESTOS IN THE AIR

And because asbestos' tiny fibers are so easily breathed in and float so freely in the air, the workers of the plant and the non-worker population of the town carry asbestos around in their lungs, where it causes lasting harm.

As a result of exposure to asbestos, it is estimated that between 15 and 30 per cent of Manville's 15,000 residents, including 75 per cent of J-M's factory employes, suffer to some degree from coughing, shortness of breath and lassitude—the principal symptoms of asbestosis, a disabling and sometimes fatal lung disease.

A smaller but still considerable number of the town's predominantly Polish citizenry are afflicted with lung cancer and with a rare and incurable type of cancer called mesothelioma.

HIGHER DEATH RATE

Since 1963, 62 residents have died of what their autopsies indicated to be mesothelioma, which brings death within 18 months. In the general population the disease hits only one person in 10,000.

The rate of lung cancer here is extraordinarily high—eight times the norm for the U.S.

Even more disquieting, the incidence of death in the town from the three asbestos-related diseases seems to be accelerating sharply.

"Since the incubation period of asbestos diseases is about 20 years," says one doctor who has kept a vigilant eye on Manville, "there could come a day when these people will start dropping like flies."

James Langley is a strapping 200-pounder who still looks like the linebacker he was in high school.

FORCED TO RETIRE

But Langley's robust physical appearance belies the state of his health. A year ago after 25 years of employment "doing just about every job" in the J-M plant, Langley was forced to retire. The reason for his retirement was asbestosis, which seriously impaired his ability to breathe and do any kind of labor.

Today, because of the quantity of asbestos fibers in his lungs, he sleeps in a sitting position and must walk up stairs backwards because he needs to sit down and rest after each step.

George Smith, 58, another veteran asbestos worker in Manville, retired in February on doctor's orders when asbestos scarring showed up in X-rays of his lungs. As a result of his ailment he can no longer bend over to tie his shoelaces and a three-block walk to the grocery store has become something on the order of 50-mile hike.

THEY'RE FORTUNATE

Yet both Smith and Langley regard themselves as fortunate, because their physicians say they have not developed lung cancer, the grim consequence that 50 per cent of asbestosis victims must pay, according to medical authorities.

In recent years the danger of asbestos has been recognized as a national menace. According to estimates of the U.S. Labor Dept., there are 200,000 persons working in some 500 asbestos plants across the country who are as regularly and directly exposed to asbestos dust particles as those in Manville.

Perhaps 4 million more construction workers, steamfitters, electricians, welders and masons are also in close contact with asbestos fibers on a daily basis. And since asbestos particles readily float in the air, the hazard extends to the general population as well.

BAN SPRAYING

The peril of asbestos prompted the New York City Council last year to ban the spraying of fireproofing materials containing asbestos on new buildings. In recent months many other municipal bodies, for example in Boston, Chicago and Philadelphia, have acted similarly.

Ironically, the J-M plant in Manville is cited by scientific researchers and government agencies as comparatively progressive in its implementation of environmental control measures.

A spokesman for Johns-Manville in New York claims that the company has spent more than $5 million in the last five years on improved methods for reducing exposure to asbestos dust in its Manville plant.

Johns-Manville contends that the tragic situation in Manville today is a result of conditions that existed in the factory 20 and 30 years ago. The company maintains that even though asbestos was first identified in 1924, the link between asbestos and lung diseases was not clearly established until the late 1960s and therefore J-M was not negligent.

Dr. Maxwell Borow, a surgeon in a town near Manville who has studied asbestos-related diseases for the past 10 years, is willing to accept the company's explanation to a degree.

But he recalls that in 1967 he asked the company for a $3000 grant to set up an exhibit to educate the plant workers to the dangers of asbestos. His request was flatly rejected.

"The company was like an ostrich with its head in the sand," says Dr. Borow. "They just didn't want to hear about or see that any problem existed. But their attitude is changing."

Dr. Borow can take much of the credit for this. He has spent a great deal of time instructing other area doctors about the asbestos diseases, as has Dr. Irving Selikoff, a pioneer in the field of industrial ailments. Dr. Selikoff is head of the Division of Environmental Medicine at the City University's Mount Sinai School of Medicine.

Working closely with the asbestos workers' union, Local 800 of the United Papermakers and Paperworkers, Dr. Selikoff has undertaken a study of medical histories of 690 employes at the plant to compare the incidence of deaths and diseases observed with the expected mortality rates. Since previous investigations have suggested that ailments associated with asbestos seldom develop until 20 years after initial exposure to the dust particles, Dr. Selikoff has limited his research to those workers who were on the union rolls as of Jan. 1, 1939, and who were employed for at least 20 years.

Results of the study are expected to be made available next month. For the moment Dr. Selikoff is willing to say only that "the mortality experience of these people is proving to be very unhappy and they're going to be much higher."

One of the subjects in Dr. Selikoff's study was a 70-year-old Polish man who spoke no English and was accompanied to his medical examination by his daughter.

[From the New York Post, April 26, 1972]

A MAN WITH 8 MONTHS TO LIVE

(By Robert Vare)

MANVILLE, N.J.—Daniel Maciborsky says it's better to know than not to know you're dying.

"This way I'll get everything settled: the will . . . the life insurance . . . all the papers," says Maciborsky. "My wife won't get stuck."

Maciborsky, 49 years old, has mesothelioma, a rare and incurable form of cancer that strikes the peritoneum, the membrane lining the abdominal cavity—as in his case—or the pleura, a membrane that encases the lungs.

Doctors have told him the gloomy prognosis. In a few months the malignant tumor will harden and encircle his stomach, compressing the organ and causing his 5–10, 170-pound-frame to begin to waste away. By the end of the year. Maciborsky will be dead

The physicians who have studied Maciborsky attribute his development of mesothelioma primarily to the large quantity of asbestos he inhaled over the last 30 years. Since 1941—except for a three-year stint in the Marines during World War II—Maciborsky has worked at the Johns-Manville Corp. asbestos plant here.

AN "EPIDEMIC"

According to Dr. Maxwell Borow, a surgeon in the neighboring town of Bound Brook, the outbreak of mesothelioma in Manville has reached "epidemic" proportions.

In the last eight years 60 of the asbestos factory's 3000 employes have died of mesothelioma, compared with one person in 10,000 in the general population.

Two other mesothelioma victims never worked at the Johns-Manville factory but lived within a half mile of the plant. One was a woman who as a child had often played on an asbestos dump. The other was also a woman who had been married to an

asbestos worker and had washed her husband's work clothes regularly.

Perhaps dozens more in Manville have succumbed to the rare disease, usually fatal within a year. But their medical records are not reflected in the statistics, because only in the last few years have doctors become fully familiar with the disease's characteristics.

Since the gestation period of mesothelioma is generally about 20 or 30 years there is reason to fear that the incidence of the disease will continue to rise at an alarming rate. Dr. Borow warns that it may be several decades before the crisis begins to abate, even if stringent dust control standards are adopted in the asbestos plant immediately.

Besides mesothelioma, asbestos workers in Manville have exhibited a tremendously high rate of lung cancer and of asbestosis, a lung ailment that seriously impairs breathing and in 50 per cent of its victims leads to death from cancer.

A poignant irony lies at the heart of the story of Daniel Maciborsky. He had come to Manville in 1941 from the hardcoal hills of eastern Pennsylvania to escape the fate of his father, who had worked in the mines for 25 years and died of "black lung."

"I figured it would be healthier working in a factory than in the mines," said the soft-spoken, sad-eyed Maciborsky, as he sat in his kitchen several days ago. "I guess it didn't turn out that way."

Maciborsky took his biannual medical examination at the plant Dec. 11 and was pronounced in perfect health. Several weeks later he began to experience a "bloated feeling" in his stomach, as if he had overeaten. Exploratory surgery by Dr. Borow on Feb. 4 uncovered the mesothelioma.

"WASN'T SURPRISED"

"I knew what it was because everybody at the plant knows about asbestos and mesothelioma now," says Maciborsky. "I wasn't surprised or shocked about it. I told the doctor not to hold anything back. I just asked him, 'How long have I got?'"

Maciborsky is reluctant to blame Johns-Manville for his fatal ailment or to condemn company doctors for failing to detect it. But he does contend—as do many other plant employes—that until a few years ago the company made a practice of deliberately not telling workers when they had been diagnosed with respiratory diseases that could be clearly connected with exposure to asbestos.

A spokesman for the company in New York City acknowledges that the charges are true to a certain extent but emphasizes that "there is more medical research now and our philosophy has changed."

Leaders of the union representing the asbestos workers in Manville—Local 800 of the United Paperworkers and Papermakers—like to think that a 158-day strike against Johns-Manville in 1970 had something to do with the company's philospohical transformation. A key issue of the strike was that employes have access to the results of their medical exams and to records of in-plant dust exposure measurements.

"The company was well aware of what was going on," says Robert Klinger, vice president of Local 800. "They just wanted to sweep the problem under the rug."

Back in 1952, Maciborsky's father-in-law, Joseph Kiewleski, also an asbestos worker, for three decades, complained to the company of acute shortness of breath. Kiewleski was given a complete medical checkup after which his job was changed from machinist to janitor.

The transfer, which carried with it a cut in pay, exposed him to a far lesser degree to asbestos dust. But the company never told Kiewleski what his ailment was.

When Kiewleski retired eight years ago, he learned that he had contracted asbestosis and that he had been living with the disease and not treating it for 12 years.

Today Kiewleski walks up stairs with great difficulty. His voice has become an incomprehensible rasp. In recent years he has lost 80 pounds and now weighs 130. Still, Kiewleski might be considered lucky. Asbestosis sufferers rarely live until the age of 75.

The tale of the Maciborsky family's tragic involvement with asbestos does not end there. Maciborsky's brother William, 52, found out last October from a doctor at the plant that he too suffered from asbestosis. The company has changed its ways to a degree. William Maciborsky was promptly laid off.

Last month Daniel Maciborsky told his story at hearings conducted in Washington D.C. by the U.S. Dept. of Labor. The purpose of the hearings was to gather information to help set new federal dust control standards in asbestos plants. The Occupational Health and Safety Act of 1970 mandated that new standards be issued by this June.

A FREE HAND

The hearings centered around a dispute over what constitutes a safe level of asbestos exposure. Union officials and medical researchers like Dr. Borow argued that the allowable number of asbestos fiber per cubic centimeter of air—the "Treshhold Limit Value"—in the factories must be sharply reduced.

For most of its history the asbestos processing industry has operated without regulations of any kind. Even industry officials concede that 20 years ago, when the conditions giving rise to today's were in effect, the fibre counts of asbestos in the plant may have been as high as 100. It was not until 1970 with the passage of the Occupational Health and Safety Act, that the federal government first imposed mandatory controls of 12 fibres per cubic centimeter.

At the recent hearings asbestos officials said they were willing to cut the TLV to five fibres. But the union men insisted that regulations permitting the TLV to exceed two fibres would be dangerously inadequate.

Industry representatives say the cost of complying with such standards would be prohibitive. They estimate that $1 billion would have to be spent to transform machinery, to improve methods of exhaust and to install and operate new ventilation and dust suppression equipment.

A spokesman for Johns-Manville said that to provide for stricter federal standards in all its 50 plants in the U.S. would cost the company $12 million in capital outlays and an additional 5 million a year in operating expenses.

Sheldon Samuels, an environmental specialist with the AFL–CIO, asserts that Johns-Manville's annual profits of $70 million makes it difficult for him to feel sympathy for the company's position.

"I can assure you that we will not stand idly by for another 30 years while they make guinea pigs of our people," Samuels says.

Dr. Irving Selikoff of Mt. Sinai Hospital in New York City also testified at the hearings and said that while he advocated setting "the lowest possible" TLV, he was far more concerned that stringent "performance standards" be issued as well.

"You can't monitor fibre counts 24 hours a day," explains Dr. Selikoff, one of the country's foremost experts on industrial-related diseases. "But you don't have to do that if you have clearly defined rules, governing proper exhausts on machines, dust collecting devices and housekeeper methods."

For the past several years Dr. Selikoff has been supervising research in his environmental medicine laboratory for a cure for mesothelioma. But so far he is able to report little progress.

Dr. Selikoff once asked Johns-Manville to lend financial support to his project and was turned down. The company, which claims to be spending $1.3 million a year for medical research, explained that it had "too many other obligations," Dr. Selikoff said.

Who is to be faulted for the tragedy of Manville? A giant corporation that until recently minimized the effects of asbestos? The members of the medical profession who took so long to recognize its perils? The federal state and local government officials who allowed the industry to regulate itself?

Just how effective these controls prove to be—whatever they are—is not possible to determine now. But one thing can be said with certainty. The new regulations will not be of much help to Daniel Maciborsky and to many other people in Manville today—asbestos, once inhaled, continues to tear at the lungs for a lifetime.

(NOTE.—Figures and tables referred to are not printed in the RECORD.)

PNEUMOCONIOSIS IN FERROSILICON WORKERS—A FOLLOW-UP STUDY

(By A. Swensson, M.D., K. Kvarnstrom, M.D., T. Bruce, M.D., N. P. G. Edling, M.D., and J. Glomme, M.D.)

(NOTE.—Dr. Swensson is with the Division of Occupational Medicine, National Institute of Occupational Health, Stockholm, Sweden.

Dr. Kvarnstrom is now retired.

Dr. Bruce is with the Chest Clinic, Soderby sjukhus, Uttran.

Dr. Edling is with the Department of Radiology, Karolinski sjukhuset, Stockholm.

Dr. Glomme is with the University Health Service, Oslo, Norway.)

Silicon alloys are produced by reduction in electric melting furnaces. These furnaces are charged with quartz, and, as a rule, coke is used as the reducing agent. From the surface of the melting furnaces fumes issue that contain, among other things, very fine particles of amorphous silica (SiO_2). The composition of the fumes varies somewhat according to which alloy is produced. In the production of pure silicon metal or ferrosilicon alloy with a high silicon content, the amount of SiO_2 in the fumes can be 80% or more (Glömme and Swensson, 1958 and 1966). On leaving the surface of the furnace the fumes may carry some quartz particles from the charge. Samples of particles from the fumes usually contain up to 6 to 8% quartz. Some of these fumes enter the atmosphere of the working premises; thus the workers in the melting plant are exposed to the fumes, especially when working conditions are unfavorable.

On the basis of what has been mentioned above, it is reasonable to study carefully the occurrence of silicosis among workers in silicon alloy melting works. Bruce (1937) was the first to describe the occurrence of silicosis in the manufacture of silicon alloys. He reported the results of roentgenologic examination of 38 workers in a small melting plant and 26 workers in another factory. The first group, where the exposure time varied between four and eight years, showed roentgenograms with changes interpreted as Stage I silicosis in three cases and as Stage II in six cases. In one case silicosis was suspected. In the second group the exposure time was from 9 to 22 years. In one case the roentgenogram was interpreted as Stage II silicosis, and in four as Stage I. In three cases there were changes suspected as silicosis. The classification of the stages was in accordance with the Johannesburg nomenclature (1930).

In an examination of workers in an American ferrosilicon alloy melting works, Fehnel (1947) was not able to detect any cases of silicosis. Pancheri (1948) was also unable to

find any cases of silicosis in an Italian melting works, but considered that so-called reticulation occurs at a frequency higher than normal. Broch (1953) described, from a Norwegian melting works, 29 cases of silicosis and 30 cases of suspected silicosis in a staff of 180 workers. Radica (1956) re-examined Pancheri's material; he also was only able to show reticulation, which had increased in two cases. Once again, Drees and Jung (1961) were unable to demonstrate any silicosis among 22 furnacemen with more than 22 years' exposure in a silicon alloy melting works. In four cases it was believed that lung "mottling" could be established; Roberts (1965) stated that he had not found any sign of pneumoconiosis among the personnel who, in the production of ferrosilicon alloys, were exposed to amorphous silicon dioxide in the fumes; at times this exposure was very intense.

Glömme et al. (1966) have investigated 865 men from Norwegian and Swedish ferrosilicon alloy melting works who had been exposed from 5 to 45 years to the atmosphere of melting plants. In this group the roentgenograms of 17 workers showed changes corresponding to those found in silicosis. Four of these workers had been exposed only to the atmosphere in the melting plant, and showed slight roentgenologic changes. For five workers their entire exposure had been in the quartz-quarrying, quartz-crushing plants, etc., of the works; they had not been exposed at all to the atmosphere of the furnace plant. The remaining eight subjects had had a mixed exposure, including significant exposure to quartz outside the melting plant. These investigations primarily indicate that the particles in the atmosphere of the melting plant constitute a low silicosis risk. Extensive investigations with experimental animals (Glömme and Swensson, 1958 and 1966) have demonstrated that the dust in the atmosphere of the melting plant has only a slight fibrogenic tendency.

Thus, the results of the different investigations referred to above are contradictory. Consequently, the authors have found it of special interest to give a more detailed account of the 10 cases in the small melting plant referred to by Bruce (1937). A survey of the 10 patients is given in Table I. Follow-up investigations showed that in several of the patients the changes had regressed and/or disappeared entirely. Such a course is obviously not compatible with silicosis. Therefore we have scrutinized as far as it was possible the course of the exposure and the diseases. The lung roentgenograms from 1943–1944 have been assessed by a specialist who is quite independent of the present authors. When making our review we re-examined all the series of pictures.

One of the cases will be reported in detail.

Patient 3158: Born 1899. From 1911 to 1929 different occupations without exposure to silica dust. During period 1930–1935 furnaceman at a silicon alloy works. After lung changes appeared in 1935 transferred to repair shop, where he is still working. As a child he had diphtheria and whooping cough. Otherwise he has always been healthy. No tuberculosis in the family.

In autumn 1935 he became ill with fever and increasing respiratory difficulties. He emphasizes that onset was not acute. At the same time about 10 of his fellow workers also felt ill. He states that he knows they also had fever. His fever lasted about three weeks; he was on sick leave for not less than two months. Subsequently returned to work, but maintains that it took a very long time, about a year, before he felt fully recovered. Since then he has been healthy and fully fit since the period of illness in question.

Lung roentgenogram, 31 October 1935. Parenchymal changes as in Stage II silicosis (Fig 1).

Lung roentgenogram, 29 January 1944. No silicosis (Fig. 2).

Lung roentgenogram, 1958. No parenchymal or pleural changes.

Respiratory kymography. Good diaphragmatic and costal respiration bilaterally. In normal breathing diaphragmatic arch moved 2½ cm and in deep breathing 4 cm.

Spirometry, 1958. Total lung capacity, 5.62 liters. Vital capacity, 3.97 liters. FRC/TLC, 0.57; RV/TLC, 0.29. MBC, 96 liters/minute.

Maximal physical working capacity, 900 kpm/minute. Pulse rate 153, steady state. Physical working capacity normal for his age.

Blood pressure, 160/90.

Routine somatic examination and routine laboratory tests normal.

To summarize: In 1935 the lung roentgenogram of a man, who had worked for five years in a melting furnace plant in a silicon alloy works, was regarded as indicating Stage II silicosis. This was during his convalescence after a disease with fever and respiratory symptoms. The diagnosis was uncertain. In a later control examination in 1944, no roentgenologic changes were found in the lungs, and this applies also to the renewed control in 1958. The investigation in 1958 showed that the patient was subjectively healthy and entirely fit for work. According to the physiological studies his lung function was normal.

Thus, in the silicon alloy works in question, during the 1930's, 10 cases of silicosis were diagnosed on the basis of the roentgenograms. It is worthy of note that the exposure time, which is given in Table I, was, in general, short. As these 10 cases occurred in a group of 38 workers, the finding was regarded as indicating that this type of work involved in a very high silicosis risk.

When, in the 1940's, compulsory x-ray examination was introduced, Kvarnström (1944) found that the changes which were characterized as silicosis could not be detected in the new roentgen examinations. Of the 10 cases originally diagnosed as silicosis, six could not be verified at the follow-up examinations of the lungs seven to eight years later. In scrutinizing the films we found that some changes, which had been present at the time in question, could have been misinterpreted as due to silicosis. The clinical picture at the original roentgen examination, and above all the subsequent course of the disease with regression of the changes, indicates, however, that a different disease had been present. In some cases there had also been some overinterpretation.

In one case (No. 9) it seems that a control examination of the lungs was not made before the patient's tuberculosis was established, it is not possible to determine subsequently with certainty whether or not slight silicosis was present at the same time.

In another case (No. 5) silicosis was not revealed at autopsy. Here, as is shown in the table, the clinical picture and the course of the disease were entirely different from those in silicosis.

Moreover, two patients, who belonged to the group, had died and, thus, in their cases the investigations could not be supplemented. In one (No. 1) of these patients widespread pneumonic changes had been established at autopsy, as well as minor changes, which were regarded as possibly corresponding to those occuring in silicosis. The extent of the "silicotic" changes was very limited. The clinical picture indicates that silicosis had not caused the symptoms in question. Consequently, the possibility that slight silicosis may have been present here cannot be excluded.

In the second of the two deaths (No. 2) there had been cardiac insufficiency with stasis and recurrent infections which can make the differentiation difficult. The only way in which a slight degree of silicosis could have been established would have been autopsy. However, autopsy was not performed when the patient died in 1945 with the diagnosis of chronic myocarditis. Silicosis cannot be entirely excluded in this case. The support for this diagnosis is very meager as the exposure time had been very short and the symptoms of the disease had begun before exposure.

Thus, of the 10 patients, our current review demonstrated slight silicosis only in one case (No. 1). In two cases (Nos. 2 and 9) the data are not sufficient to exclude silicosis. According to the experience gained subsequently, the short exposure time strongly refutes the possibility of silicosis and, moreover, in Case 2, other diseases afford a fully satisfactory explanation of both the clinical and roentgenologic findings. Consequently, we consider it very improbable that in these cases silicosis had been present owing to exposure to the atmosphere in the furnace plant of a melting works.

Hence, this review does not furnish any support for the view that dust in the atmosphere of a silicon alloy melting works is particularly dangerous as regards silicosis. This is, moreover, in good agreement with experience gained elsewhere in recent years (Radica, 1956; Drees and Jung. 1961; Glomme et al., 1966), as well as being in accord with the experience obtained in animal experiments (Glomme and Swensson, 1958 and 1966).

It is noteworthy that in several cases fever and signs of an infectious process in the lungs, at times of a recurrent nature, were dominant features. We have here striking agreement with the observations published by Princi et al. (1962). These investigators reported four cases of protracted lung changes with recurrent febrile episodes in workers in ferrochromium alloy melting works. For all four patients the first diagnosis was "acute silicosis" despite the fact that the dust contained only a small amount of free SiO_2 and this mainly in an amorphous state. The authors concluded, however, that the clinical picture and the course of the disease—in three cases regression—did not accord with those observed in silicosis; consequently, they regarded the disease as "chronic pneumonitis with pulmonary fibrosis and acute recurrent manifestations caused by inhalation of metallic silicic fumes." In our more severe cases it is reasonable to similarly assume that the infectious element played the main part. To what extent exposure to the dust in question played any decisive role cannot be determined with certainty so long afterwards.

SUMMARY

The authors discuss 10 workers in a ferrosilicon alloy melting works in whom silicosis was diagnosed. A follow-up examination showed that the diagnosis of silicosis could be maintained only in one of the cases. At autopsy the changes were found to have been slight and could not explain the clinical picture. In six of the cases the changes were transient and could not be demonstrated by the roentgen examinations made between seven and eight years later. One patient was not subjected to a follow-up examination until after his condition had been complicated by a picture of tuberculosis; and in one case there was cardiac insufficiency and pulmonary stasis wihch probably explain the roentgenologic picture. Autopsy revealed no silicosis. Two patients died from other causes before the follow-up examination.

Thus, the roentgenologic findings obtained in the investigations made during the 1930's were in most cases transient and due to diseases other than silicosis. In some patients it was probably a question of unspecific infectious changes of the type subsequently

described by Princi et al. Exposure to fumes and dust particles, for the most part amorphous SiO_2, in ferrosilicon alloy melting works, does not seem to give rise to a serious risk of silicosis. The additional handling of quartz in this industry certainly constitutes a grave risk of silicosis.—(*Dr. Swensson*), *National Institute of Occupational Health.*

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RESPIRATORY DISEASE ASSOCIATED WITH BERYLLIUM REFINING AND ALLOY FABRICATION—1968 FOLLOW-UP

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Findings of a continuing study of chronic beryllosis in and around a beryllium refinery have been reported in 1959, 1961, and 1964.[1-3] The present paper is a follow-up study of the 75 cases reported in the three earlier papers; in addition, it conveys information on 20 new cases which came to the attention of the authors from 1964 to January 1, 1968, and discusses the diagnostic problems of chronic granulomatous pulmonary disease.

For the purposes of these publications a case has been considered one of beryllosis after weighing the following: the exposure history, including the presence of beryllium in an assay as evidence of exposure; the significance of x-ray changes which have persisted over several years; the finding of compatible histologic changes in a lung specimen, if available; the clinical course of the illness; and the consensus of impressions of several physicians familiar with the disease.

The cases have been categorized as in-plant, contact, and community cases. An in-plant case is defined as chronic beryllosis appearing in a beryllium worker, employed either at the time illness began or prior to its onset. A contact case is one of illness in a person exposed to a beryllium worker's clothing or home environment. A community case is one in which the illness appears in a community resident who may have been exposed to a significant beryllium air pollution, but was not an in-plant or contact case. The distribution of the 75 previously reported cases as to type of case and the number of each type now surviving is tabulated (Table I).

An attempt was made to obtain the death certificates for 51 deceased patients previously reported; only 47 death certificates were obtained. The principal causes of death are summarized in Table II.

Table III lists the 51 cases, the age of death, the primary and secondary death certificate diagnosis, whether or not beryllium was found in biopsy or autopsy material, and histologic evidence of the disease when available. Three of the 51 deaths occurred before the age of 30; 18 between the ages of 30 and 50; and 30 after the age of 50.

TABLE I.—75 CASES PREVIOUSLY REPORTED AS BERYLLOSIS

	Deceased (by Jan. 1, 1968	Survivors	Total
In-plant cases	12	11	23
Contact cases	18	5	23
Community cases	21	8	29
Total	51	24	75

To be noted is the absence of a diagnosis of chronic pulmonary disease on many death certificates. This is a common finding in retrospective studies. For these individuals, our criteria for diagnosis, as given above of other available evidence, were determinant for including them.

The 24 survivors previously described include eleven in-plant cases. Their ages range from 36 to 82; all are males. Three now have no roentgenological evidence of chest disease and are working without any symptoms or signs. Eight are dyspneic; of these, one is working full-time as an inspector; four had to change their employment or curtail their working time because of dyspnena; two had to give up all gainful employment; and an 82-year-old man is dyspneic and retired because of old age. The five contact cases, all females, include one who now has no roentgenographic evidence or symptoms of the disease; one who is working in a bakery; and three who are homemakers with various degrees of dyspnea. Their ages range from 25 to 61 years.

TABLE II.—PRINCIPAL CAUSES OF 47 DEATHS AS LISTED ON THE DEATH CERTIFICATE

Disease	Number
Beryllosis—granulomatosis	17
Bronchopneumonia, cor pulmonale pneumoconiosis, pulmonary fibrosis, pneumonitis	11
Cardiovascular disease	10
Cerebrovascular disease	3
Gastrointestinal disorders	2
Tumor	2
Poisoning	1
Lupus erythematosus	1
Unknown (death certificate not obtained)	4
Total	51

The eight community cases include one male and seven females. Their ages range from 28 to 74; all are dyspneic; and all manage to do some work. Four are employed, and the other four are doing housework.

NEW CASES

Since 1964, many more persons with chest disease have been referred to the Beryllium Clinic for evaluation and study. Of these 20 cases with chronic pulmonary disease and pulmonary granulomatosis, 17 are believed to result from beryllium, and three are regarded as sarcoidosis. Ten are former plant employees (ages range from 35 to 73). Four individuals had lung biopsies, and each one had heavy amounts of beryllium in the sample; the lowest sample content was 12 mcg. and the highest was 3,355 mcg. (in a 73 year old, dyspneic, former beryllium worker, who had spent 33 years of his life with the company). Nine are males; one is a female. As is usual with the disease, there were diagnostic problems. Tuberculosis, sarcoidosis, and simultaneous asbestosis had to be considered, and could not be definitely ruled out in four patients.

Of three female contact cases (aged 45, 49, and 58), two had negative lung biopsies—but one of them excreted beryllium in the urine; the third one had no biopsy. All shared households with their beryllium-worker husbands and washed contaminated clothing prior to 1959, before the refinery made in-plant clothing changes mandatory.

The four community cases, two males and two females, aged 44 to 55, are all dyspneic, but are performing light work for wages. Only one has had a biopsy so far, and this was negative.

DIAGNOSTIC PROBLEMS

At the present time a final diagnosis of beryllosis cannot be made on every patient. This problem will continue to exist until absolute clinical diagnostic criteria are evolved, or diagnostic laboratory procedures are perfected. Until then, prudence requires re-evaluation of the patients with time, and changing the diagnosis as necessary; such changes were made in nine instances. At one time, it was thought that the presence of beryllium in histologically abnormal tissue was indicative of the disease. This view is no longer held, for it can be shown that a positive spectrographic assay for beryllium in a biopsy or autopsy lung sample is not diagnostic for beryllosis, but *is* evidence of exposure to some form of beryllium. Moreover, a negative assay of a single biopsy specimen does not rule out the diagnosis when other features indicate its presence.[4]

Many patients, who on earlier x-rays had the ground-glass appearance regarded as typical of chronic beryllosis, later appear with x-rays which are reported as fibrosis or emphysema. If the x-ray report on a beryllium worker shows fibrosis and emphysema, can we regard this as beryllosis? This question can be answered affirmatively, if earlier, more typical x-rays and a good history are available, but becomes unanswerable when previous x-rays cannot be found.

The question of differential diagnosis from sarcoidosis also continues to be a problem. Two of the patients who were at one time considered to have beryllosis have now developed eye changes. The development of eye changes is regarded as diagnostic for sarcoidosis. Because of the uncertainties involved, three patients with what is generally regarded as sarcoidosis are included in the paper.

Another problem is a lingering pneumonitis, with persisting residual x-ray changes, which later clears up and results in normal chest x-rays. This was found in four patients. Did these patients have a chronic beryllosis which got better, or was the diagnosing wrong? The authors are inclined to believe the latter.

Other pneumoconioses and tuberculosis may also obscure the picture. A patient with both asbestos and beryllium in his lung, which later resulted in a carcinoid tumor, is an example of this.

Patient No. 10 had been originally diagnosed as berylosis, but this diagnosis was later changed to silicosis. As a plant maintenance man, he was exposed to high beryllium quantities, and excreted 0.46 mcg. of beryllium per liter of urine in 1962. He died of a brain tumor; no autopsy was performed.[3]

Footnotes at end of article.

TABLE III.—AGE DISTRIBUTION, AND 47 DEATH CERTIFICATE DIAGNOSES OF 51 PATIENTS

Case number and cause of death	Sex	Age	Histologic evidence of beryllium disease	Beryllium assay (mcg. of beryllium per 100 gm. of lung tissue)	
				Biopsy	Autopsy
IN-PLANT CASES					
1. Diffuse subarachnoid hemorrhage	Male	31	Yes[1]	Not done	7.1 mcg.
2. Pneumonitis due to beryllium fluoride—cardiac failure	do	33	Yes[1]	do	
3. Acute intestinal obstruction, abd. fibrous adhesions, residual salpingitis	Female	38	Yes[1]	do	0–0.84 mcg.[2]
4. Arsenic poisoning	Male	44	Not done	do	None.
5. Sudden right ventricular failure diffuse pulmonary fibrosis, beryllosis	Female	46	Yes[1]	Negative	Yes.
6. Bilateral bronchopneumonia—cor pulmonale	Male	50	Not done	Not done	None.
7. Cardiorespiratory failure—secondary cor pulmonale—diffuse pulmonary fibrosis	Female	55	Yes[1]	do	205–282 mcg.
8. Pulmonary insufficiency, cor pulmonale—pulmonary fibrosis	do	55	Yes[1]	None	None.
9. Cardiac decompensation—beryllium pneumonitis	Male	62	Not done	Not done	Do.
10. Brain tumor—unknown type—thalmus	do	63	do	do	Do.
11. Pulmonary fibrosis—congestive heart failure	do	64	do	do	Do.
12. Hypertensive cardiovascular disease, generalized arteriosclerosis, diabetes mellitus	Female	64	do	do	Do.
CONTACT CASES					
13. Acute interstitial pneumonitis	do	17	do	do	Do.
14. Cor pulmonale, granulomatosis	do	29	Yes[1]	do	Do.
15. Myocardial decompensation, chronic granulomatous pneumonitis	do	34	Yes[1]		0.47 mcg.
16. Anoxia due to pneumococci pneumonia, pulmonary fibrosis, beryllosis, alveolo-capillary block	Male	35	Yes[1]	None	0.25–0.39 mcg.[2]
17. Congestive heart failure, cor pulmonale, pulmonary fibrosis, beryllosis	Female	40	Yes[1]	Not done	None.
18. Cor pulmonale, pulmonary fibrosis, emphysema	do	41	Yes[1]	do	0.69–1.58 mcg.[2]
19. Pulmonary fibrosis, myocardial degeneration	do	48	Yes[1]	do	0.47 mcg.
20. Pulmonary insufficiency, beryllosis	do	48	Yes[1]	do	0.87–2.71 mcg.[2]
21. Meningitis	do	50	Yes[1]	do	0.20 mcg.
22. Bile peritonitis, ruptured gallbladder, pulmonary fibrosis	do	50	Yes[1]	do	
23. Beryllosis, right ventricular failure, pulmonary fibrosis	do	50	Yes[1]	do	
24. Myocardial failure, cor pulmonale, emphysema	do	50	Yes[1]	Yes. No be	
25. Diffuse pulmonary fibrosis, pulmonary beryllosis	do	51	Yes[1]	Not done	Yes, 0.19 mcg.
26. Cor pulmonale, chronic lung fibrosis	do	56	Yes[1]		0–1.85 mcg.[2]
27. Cor pulmonale, chronic pulmonary granulomatosis	do	58	Yes[1]	Not done	0.020 mcg.
28. Cor pulmonale, chronic lung disease	do	59	Yes[1]		0–8.29 mcg.[2] highest in lymph node.
CONTACT CASES					
29. Cerebral embolism, cardiac decompensation	do	59	Not done		
30. Pneumoconiosis—etiology unknown, cerebral hemorrhage	do	59	do	Not done	Not done.
COMMUNITY CASES					
31. Pneumoconiosis, beryllosis, cor pulmonale	do	10	Yes[1]	do	0.104 mcg.
32. Lupus erythematosus	do	30	Yes[1]	do	0.69 mcg.
33. Pulmonary fibrosis—adenomatosis	Male	39	Not done	do	None.
34. Unknown	Female	39	No	do	Do.
35. Pneumonitis, chronic granuloma	do	41	Yes[1]	do	0.003 mcg.
36. Acute bronchopneumonia—circulatory failure	do	42	Not done	do	No.
37. Periphery circulatory failure, peritanitis, heart failure	do	46	Yes[1]	do	None.
38. Unknown	do	47	No	do	Do.
39. Chronic fibrous pneumonitis	do	50	Yes[1]	Negative	0.19–0.36 mcg.[2]
40. Nonspecific pulmonary granulomatosis	Male	50	Not done	Not done	1.01 mcg.
41. Chronic interstitial pneumonitis	do	51	Yes[1]	Yes[3]	None.
42. Acute coronary occlusion, ASDH, pulmonary fibrosis, emphysema	do	51	Not done	None	Do.
43. Bilateral chronic pneumonitis	Female	59	Yes[1]	Not done	0.059 mcg.
44. Unknown	do	60	Not done	None	
45. Rheumatic heart, recent endocarditis	do	60	do	Not done	None.
46. Rheumatic heart disease	do	61	Yes[1]		0.054 mcg.
47. Beryllosis, congestive heart	do	65	Not done	Not done	None.
48. Beryllosis chronic	do	67	do	do	Do.
49. Acute myocarditis, Ca of prostate	Male	68	do	do	Do.
50. Sarcoidosis[4]	Female	75	Yes[1]	do	Do.
51. Unknown	do	80	None	do	Do.

[1] The histologic findings are compatible with beryllium disease.
[2] This is the range of several lung samples which were analyzed.
[3] Qualitative determination.
[4] No longer considered a case of beryllosis.

BERYLLIUM EXPOSURE

Beryllosis is a disease characterized by a low incidence rate among those exposed. Why it attacks some people and not others remains unknown. In spite of extensive inquiries over a period of eleven years, only 36 in-plant cases out of the entire work force at this location have come to the attention of the authors. In at least five of these, the diagnosis has since been changed or questioned, leaving 31 cases in an estimated total of 4,000 persons who have worked for various periods of time in the refinery.

Many of these workers have been exposed frequently to concentrations above generally accepted limits. Two mcg/m³ for an eight-hour working day is the Threshold Limit Value, and 25 mcg/m³ for five minutes is the Short-Term Limit Value specified in Regulation 432 of the Pennsylvania Department of Health. These figures were exceeded several hundredfold in the early days, prior to the installation of controls.

In spite of the fact that tremendous progress has been made in the reduction of beryllium air concentrations by engineering controls, the Threshold Limit and Short-Term Limit Values were still frequently found to be exceeded at several in-plant locations during a 1967 industrial hygiene survey. Recommendations for the reduction of these levels have been made, and work to accomplish this was in progress at the time of the writing of this paper.

The Department of Health initiated extensive general atmospheric sampling programs in the area of the plant in 1958.[5] A random sampling program of nine stations, located between 0.2 and 4.8 miles from the plant, was operated from January to July 1962. Of all the 24 hour samples obtained, 28% exceeded 0.01 mcg/m, with the majority of these being obtained in close proximity to the plant. There is a possibility that some of the unexpected high readings may have been caused by beryllium-containing dust from process tailings and ore inventories deposited at the plant site.

INFECTIONS AND ALLERGIC REACTIONS

Much needs to be learned about the factors which produce the chronic granulomatous pulmonary reaction which characterizes chronic beryllosis. Two factors which have been scrutinized in this series are *infections* of various types, occurring prior to the development of chronic granulomatosis, and *allergic history* (including drug reactions of the idiosyncratic type). Of the 34 patients whose histories were elicited by one of the authors, 20 had histories of definte infections prior to the onset of chronic disease; 18 of these infections consisted of influenza-like diseases, or diseases of viral etiology. Of interest is the occurrence of herpes simplex in three, and herpes zoster in one patient. Mumps arthritis, mumps encephalitis, and adult mumps without complication were other examples.

Of the 34 patients, eleven had allergic histories, mainly urticarial, but including three individuals with allergic rhinitis and one with anaphylactoid reaction to penicillin. In such correlations the role of casualty is difficult to assess. To elaborate, the question may be raised whether allergies predispose to chronic granulomatous lung disease, or whether the exposure of these people to beryllium increased the incidence of allergic reactions in this group. All these questions require more than correlative studies to establish the nature of these relationships, if such exist.

TUMORS

Since there has been much discussion regarding the incidence of tumors in experimental animals exposed to Beryl ore and beryllium,[6] special attention has been given to the incidence of tumors in our group of

Footnotes at end of article.

86 patients diagnosed as having chronic beryllosis, and nine patients who are no longer regarded as having beryllosis. The tumors reported were as follows:

Brain tumor, type unkown.
Adenocarcinoma of the breast.
Carcinoma of the rectum.
Carcinoma of the prostate.
Neurofibroma of the lung.
Carcinoid of bronchus.
Adenocarcinoma of the lung.

The individual with carcinoid of the bronchus is particularly interesting because he was an oven-worker, installing insulation and fire bricks at the beryllium refinery. Lung assay revealed 15 to 35 mcg. of beryllium in his lung, as well as asbestos fibers and bodies. The question of whether the man had beryllosis and/or asbestosis of the underlying cause of his tumor is open for discussion.

COMMUNITY CASES

The term "community cases" is substituted in this paper for the term "neighborhood cases" used in earlier papers, and includes individuals with no beryllium exposure that could be attributed to working in the beryllium industry, or whose family had no member who was a relative of a beryllium-exposed employee. In the earlier papers it was implied that these cases might be due to pollutions of the ambient air.[1 2 3 5]

No satisfactory explanation has been offered, either previously or in this paper, why, when pollution was heaviest in the immediate neighborhood of the plant, there should be more individuals with beryllosis living as far as five miles away. In view of the possibility of measurable air pollution from firing beryllium solid fuel rockets in the upper atmosphere, and our air pollution implications, these cases were reviewed again. It was found that several individuals previously reported as "neighborhood cases" had additional exposure which could have either caused or contributed to the beryllium etiology of the disease.—Some of this information was supplied by the personnel of the beryllium refinery.

Several individuals who live several miles away had visited a graveyard and had tended graves across the street from the beryllium refinery. Two had worked in establishments within one-half mile of the plant. Three more have since been found to have been relatives of the beryllium refinery's employees.

The new cases reported in the present paper include a milkman whose route was in the neighborhood of the plant, a lady who worked within one-half mile of the refinery, and a cleaning woman who also had worked in the neighborhood of the plant. None of them lived closer than three miles from the plant, and their residence distance varied from three to 7½ miles from the industry.

With our present knowledge it is impossible to state definitely what may have triggered the disease in each individual. Was it the small, frequent, air pollution dosage which, according to our measurements, was on many occasions in the past[5] above the suggested limits; or was it the more massive single or repeated dosage from contact with beryllium workers whom they may have met during their travels to and from work, or their visits to the community surrounding the plant? With our present mobility, those who live away from the plant may have entered areas in which the pollution might have been temporarily high, or they may have sat in a public conveyance next to a dusty employee of the refinery before the wearing of beryllium-contaminated clothing was made impossible or unlikely. There are many possibilities and alternatives, and no satisfactory explanation applicable to all cases can be offerred at this time.

SUMMARY AND CONCLUSIONS

Observation of a community with a beryllium refinery provided opportunity to study (for a ten-year period) heavy occupational exposures, family contacts, and persons without known exposure other than contaminated air.

The authors followed and intensively studied 95 individuals with chronic lung disease believed, at one time or another, to be chronic beryllosis. At least five of this group who had had x-rays read originally as chronic pulmonary granulomatosis, possibly beryllosis, presented a normal chest x-ray several years after the original diagnosis. In several others, the x-ray readings progressed from chronic granulomatosis to fibrosis and emphysema. Two were later diagnosed as tuberculosis, and two developed sarcoid eye changes. An individual with carcinoid tumor of the lung, who had worked as an insulator on beryllium furnaces, had a mixed exposure to asbestos and beryllium; this lung analysis showed beryllium and asbestos bodies.

These cases again point out the diagnostic difficulties with this disease—and the potential pitfalls in making a definitive diagnosis without a prolonged period of observations. It is also the belief of the authors that other changes in diagnosis may occur if the observation period is further continued.

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FOOTNOTES

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Byssinosis in Carding and Spinning Workers

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(Note.—Figures and tables referred to are not printed in the Record.)

Symptoms of byssinosis were found in 25% of 59 carders and in 12% of 99 spinners employed in two air-conditioned cotton textile mills. In carders as well as spinners, forced expiratory volume ($FEV_{1.0}$) and flow rates on maximum expiratory flow-volume (MEFV) curves decreased during work on Monday, and to a lesser extent on Wednesday. The prevalence of byssinosis in these mills is higher than would be expected according to previous data, on the basis of the relatively low dust concentrations in the carding and spinning areas. If these prevalence rates are valid for the US cotton textile industry in general, about 8,000 carders and 9,000 spinners have byssinosis (all grades). This estimate excludes retired workers.

In 1961, McKerrow and Schilling[1] reported that cardroom workers in US cotton mills had a high prevalence of respiratory symptoms and experienced a decrease of forced expiratory volume (FEV) during work on Monday. More recently, Bouhuys et al[2] described cases of disabling byssinosis in cotton mill workers in this country. These previous studies did not provide sufficient information on the prevalence of the disease in the US cotton textile industry. Such data are available from another study,[3] but these were obtained in a mill with unusually rapid labor turnover. The field surveys described in the present paper were therefore undertaken to obtain further data on the byssinosis problem in mills which may be more representative of the US cotton textile industry.

METHODS

General.—We studied workers in two mills (A and B) spinning medium quality yarns (counts ranging from 16 to 36 in mill A, and from 21 to 40 in mill B) from cotton grown in various regions of the United States. We studied workers on carding machines, as well as persons doing other jobs in the vicinity of these machines ("carders"). In both mills (A and B) the spinning machines were located in the same room, at some distance from the cards. All workers on these machines or in their vicinity are included in the group "spinners."

Both mills were air-conditioned. Some machines, but not the cards, were equipped with dust exhaust ventilation systems, including conventional dust filters. The mills were on a three-shift schedule, five days per week.

Subjects.—We interviewed all workers in both mills who were available at the time of study, ie, 120 men and 38 women. Three workers refused cooperation and were excluded.

The management of the mills provided lists of names of those on the payroll in the mill areas included in the study. Residential and occupational history data were also obtained from the mill management, and were checked with each employee during the interview. The symptoms of byssinosis, ie, cough or chest tightness or both during work on Mondays and other weekdays, as well as chronic respiratory symptoms, were recorded with the standard questionnaire used in previous studies.[2 3] The severity of the symptoms of byssinosis was graded according to Schilling et al.[4]

LUNG FUNCTION TESTS

The forced expiratory volume ($FEV_{1.0}$) and the forced expiratory vital capacity (FVC) were recorded with portable spirometers, as in previous studies.[2 3] Maximum expiratory flow-volume (MEFV) curves were obtained with the portable flow-volume spirometer described by Peters et al.[5] This machine plots maximum expiratory flow rates, during a forced expiration after a maximal inspiration, vs lung volume. One set of $FEV_{1.0}$ and FVC measurements was obtained in all subjects at the time of the interview. A few days later, measurements were repeated in 67 men and nine women on a Monday and the following Wednesday, both before and after work. Maximum expiratory flow-volume (MEFV) curves were also recorded at these times. Thus, all subjects were familiar with the forced vital capacity maneuver at the time that these tests were done. The lung function studies were performed in all carders who had previously been interviewed and who were available for the study on Monday and Wednesday. The 30 spinners who took part in the function studies were selected to include persons with an without a history of byssinosis.

On each occasion (Monday and Wednesday before and after work), we asked each subject whether he or she felt chest tightness or dyspnea at that time. The circumstances under which the function tests before and after work were made were somewhat different in the two mills. In mill A, these were done during a week which followed a factory holiday of one week, while the workers in mill B had been at work during the week prior to this part of our study.

DUST CONCENTRATIONS

We used a Unico Model 600 high-volume air sampler to collect dust in different areas of both mills (sampling rate, 240 liters/min). The sampling period was usually about three hours. The larger dust particles were collected in a small cyclone; the "respirable" dust fraction was collected on high efficiency, low resistance filter paper (Whatman No. 41).

RESULTS: SYMPTOMS OF BYSSINOSIS

Among the total population of 158 carders and spinners in both mills, 17% had symptoms of byssinosis (Table 1). The prevalence was higher among the carders in both mills (25%) than among the spinners (12%), although this difference was not significant in mill B. Age and duration of employment differed only slightly between the various groups; these did not appear to affect byssinosis prevalence. A subdivision of the data according to byssinosis grade is shown in Table 2. These data indicate that 19% (11/59) of the carders and 11% (18/158) of the total population complained of chest tightness on Mondays each week (grade 1+). Four men complained of chest tightness on Mondays and other working days (grade 2), while three men had continuous dyspnea and chest tightness (grade 3). These three men were carders in mill A (age, 35 to 51 years; duration of employment, 8 to 17 years). Among the population seen, ten workers had been employed for less than one year. Three of these (30%, two spinners and one carder) had a history of byssinosis, as compared with 17% in the total population.

The data of tables 1 and 2 include 38 women, all of whom were spinners in mill A. Only three of them (8%) had symptoms of byssinosis (grade ½), but since the prevalence of symptoms among the men in the same area was also low and not significantly different, we pooled the data for the men and the women in that area. The prevalence of byssinosis symptoms was higher among men who smoked more than seven cigarettes per day (22%) than among nonsmokers (11%), but the difference was not statistically significant. In a previous study [3] which included more and heavier smokers, this difference was significant.

CHRONIC RESPIRATORY SYMPTOMS AND ILLNESS

The number of subjects in this survey is too small for a complete and meaningful analysis of chronic respiratory symptoms in relation to age, duration of employment, and smoking habits. The prevalence of most symptoms was higher among the carders than among the spinners in mill A (Table 3). Those with a history of byssinosis also had higher prevalences of chronic symptoms than those without such a history.

The prevalence of chronic symptoms in the carders in mill A and among the workers with byssinosis appears to be higher than might be expected in a rural population. For example, Anderson et al [6] found a prevalence of 18% chronic cough, 23% chronic phlegm, and 28% dyspnea grade 2 among men aged 25 to 54 years in Chilliwack, British Columbia. If the age distribution within this range is continuous in their data, the average age for their group would be about 40 years, i.e., similar to that in most of our subgroups.

VENTILATORY FUNCTION

In each of four subgroups (carders and spinners in mills A and B), $FEV_{1.0}$ decreased significantly during the work shift on Monday. The decrease on Wednesday was less, and not significant in some groups (Fig. 1). In three of the four groups, the decrease on Monday was significantly larger than that on Wednesday. The decrease of $FEV_{1.0}$ was particularly pronounced in the carders in mill A, and among these, eight men with a history of byssinosis had an average $FEV_{1.0}$ decrease of 0.82 liters. These men had not worked during the week prior to the study. In mill B, the decrease of $FEV_{1.0}$ was less and not significantly different between carders and spinners.

Subdivision of the material with respect to presence or absence of a history of byssinosis shows that in both mills, among carders as well as spinners, the workers without a history of byssinosis had a significant decrease of $FEV_{1.0}$, although the degree of change was less than among the workers with a positive history (Fig. 2). In the total group, the difference between workers with and without a history of byssinosis was significant ($P < 0.05$). Smoking habits did not significantly affect the decrease of $FEV_{1.0}$ on Monday.

The decrease of $FEV_{1.0}$ among the women in mill A was similar to that of the men in the same working area; these data, therefore, have been pooled in Fig. 1 and 2. In six men (in both mills) who had worked for less than one year, the reduction of $FEV_{1.0}$ on Monday ranged from 0.09 to 0.43 liter.

In a study of hemp workers, Bouhuys et al [7] found that some workers consistently did not experience any decrease of $FEV_{1.0}$ on Monday, while others in the same work areas had large $FEV_{1.0}$ reductions during the same days. They regarded such men as "nonreactors." In the present study, ten out of 46 carders (22%) did not show any reduction of $FEV_{1.0}$ on Monday. The same study in hemp workers [7] suggested that the interview underestimates the true prevalence of chest tightness. This was also apparent in the present study. Three men, who had no byssinosis according to the interview, stated on Monday (three) or also on Wednesday (two) after work that they felt tightness in the chest at the time. In three other workers, the grade of byssinosis was underestimated during the interview when compared to the subject's later statements after the end of the work shift on Monday and Wednesday.

$FEV_{1.0}$ values (on Monday morning before dust exposure) less than 80% of the value expected for their age, sex, and height (Table 4). Expected values for $FEV_{1.0}$ were obtained from the Veterans Administration cooperative study.[5] For comparison, Table 4 includes similar data obtained in hemp workers and control subjects in Spain.[9] These groups were, on the average, older than the present population. Therefore, the fact that 34% of all carders and spinners have low $FEV_{1.0}$ values, compared with only 12% among the control group, is probably significant. On the other hand, the prevalence of very low $FEV_{1.0}$ values (< 50% of expected) was much lower among the cotton workers than among the hemp workers. The latter group, however, included a large number of retired workers.

MEFV CURVES

Typical examples of maximum expiratory flow-volume curves before and after work on Monday are shown in Fig. 3. The changes in these curves after dust exposure are similar to those found in other cotton workers [3] and in hemp workers.[10] The quantitative changes, expressed by the measurements of peak expiratory flow rate (PEFR) and of maximum expiratory flow rate (Vmax) at a lung volume which equals TLC −50% control VC (where TLC is total lung capacity),[10] are also similar to those found in these earlier studies. That is, the value of Vmax in the middle of the control VC decreased more (−16%) than the value of PEFR (−6%) and the value of $FEV_{1.0}$ (−8%).

Forced vital capacity decreased only 3% on the average during the Monday. The measurement of FVC is greatly influenced by the subject's willingness and ability to exert himself to expel small amounts of air at a lung volume close to his residual volume.[11] This source of variability is difficult to analyze, and we, therefore, do not present the FVC data in further detail.

DUST CONCENTRATIONS

Total dust concentrations in all work areas were higher than the provisional maximum allowable concentration of 1 mg/cum proposed by Roach and Schilling [12] (Table 5). The small number of samples does not allow conclusions with regard to possible differences in dust levels among these various areas other than that they appear to be roughly similar. They are also similar to the dust levels found in the card room and the winding area of the mill described previously. [3]

COMMENT

Twenty-five percent of the carders and 12% of the spinners in the two mills surveyed had symptoms of byssinosis. This prevalence is, for the carders, similar to that found in another US mill. [3] Our data are also similar to those of another study (P. E. Schrag, unpublished data) which involved 509 workers. In this group, 29% of the carders and 10% of the spinners and weavers had byssinosis. According to Roach and Schilling, [12] the prevalence of byssinosis in English card rooms with total dust concentrations between 1.75 and 2.5 mg/cum is about 12%. We found lower dust concentrations in the carding areas, but a higher prevalence of byssinosis. A similar difference with the findings of Roach and Schilling was noted in a previous study in Sweden. [13] Both the present and the Swedish study show higher byssinosis prevalences than would be expected from the relationship between total dust levels and byssinosis prevalence described by Roach and Schilling. [12] Such inconsistent relationships between amounts of dust in work rooms and byssinosis prevalence are not unexpected. A minimum amount of dust is required to elicit symptoms and pulmonary function changes, but once this level has been reached, the composition of the dust may be more important than its amount in the air. In the ten years since Roach and Schilling [12] performed their study, mill managers have had to cope with increasing amounts of trash in baled cotton, owing to the now general use of cotton picking machines. One component of this trash, ie, bracts, contains an agent (or agents) which causes bronchoconstriction in man [14] and histamine release in human lung tissue. [15] Another recent development in the cotton textile industry is the use of high-speed carding machines. These produce more dust and remove more trash from the raw cotton than the older machines which ran at lower speeds. These developments have occurred at the same time that many mills have installed air-conditioning or dust removal equipment or both, which by themselves would lower total dust levels. Thus, several technological changes have occurred in the industry which may account for relatively high prevalences of byssinosis in the face of relatively low total dust levels. It is important to emphasize that our results were obtained in mills with modern textile equipment, with good general hygienic conditions, and with relatively little visible airborne dust.

Although mills A and B were not equipped with dust extraction systems on the carding machines, the prevalence of byssinosis among the carders was similar to that among the carders in another US mill, [8] where such a system was in use. This may be because mills A and B process higher quality cotton yarns than the other US mill. This fact may also explain why the spinners in mills A and B were less affected than the spinners in the other mill, even though the spinning and carding machines are located in the same room in mills A and B. Since this type of mill layout appears to be common in the United States, many spinners may be at risk of byssinosis.

Footnotes at end of article.

The results of the questionnaire interviews were confirmed by the lung function tests, which showed decreases of $FEV_{1.0}$ and of effort-independent maximum flow rates on MEFV curves during dust exposure on Monday in carders as well as spinners. The $FEV_{1.0}$ reductions were similar in magnitude to those found in previous studies.[3, 13] The large $FEV_{1.0}$ decrease among the carders in mill A (Fig. 1) can be explained by the unusually long absence from work (because of a holiday) which preceded our measurements in the workers of mill A.

It is sometimes believed that byssinosis will disappear because man-made fibers are displacing cotton in some of its applications. Available data suggest, however, that such a development will occur, if at all, in a distant future. The world production of cotton fiber is still many times larger than that of all other fibers combined. Production of pure and mixed cotton yarn in the United States increased by 18% between 1954 and 1966.[16] In 1964, pure cotton yarns accounted for 95% of the total production of pure and mixed cotton yarns.[16] In September 1965, about 32,000 workers in the United States were employed as card room workers and about 75,000 as spinning room workers,[17] according to the simplified job classification used in this paper. If the byssinosis prevalence rates found in this study are valid for the US cotton textile industry in general, about 8,000 carders and 9,000 spinners have byssinosis in any one of its grades. This estimate is for active workers only; it probably includes relatively few cotton workers disabled by byssinosis. Such workers often retire prematurely,[2] and a study of the population in a cotton textile manufacturing area will be required to assess the prevalence of chronic respiratory disease among older cotton workers. Such a study was recently performed in older hemp workers in Spain.[9] A large number of these men were disabled by ventilatory insufficiency after a lifetime of work in hemp dust, during which they regularly experienced the symptoms of byssinosis. The same study[9] showed that the men still active in the industry, in the same town, were a selected group of relatively healthy men. In view of the selection bias inherent to the use of a working population, the relatively large percentage of men in the present study with chronic respiratory symptoms may assume added significance. Data from the Social Security Administration, Public Health Service, show that proportional morbidity ratios in male and female textile workers under age 65 (skilled and unskilled, all products) for emphysema, chronic bronchitis, and other respiratory conditions (exclusive of pulmonary tuberculosis and respiratory cancers) vary from 1.40 to 2.22,[18] and according to an oral communication from H. E. Ayer in January 1969. That is, over the period of this report, 1959 to 1962, the number of these workers who were awarded disability payments for these conditions was 40% to 122% higher than the average for these diseases among males and females of all occupations. According to the same source,[8] 26 textile workers were awarded disability payments because of pneumoconiosis of occupational origin over the same period. These data support our suspicion that disabled respiratory disease may be common among retired cotton textile workers; the occupational origin of this disease is apparently recognized only in incidental cases. Adequate population studies should be done in the near future to assess the full extent of this problem.

It has been suggested that disabling byssinosis might not be a significant problem in the United States because of rapid labor turnover and high levels of migration. The sociological characteristics of the industry and of its workers[19, 20] do not support this idea, and the data on the present working population suggest that we deal with a stable population. Sixty-three out of 65 workers who are 40 years of age or older had spent all their working life (except for military service) in the same geographical area, ie, within few miles distance of mills A and B. Fifty-six of these 65 workers (86%) had worked for more than 20 years in cotton mills in that same area.

We believe that sufficient information is now at hand to show the need for prevention of byssinosis in the US cotton textile industry. It is not necessary to wait for further research in order to begin such a prevention program, even though some questions remain to be answered. The elements of a byssinosis prevention program are well-known and have been discussed in previous papers.[2, 4, 13] It should include adequate dust removal methods, with periodic checks of airborne dust concentrations, premployment medical examinations, and periodic medical surveillance of the workers, including the use of a suitable lung function test such as the $FEV_{1.0}$. Since technical conditions in the mills are subject to changes, and since such changes may affect both total dust levels and the composition of the airborne dust, regular surveillance is necessary. Fortunately, it is relatively simple to determine whether or not a group of workers inhales sufficient amounts of pharmacologically active dust by determining their $FEV_{1.0}$ before and after work on Monday. Thus, it is not necessary or desirable to rely only on determinations of airborne dust concentrations in order to assess the byssinosis risk in any given set of conditions. It is unfortunate that these well-understood methods and principles remain to be implemented in most cotton processing countries.

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PREVALENCE OF CHRONIC RESPIRATORY DISEASE—ASBESTOSIS IN SHIP REPAIR WORKERS

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(Study of pipe coverers, pipe fitters, and welders at a ship repair yard indicated that pipe coverers had more changes in their lungs, as evidenced by examination of x-ray films, and slightly lower pulmonary function than the other two groups. All groups showed slightly lowered pulmonary function as compared with workers who did new-ship construction and were not exposed to asbestos. Aerometric measurement showed levels of asbestos that were, in general, lower than current threshold limit values. These findings reemphasize the need for control of asbestos in the work areas, as well as careful medical surveillance of workers exposed to asbestos.)

In an earlier report on respiratory disease in new-ship construction, we noted a 10.7% prevalence of asbestosis in pipe coverers.[1] We also noted that workers exposed to 75 million particles per cubic foot-year or more were considered to have asbestosis by our criteria. New-ship construction is regarded as less hazardous than repair work because it is less dusty. Specific data on disease prevalence in shipyard repair work is scant, and criteria used to assess disease prevalence vary. Accordingly, the purpose of the present study was to assess the risk of ship repair work and to examine the dose-response relationship of asbestos exposure to asbestosis in a different working population.

METHODS

The 63 pipe coverers listed in the personnel files of the shipyard were selected for study. Each was matched with a welder and a pipe fitter of approximately the same age and years of work at the shipyard. This matching was done by us from records supplied by the personnel department. These factors agreed to * * * within two years. The men were con-

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tacted through their foremen and asked to participate in the survey. In instances where the "control" person had terminated, another matched control was selected. Persons out ill or retired were not replaced.

All participants were asked a set of standard questions concerning respiratory symptoms and smoking habits, similar to the British Medical Research Council questionnaire. Occupational histories were obtained. Pulmonary function was measured by a variety of tests. Forced vital capacity (FVC) and forced expiratory volume in one second ($FEV_{1.0}$) were measured on a Stead-Wells spirometer at fast paper speed (3.2 cm/sec) with the subject seated without a noseclip. Five trials were made, and the average of the last three was used. Volumes were corrected to body temperature, pressure, and saturation (BTPS).

Peak expiratory flow rates (PEFR) were measured on a Wright peak flowmeter that had been calibrated under conditions of use with an orifice meter. Readings were corrected if necessary. Five trials were made, and the average of the last three was used. These values are reported at ambient temperature and pressure, saturated.

Maximum expiratory flow-volume relationships were obtained on a special spirometer with the subject standing.[2] These values were corrected to BTPS.

Total respiratory resistance was measured at 3 Hz using a fixed oscillatory driving pressure. Total respiratory resistance was measured at the functional residual capacity (FRC) during quiet breathing with the subject sitting. Five or more satisfactory breaths were obtained. The subject then either inhaled completely to total lung capacity or exhaled fully to residual volume and then relaxed to his FRC when the resistance measurements were repeated. An average of five breaths was used. Resistance was measured during inspiration and at flow rates of 0.25 and 0.5 liters/sec.

Posteroanterior and lateral chest x-ray films were obtained on most of the subjects. These were read by three observers (B.F., R.M., and H.P.) separately and without knowledge of the occupational history of the subjects. The x-ray films were classified by the amount and degree of fibrosis and presence of pleural reaction or calcification according to the classification of the International Labor Office (ILO).[3] Disagreements in readings were resolved by the observers reading the films together and coming to a decision as to the reading. The difficulty of applying standard nomenclature of pneumoconiosis to asbestosis was recognized, and the recommendations of ILO classification were followed.

Pulmonary diffusing capacity was measured by the single-breath technique using carbon monoxide and helium in high oxygen and in room air. The method and the instrument of Cotes and Saunders were used.[4] Only one measurement was obtained at the two levels of oxygen. The high-oxygen measurement was always done first. From these data the volume of blood in the pulmonary capillaries (Vc) and membrane component (Dm) were calculated, as well as the diffusing capacity. Those measurements that did not meet previously established criteria were not used to calculate Vc or Dm. The criteria that caused elimination were the following: (1) poor cooperation, breath-holding defective, poor expiration; (2) alveolar volumes on room air and high oxygen differing by more than 400 cc; (3) times of breath-holding differing by more than three seconds; and (4) operator error.

The chest of each man was ausculated by the same observer (R.M.) at ten sites, four anterior, four posterior, and two lateral. Rales heard in these areas were recorded. The examiner did not know the occupational category of the subjects. If fine rales were heard in two or more sites, the examination was considered to be positive. For assessment of disease prevalence, the diagnosis of "asbestosis" was based largely on the roentgenologic appearance; symptoms, medical and exposure histories, physical findings, and pulmonary function studies were utilized primarily to confirm or exclude the diagnosis. The work areas of the men were monitored by taking air samples in the breathing zone of the worker. Results of earlier samples obtained by the in-plant industrial hygienists were also made available to us. The methods of sampling involved collection by impaction and counting by darkfield illumination, membrane filters using the Public Health Service technique for asbestos,[5] and special air-sampling techniques for the fumes and gases to which the welders were exposed. Data from regular surveys in the yard and an earlier study[6] were made available to us.

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RESULTS AND COMMENT

The composition of the population samples and their response rates are presented in Table 1. The physical characteristics of the three groups are shown in Table 2.

Table 3 summarizes the results from the questions on breathlessness, which were the only ones in which there was any trend. The tables have been age-standardized and are categorized according to current cigarette-smoking habits. Shortness of breath was more prevalent in the pipe coverers than in the other categories.

The FVC, $FEV_{1.0}$, and PEFR did not show significant differences between the three occupational categories (Table 4). The observed values tended to be larger than the values predicted from equations developed from a general population[7] but are lower than those of unexposed shipyard workers in an earlier study.[1] When these data are plotted against years worked, the pipe coverers show a more steeply downward trend with time than the other occupational groups.

TABLE 1.—REPAIR SHIPYARD POPULATION SURVEYED, 1968

Group	Total sample	Seen	Retired	Out ill	Terminated, replaced	Refused
Pipe coverers	63	61	1	1	0	0
Pipe fitters	72	63	0	1	6	2
Welders	68	61	1	2	2	2

TABLE 2.—PHYSICAL CHARACTERISTICS OF POPULATIONS[1]

Group	Age (year)	Height (cm.)	Weight (kg.)
Pipe coverers	49.6 ±12.0	171.80±7.77	81.60±13.95
Pipe fitters	50.1 ±10.9	172.80±6.84	85.40±14.98
Welders	49.5 ±10.5	170.70±6.13	76.60±13.32
Unexposed pipe fitters[2]	45.16±9.20	173.80±6.60	79.30±12.70

[1] Table values are means±SD.
[2] Data from Murphy.[1]

TABLE 3.—RATIOS OF OBSERVED TO EXPECTED CASES OF BREATHLESSNESS (GRADE 2+) BY CURRENT CIGARETTE SMOKING HABITS IN REPAIR SHIPYARD, 1968[1]

Occupation	Never and ex-smokers			1–24 cigarettes per day			25 or more cigarettes per day		
	Total number	Observed/expected	Ratio	Total number	Observed/expected	Ratio	Total number	Observed/expected	Ratio
Pipe coverers	28	4.00/1.31	3.05	21	1.00/0.59	1.69	11	3.00/0.48	6.25
Pipe fitters	30	0/...	0	11	0/...	0	21	3.00/1.57	1.91
Welders	25	2.00/1.58	1.27	17	0/...	0	19	1.00/0.59	1.69

[1] Ages standardized (25–74). Thus, 2 persons under 25 years are not shown in data.

TABLE 4.—SIMPLE TESTS OF PULMONARY FUNCTION IN REPAIR SHIPYARD, 1968[1]

Group	Number	FVC (liters)	FEV (liters)	PEFR(liters/min)
Pipe coverers	61	3.75±0.94	2.94±0.86	502.0±113.0
Pipe fitters	63	3.79±0.70	2.90±0.64	484.0± 99.4
Welders	61	3.95±0.78	3.02±0.71	494.0±104.7
Unexposed pipe fitters[2]	94	4.34±0.87	3.55±0.74	526.0± 84.6

[1] Table values are means ±SF.
[2] Data from Murphy.[1]

TABLE 5.—READINGS OF CHEST X-RAY FILMS BY AGE AND OCCUPATION IN REPAIR SHIPYARD, 1968

Group	Negative [1]	Questionable [2]	Marked change [3]
Pipe coverers:			
<45 years	17	2	3
>45 years	22	10	7
Pipe fitters:			
<45 years	16	1	0
>45 years	42	4	0
Welders:			
<45 years	19	1	0
>45 years	36	5	0

[1] Profusion, 0/0.
[2] Profusion, 1/0–2/1.
[3] Those classified as p or q with a profusion of 2/2 or more

TABLE 6.—CARBON MONOXIDE DIFFUSING CAPACITY WITH SINGLE-BREATH METHOD BY OCCUPATION AND CIGARETTE SMOKING IN REPAIR SHIPYARD, 1968

	Number	CO diffusing capacity (ml/min/mm Hg)		Dm (ml/min/mm Hg)	Vc (ml)
		Room air	High oxygen		
Pipe coverers:					
Current nonsmokers	10	22.2	13.8	27.4	114.5
Current smokers	17	21.5	12.3	31.9	101.8
Pipe fitters:					
Current nonsmokers	12	25.9	14.1	33.0	103.2
Current smokers	11	20.3	12.0	27.3	91.5
Welders:					
Current nonsmokers	12	24.5	13.9	34.3	99.1
Current smokers	21	22.9	11.9	39.7	86.5
Unexposed workers: [1]					
Current nonsmokers	33	25.69	12.22	39.48	69.01
Current smokers	30	22.47	9.08	43.20	45.44

[1] Data from Murphy.

TABLE 7.—ASBESTOS DUST SAMPLING AT REPAIR SHIPYARD DURING PERIOD 1952–66 [1]

	Number of samples	Dust concentrations (million particles/cu. ft.) [2]		
		Minimum	Maximum	Mean±SD
Shop samples:				
General shop	19	0.6	9.4	2.8±2.6
Layout area (layout, wrapping, stapling, sewing)	15	.8	13.3	4.8±3.7
Cutting (hand saw, band saw)	26	1.1	100.0	19.0±30.0
Opening and unrolling bulk material	22	.8	33.6	7.2±7.3
Mixing cement	8	27.2	99.0	57.3±23.5
Shipboard samples: Tearing out	41	2.4	132.0	29.2±30.4

[1] Most sampling was conducted prior to 1965. In 1965, fiber glass was substituted for amosite on major portions of work.
[2] Total dust was counted. No attempt was made to define percent of fibers. Concentrations represented instantaneous conditions.

TABLE 8.—SUMMATION OF SAMPLING RESULTS IN REPAIR SHIPYARD, 1969*

Location	Total number of air samples	Concentrations (fibers/ml)			Number of samples with	
		Minimum	Maximum	Mean	>5 fibers/ml	>12 fibers/ml
Shop	19	0.01	3.1	0.3	0	0
Ship	62	0.01	25.0	2.9	11	2

Data from J. Lynch and W. A. Burgess, SM (unpublished data).

Chest Roentgenograms.—The results of the readings of the chest roentgenograms are summarized in Table 5, where the data are also separated by age and occupation. The category, "questionable," refers to the Z or Z/p category of the ILO and a profusion of 2/1 or less; "marked change" refers to p classification or more, with a profusion of 2/2 or more.[3] Questionable readings were more frequent in pipe coverers but occurred in all groups, while marked changes were noted only in pipe coverers. It should be emphasized that the occupation of the man was not known at the time of the initial readings, and only the posteroanterior and lateral films taken at the time of the survey were available to the readers.

The difference between pipe coverers and the other categories was significant at the probability level, $P<0.01$, when those with a marked change are considered. Similarly, the pipe coverers had significantly higher prevalence of questionable readings ($P<0.05$).

Calcifications, either pleural or pleural and diaphragmatic, were significantly more common among pipe coverers. This could not be accounted for by a previous history of pneumonia, bronchopneumonia, or trauma. Diaphragmatic calcification was more common among pipe coverers, but it was present in only five cases. This was not a statistically significant increase in prevalence. Pleural calcification, observed in 11 cases, was significantly higher ($P<0.05$) in pipe coverers.

Shaggy heart occurred more often in the pipe coverers ($P<0.01$) than in the pipe fitters or welders. Among the 13 pipe coverers with shaggy hearts, six occurred in the persons with marked X-ray film changes and seven in those with questionable changes. Two pipe fitters were considered to have shaggy hearts but no welders were.

Diffusing Capacity.—Table 6 presents the results of the measurement of the diffusing capacities of men in whom the criteria for acceptance were met. Of the 186 subjects, only 83 were suitable for calculation of Dm and Vc. There were 27 subjects who offered poor cooperation; and in 74 subjects the alveolar volumes, as calculated from the single-breath helium, were too different. There was one refusal and one operator's error.

The diffusing capacity is lower in the pipe coverers than in the other categories. It is also lower in smokers than in nonsmokers. As was noted in an earlier study by W. F. van Ganse, MD, B. G. Ferris, Jr., MD, and J. E. Cotes, MD (unpublished data), the Vc is decreased in cigarette smokers, whereas the Dm generally shows a slight rise or no change. The Dm does tend to decrease with age, however. A group of unexposed workers from any other study [1] gave values for the diffusing capacity similar to those seen in the pipe fitters and welders but higher than those in the pipe coverers.

Rales in two or more sites were significantly more common in pipe coverers than in either welders or pipe fitters. Six of the ten pipe coverers whose x-ray films were consistent with moderately advanced asbestosis had rales, whereas the rate in pipe fitters and welders together was 12.1%. This occurred even though the observer did not know either work category or roentgenologic classification at the time of auscultation. Rales were less well correlated with "borderline" asbestos, being present in 15.8% of the subjects in this category. Of pipe coverers whose x-ray films were negative, 28.2% had rales, suggesting that rales can precede x-ray film changes as a manifestation of asbestosis, as has been observed by others.[3] The converse can likewise occur.

There was no significant difference between the prevalence of rales in the welders as compared to the pipe fitters. The prevalence of rales (12.1%) in these two groups of subjects, who probably have some exposure to asbestos in the course of their work, was more than 8.2% that was found in a group of shipyard workers with little to no asbestos exposure.[1]

Measurements of the total respiratory resistance by the oscillation method generally were not rewarding. We were not able to demonstrate any differences between occupational group, age, or smoking categories. Similar negative results were found with the volume-flow plots. Some of this may be due to the relatively small numbers.

A total of 131 dust samples were collected from 1952 to 1966 at this yard (Table 7). In addition, 81 extended-time personal lapel samples using membrane filters were collected during a special three-month study period (Table 8). Sampling times for these extended-time samples ranged from one-half to four hours. Two thirds of these samples were collected during shipboard operations, while the remainder were collected in the shop (J. Lynch and W. A. Burgess, SM, unpublished data). Mean shipboard and shop concentrations for the membrane-filter samples are summarized in Table 8. There may be occasions when the time-weighted average concentration may exceed the proposed threshold limit value (TLV) or five fibers per milliliter in shipyard locations (J. Lynch and W. A. Burgess, SM, unpublished data). Because of the intermittent character of work of this yard, and with the recent substitution of fiber glass, it was not possible to develop good estimates of lifetime exposure for comparison with the previous study. As expected, dust levels during tearing out were high. Unfortunately the number of samples taken during tearing out was low.

Definite changes consistent with asbestosis were seen in this yard despite the relatively low levels of exposure. Over the years these levels were probably comparable to or higher than those seen in a yard doing new-ship construction. Since we examined only those men who were still at work, we could have missed diseased individuals who had retired or left the job. It was not possible to do a retrospective study to determine what earlier experiences had been. This was due to the methods of record keeping, in which all records after a three-year period were sent to a central depository and could be identified only by the man's name. Personnel records also were not maintained for long periods.

Because this yard did repair work, all groups may be slightly exposed, since the different types of work tend to be done at the same time and this simultaneous activity may result in less difference between groups. Unexposed workers from another study had better pulmonary function than those working in the repair yard and a lower prevalence of rales, both of which tend to support this possibility. A number of the factors measured indicate that the pipe coverers had more disease than the other two groups. In this particular study, changes in the chest x-ray films seemed to be most useful. Tests of pulmonary function, such as FVC and $FEV_{1.0}$, were not as dramatic as has been reported,[2] although their lack of sensitivity may well reflect the more general exposures of the control groups in a yard doing repair work. It is of interest that, despite the relatively low levels of asbestos in the yard, changes consistent with asbestosis were observed. These may reflect higher exposures in the past. Even so, this study reemphasizes the need for continued control of exposure to asbestos and for careful medical surveillance of workers exposed to asbestos.

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(CAPT Roger W. O'Neil, MC, USN, made space and personnel available to us.

(Ernani D. Storlazzi and Barkev Siroonian, MSPH, did routine aerometric surveys.

(The US Navy gave us permission to do this study on their premises and during working hours, with the cooperation of selected men.

(Stefana Puleo, MS, did the computations.)

FOOTNOTES

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S. 1029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Respiratory Disease Benefits Act".

TITLE I—GENERAL PROVISIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds and declares that—

(1) there is a significant number of workers who are totally disabled due to disease of the respiratory tract and related tissues arising out of their employment in a health-hazard industry;

(2) there is a substantial number of survivors of workers whose deaths were due to such disease or who were totally disabled by such disease at the time of their deaths;

(3) few States provide benefits for death or disability due to such disease to workers or their surviving dependents; and

(4) the Congress, by enactment of title IV of the Federal Coal Mine Health and Safety Act of 1969, has provided for the payment of benefits to coal miners who are totally disabled due to pneumoconiosis arising out of employment in the coal mines and to the surviving dependents of such miners whose deaths were due to such disease or who were totally disabled by such disease at the time of their deaths.

(b) It is, therefore, the purpose of this Act to provide assistance, in cooperation with the States to workers who are totally disabled due to a respiratory disease (other than pneumoconiosis contracted as a result of employment in one or more coal mines) arising out of their employment in a health-hazard industry (other than a coal mine) and to the surviving dependents of workers whose death was due to such disease or who were totally disabled by such disease at the time of their deaths.

DEFINITIONS

SEC. 102. For purposes of this title—

(a) The term "worker" means an employee or former employee.

(b) The term "dependent" means—

(1) a child (as defined in subsection (h), but without regard to subparagraph (2)(B)(ii) thereof); or

(2) a wife who is a member of the same household as the worker for her support, or whose husband is a worker who has been ordered by a court to contribute to her support, or who meets the requirements of section 216(h)(1) of the Social Security Act. The determination of an individual's status as the "wife" of a worker shall be made in accordance with section 216(h)(1) of the Social Security Act as if such worker were the "insured individual" referred to therein. The term "wife" also includes a "divorced wife" (as defined in section 216(d)(1) of the Social Security Act) who is receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the worker, or is receiving substantial contributions from the worker (pursuant to a written agreement), or with respect to whom there is in effect a court order for substantial contributions to her support from such worker.

(c) The term "Secretary", when used in title II, means the Secretary of Health, Education, and Welfare, and when used in title III, means the Secretary of Labor.

(d) The term "respiratory disease" means diseases of the respiratory tract and associated tissues, including (1) silicosis, (2) asbestosis, (3) berylliosis, (4) byssinosis, (5) bagassosis, (6) diatomite pneumoconiosis (also known as diatomaceous earth), (7) talcosis, (8) Shaver's disease, (9) siderosis, (10) cancer of the lung and related tissues or (11) any other disease of the respiratory tract and associated tissues which the Secretary shall specify as having been determined by him to arise out of employment in any particular industry. Such term does not include pneumoconiosis arising out of an individual's employment as a miner in one or more coal mines.

(e) The term "health-hazard industry" means, when applied with respect to a worker suffering from—

(1) silicosis, an industry which is a foundry, or which is engaged in (A) stone cutting, (B) the manufacture of clay products, (C) the manufacture of glass or glass products, (D) the mining of lead, copper, silver, or gold, or (E) sand blasting;

(2) Asbestosis, an industry engaged in the manufacture, handling, or processing of asbestos or asbestos products;

(3) berylliosis, an industry engaged in the manufacture or processing beryllium;

(4) byssinosis, an industry engaged in the manufacture or processing of cotton fabric or flax products, or an industry in which workers are exposed to cotton fibers or flax dust;

(5) bagassosis, an industry engaged in the manufacture of insulating materials, paper, fertilizer, explosives, animal feed, or brick;

(6) diatomite pneumoconiosis, an industry engaged in the manufacture of filters, insulators, absorbants, or polishes;

(7) talcosis, an industry engaged in the manufacture or processing of cosmetics, paints, paper, or rubber, or an industry engaged in the mining, milling, or manufacture of talc or talc products;

(8) Shaver's disease, an industry utilizing electric furnaces in the manufacture of corundum;

(9) siderosis, an industry engaged in the welding, cutting, burning, or grinding, of iron or steel;

(10) lung cancer, a place of work in which such worker is or was employed for a period of not less than five years, if the incidence of lung cancer among the employees and former employees of such plant is at least three times as great as the incidence of lung cancer among the general population; or

(11) any other disease which is specified by the Secretary pursuant to subsection (d)(11) which is specified by to be a disease of the respiratory tract and associated tissues, the industry or industries employment in which has been determined by him to give rise to such disease.

(f) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(g) The term "widow" includes the wife living with or dependent for support on the worker at the time of his death, or living apart for reasonable cause or because of his desertion, or who meets the requirements of section 216 (c) (1), (2), (3), (4), or (5), and section 216 (k) of the Social Security Act, and who is not married. The determination of an individual's status as the "widow" of a worker shall be made in accordance with section 216 (h) (1) of the Social Security Act as if such worker were the "insured individual" referred to therein. Such term also includes a "surviving divorced wife" (as defined in section 216 (d) (2) of the Social Security Act) who for the month preceding the month in which the worker died, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the worker, was receiving substantial contributions from the worker (pursuant to a written agreement), or with respect to whom there was in effect a court order for substantial contributions to her support from the worker at the time of his death.

(h) The term "child" means a child or step-child who is—

(1) unmarried; and

(2)(A) under eighteen years of age, or

(B)(i) under a disability (as defined in section 223(d) of the Social Security Act),

(ii) which began before the age specified in section 202(d)(1)(B)(ii) of the Social Security Act, or, in the case of a student, before he ceased to be a student; or

(C) a student.

The term "student" means a "full-time student" (as defined in section 202(d)(7) of the Social Security Act), or a "student" (as defined in section 8101(17) of title 5, United States Code. The determination of an individual's status as the "child" of a worker or widow, as the case may be, shall be made in accordance with section 216(h) (2) or (3) of the Social Security Act as if such worker or widow were the "insured individual" referred to therein.

(i) The term "total disability" has the meaning given it by regulations of the Secretary, except that such regulations shall provide that a worker shall be considered to be totally disabled when a respiratory disease prevents him from engaging in gainful employment requiring skills and abilities comparable to those utilized by him in any employment, in the health-hazard industry giving rise to such disease, in which he previously engaged with some regularity and over a substantial period of time. Such regulations shall not provide more restrictive criteria than those applicable under section 223(d) of the Social Security Act.

TITLE II—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER 31, 1976

PAYMENT OF BENEFITS BY SECRETARY

SEC. 201. (a) The Secretary shall, in accordance with the provisions of this title and the regulations promulgated by him under this title, make payments of benefits in respect of total disability of any worker due to a respiratory disease arising out of his employment in a health-hazard industry, and in respect of the death of any worker whose death was due to such disease or who at the time of his death was totally disabled by such disease.

(b) The Secretary shall by regulation prescribe standards for determining for purposes of subsection (a) whether a worker is totally disabled due to a respiratory disease arising out of his employment in a health-hazard industry and for determining whether the death of a worker was due to such a disease. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of

this Act, and in no event later than the end of the third month following the month in which this Act is enacted. Such regulations may be modified by the Secretary or additional regulations may be promulgated by him from time to time thereafter.

(c) For the purposes of this section, if a worker who is suffering or suffered from a respiratory disease was employed for ten years or more in an industry (with which such disease is associated under section 102 (e)), there shall be a rebuttable presumption that such disease arose out of his employment in such industry.

(d) Nothing in subsection (c) shall be deemed to affect the applicability of subsection (a) in the case of a claim where the presumption provided for in subsection (c) are inapplicable.

AMOUNT OF BENEFITS

SEC. 202. (a) Subject to the provisions of subsection (b), benefit payments shall be made by the Secretary under this title as follows—

(1) In the case of total disability of a worker due to a respiratory disease arising out of his employment in a health-hazard industry, the disabled worker shall be paid benefits during the disability at a rate equal to 50 per centum of the minimum monthly payment to which a Federal employee in grade GS–2, who is totally disabled, is entitled at the time of payment under chapter 81 of title 5, United States Code.

(2) In the case of death of a worker due to a respiratory disease arising out of his employment in a health-hazard industry or of a worker receiving benefits under this title, benefits shall be paid to his widow (if any) at a rate equal to the rate at which benefits hereunder would have been payable to the deceased worker if he were alive and totally disabled.

(3) In the case of the child or children of a worker whose death is due to a respiratory disease arising out of his employment in a health-hazard industry or of a worker who is receiving benefits under this title at the time of his death, and in the case of the child or children of a widow who is receiving benefits under this title at the time of her death, benefits shall be paid to such child or children as follows: If there is only one such child, he shall be paid benefits at the rate specified in paragraph (1). If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 per centum of such rate if there are two such children, by 75 per centum of such rate if there are three such children, and by 100 per centum of such rate if there are more than three such children: *Provided*, That the benefits shall only be paid to a child for so long as he meets the criteria for the term "child" contained in section 102(h): *And provided further*, That no entitlement to benefits as a child shall be established under this paragraph (3) for any month for which entitlement to benefits as a widow is established under paragraph (2).

(4) In the case of an individual entitled to benefit payments under paragraph (1) or (2) of this subsection who has one or more dependents, the benefit payments shall be increased at the rate of 50 per centum of such benefit payments, if such individual has only one dependent, 75 per centum if such individual has only two dependents, and 100 per centum if such individual has three or more dependents.

(5) In the case of the dependent parent or parents of a worker whose death is due to a respiratory disease arising out of his employment in a health-hazard industry or of a worker who is receiving benefits under this title at the time of his death, and who is not survived at the time of his death by a widow or a child, or in the case of the dependent surviving brother(s) or sister(s) of such a worker who is not survived at the time of his death by a widow, child, or parent, benefits shall be paid under this title to such parent(s), or to such brother(s), or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were the children of such worker). In determining for purposes of this paragraph whether a claimant bears the relationship as the worker's parent, brother, or sister, the Secretary shall apply legal standards consistent with those applicable to relationship determination under title II of the Social Security Act. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Benefits shall be payable under this paragraph to a brother only if he is—

(A) (i) under eighteen years of age, or

(ii) under a disability (as defined in section 223(d) of the Social Security Act) which began before the age specified in section 202 (d) (1) (B) (ii) of such Act, or in the case of a student, before he ceased to be a student, or

(iii) a student (as defined in section 102 (h)); or

(B) who is, at the time of the worker's death, disabled as determined in accordance with section 223 (d) of the Social Security Act, during such disability. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior months. As used in this paragraph, "dependent" means that during the one year period prior to and ending with such worker's death, such parent, brother, or sister was living in the worker's household, and was, during such period, totally dependent on the worker for support. Proof of such support shall be filed by such claimant within two years after the month in which this Act is enacted, or within two years after the worker's death, whichever is the later. Any such proof which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes "living in the worker's household", "totally dependent upon the worker for support", and "good cause", shall for purposes of this paragraph be made in accordance with regulations of the Secretary. Benefit payments under this paragraph to a parent, brother, or sister, shall be reduced by the amount by which such payments would be reduced on account of excess earnings of such parent, brother, or sister, respectively, under section 203 (b) through (l) of the Social Security Act, as if the benefit under this paragraph were a benefit under section 202 of such Act.

(6) If an individual's benefits would be increased under paragraph (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than to such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this paragraph, if otherwise valid under this Act, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

(b) Notwithstanding subsection (a), benefit payments under this section to a worker or his widow, child, parent, brother, or sister shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such worker or his widow, child, parent, brother, or sister under the workmen's compensation, unemployment compensation, or disability insurance laws of his State on account of the disability of such worker, and the amount by which such payment would be reduced on account of excess earnings of such worker under section 203 (b) through (l) of the Social Security Act if the amount paid were a benefit payable under section 202 of such Act. This title shall not be considered a workmen's compensation law or plan for purposes of section 224 of such Act.

SEC. 203. (a) Except as otherwise provided in section 204 of this title, no payment of benefits shall be made under this title except pursuant to a claim filed therefor on or before December 31, 1976, in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe.

(b) In carrying out the provisions of this title, the Secretary shall to the maximum extent feasible (and consistent with the provisions of this title) utilize the personnel and procedures he uses in determining entitlement to disability insurance benefit payments under section 223 of the Social Security Act, but no claim for benefits under this title shall be denied solely on the basis of the results of a chest roentgenogram. In determining the validity of claims under this title, all relevant evidence shall be considered, including, where relevant, medical tests such as blood gas studies, X-ray examination, electrocardiogram, pulmonary function studies, or physical performance tests, and any medical history, evidence submitted by the claimant's physician, or his wife's affidavits, and in the case of a deceased worker, other appropriate affidavits of persons with knowledge of the worker's physical condition, and other supportive materials. Claimants under this title shall be reimbursed for reasonable medical expenses incurred by them in establishing their claims. For purposes of determining total disability under this title, the provisions of subsections (a), (b), (c), (d), and (g) of section 221 of the Social Security Act shall be applicable. The provisions of sections 204, 205 (a), (b), (d), (e), (f), (g), (h), (j) (k), and (l) of the Social Security Act shall be applicable under this title with respect to a worker, widow, child, parent, brother, sister, or dependent, as if benefits under this title were benefits under title II of such Act.

(c) No claim for benefits under this section shall be considered unless the claimant has also filed a claim under the applicable State workmen's compensation law prior to or at the same time his claim was filed for benefits under this section; except that the foregoing provisions of this paragraph shall not apply in any case in which the filing of a claim under such law would clearly be futile because the period within which such a claim may be filed thereunder has expired or because the particular respiratory disease in question is not compensable under such law, or in any other situation in which, in the opinion of the Secretary, the filing of a claim would clearly be futile.

SEC. 204. (a) (1) No claim for benefits under this title on account of total disability of a worker shall be considered unless it is filed on or before June 30, 1975, or, in the case of a claimant who is a widow, within six months after the death of her husband or by June 30, 1975, whichever is the later.

(2) No claim for benefits under this title, in the case of a claimant who is a child, shall be considered unless it is filed within six months after the death of his father or mother (whichever last occurred) or by June 30, 1975, whichever is the later.

(3) No claim for benefits under this title, in the case of a claimant who is a parent, brother, or sister shall be considered unless it is filed within six months after the death of the worker or by June 30, 1975, whichever is the later.

(b) No benefits shall be paid under this title after December 31, 1976 if the claim therefor was filed after June 30, 1975.

(c) No benefits under this title shall be payable for any period prior to the date a claim therefor is filed.

(d) No benefits shall be paid under this title to the residents of any State which, after the date of enactment of this Act, reduces the benefits payable for death or disability to persons eligible to receive benefits under this title, under its State laws which are applicable with regard to workmen's compensation, or disability insurance.

(e) No benefits shall be payable to a widow, child, parent, brother, or sister under this title on account of the death of a worker unless (1) benefits under this title were being paid to such worker with respect to disability due to a respiratory disease arising out of his employment in a health-hazard industry prior to his death, or (2) the death of such miner occurred prior to June 30, 1975.

Sec. 205. (a) Notwithstanding any other provision in this Act, for the purpose of assuring the uninterrupted receipt of benefits by claimants at such time as responsibility for administration of the benefits program is assumed by either a State workmen's compensation agency or the Secretary of Labor, any claim for benefits under this title filed during the period from July 1, 1975 to December 31, 1975, shall be considered and determined in accordance with the procedures of this section. With respect to any such claim—

(1) Such claim shall be determined and, where appropriate under this title or section 304, benefits shall be paid with respect to such claim by the Secretary of Labor.

(2) The manner and place of filing such claim shall be in accordance with regulations issued jointly by the Secretary of Health, Education, and Welfare and the Secretary of Labor, which regulations shall provide, among other things, that such claims may be filed in district offices of the Social Security Administration and thereafter transferred to the jurisdiction of the Department of Labor for further consideration.

(3) The Secretary of Labor shall promptly notify any employer who he believes, on the basis of information contained in the claim, or any other information available to him, may be liable to pay benefits to the claimant under title III of this Act for any month after December 31, 1975.

(4) In determining such claims, the Secretary of Labor shall, to the extent appropriate, follow the procedures described in sections 19 (b), (c), and (d) of Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended.

(5) Any employer who has been notified of the pendency of a claim under paragraph (4) of this subsection shall be bound by the determination of the Secretary of Labor on such claim as if the claim had been filed pursuant to title III and section 302 thereof had been applicable to such employer. Nothing in this paragraph shall require any employer to pay any benefits for any month prior to January 1, 1976.

(b) The Secretary of Labor, after consultation with the Secretary of Health, Education, and Welfare, may issue such regulations as are necessary or appropriate to carry out the purpose of this section.

TITLE III—CLAIMS FOR BENEFITS AFTER DECEMBER 31, 1976

Sec. 301. (a) On and after January 1, 1976, any claim for benefits for death or total disability due to a respiratory disease arising out of a worker's employment in a health-hazard industry shall be filed pursuant to the applicable State workmen's compensation law, except that during any period when such workers or their surviving widows, children, parents, brothers, or sisters, as the case may be, are not covered by a State workmen's compensation law which provides adequate coverage for such disease, they shall be entitled to claim benefits under this title.

(b) (1) For purposes of this section, a State workmen's compensation law shall not be deemed to provide adequate coverage for any such respiratory disease during any period unless it is included in the list of State laws found by the Secretary to provide such adequate coverage during such period. The Secretary shall, no later than October 1, 1975, publish in the Federal Register a list of State workmen's compensation laws which provide adequate coverage for one or more such respiratory diseases (setting forth each such particular disease covered) and shall revise and republish in the Federal Register such list from time to time, as may be appropriate to reflect changes in such State laws due to legislation or judicial or administrative interpretation.

(2) The Secretary shall include a State workmen's compensation law on such list with respect to any such respiratory disease during any period only if he finds that during such period under such law—

(A) benefits must be paid for total disability or death of a worker due to such disease;

(B) the amount of such cash benefits is substantially equivalent to or greater than the amount of benefits prescribed by section 202(a) of this Act;

(C) the standards for determining death or total disability due to such disease are substantially equivalent to section 202 (b) of this Act and to those standards established under title II of this Act, and by the regulations of the Secretary of Health, Education, and Welfare promulgated thereunder;

(D) any claim for benefits on account of total disability or death of a worker due to any such respiratory disease is deemed to be timely filed if such claim is filed within three years of the discovery of total disability due to such disease, or the date of such death, as the case may be;

(E) there are in effect provisions with respect to prior and successor employers which are substantially equivalent to the provisions contained in section 302 (i); and

(F) there are applicable such other provisions, regulations or interpretations, which are consistent with the provisions contained in Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended, which are applicable under section 302(a)), but are not inconsistent with any of the criteria set forth in subparagraphs (A) through (E) of this paragraph, as the Secretary, in accordance with regulations promulgated by him, determines to be necessary or appropriate to assure adequate compensation for total disability or death due to respiratory disease.

The action of the Secretary in including or failing to include any State workmen's compensation law on such list with respect to any such respiratory disease shall be subject to judicial review exclusively in the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia.

Sec. 302. (a) During any period after December 31, 1976, in which a State workmen's compensation law is not included on the list published by the Secretary under section 301(b), the provisions of Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended (other than the provisions contained in sections 8, 9, 10, 12, 13, 29, 30, 31, 32, 33, 37, 38, 41, 43, 44, 45, 46, 47, 48, 49, 50, and 51 thereof) shall (except as otherwise provided in this subsection and except as the Secretary shall by regulation otherwise provide), be applicable to each employer of employees in a health-hazard industry in such State with respect to death or total disability due to a respiratory disease arising out of such employment. In administering this title, the Secretary is authorized to prescribe in the Federal Register such additional provisions, not inconsistent with those specifically excluded by this subsection, as he deems necessary to provide for the payment of benefits by such employer to persons entitled thereto as provided in this title and thereafter those provisions shall be applicable to such employer.

(b) During any such period each such employer shall be liable for and shall secure the payment of benefits, as provided in this section and section 303.

(c) Benefits shall be paid during such period by each such employer under this section to the categories of persons entitled to benefits under section 202(a) in accordance with the regulations of the Secretary and the Secretary of Health, Education, and Welfare applicable under this section: *Provided*, That, except as provided in subsection (i) of this section, no benefit shall be payable by any employer on account of death or total disability due to any respiratory disease which did not arise, at least in part, out of employment provided by such employer.

(d) Benefits payable under this section shall be paid on a monthly basis and, except as otherwise provided in this section, such payments shall be equal to the amounts specified in section 202(a).

(e) No payment of benefits shall be required under this section—

(1) except pursuant to a claim filed therefor in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe;

(2) for any period prior to January 1, 1976; or

(3) for any period after December 31, 1981.

(f) Any claim for benefits under this section shall be filed within three years of the discovery of total disability due to a respiratory disease or, in the case of death due to a respiratory disease, the date of such death.

(g) The amount of benefits payable under this section on account of any respiratory disease shall be reduced, on a monthly or other appropriate basis, by the amount of any compensation received under or pursuant to any Federal or State workmen's compensation law because of death or disability due to such disease.

(h) The regulations of the Secretary of Health, Education, and Welfare promulgated under section 201 shall also be applicable to claims under this section. The Secretary of Labor shall by regulation establish standards, which may include appropriate presumptions, for determining whether any particular respiratory disease arose out of employment by any particular employer. The Secretary may also, by regulation, establish standards for apportioning liability for benefits under this subsection among more than one employer, where such apportionment is appropriate.

(i) (1) During any period in which this section is applicable with respect to an employer conducting any business who, after the date of enactment of this Act, acquired such business or substantially all the assets thereof from a person (hereinafter referred to in this paragraph as a "prior employer") who was conducting such business on or after the operative date of this Act, shall be liable for and shall, in accordance with section 303, secure the payment of all benefits which would have been payable by the prior employer under this section with respect to workers previously employed in such business if the acquisition had not occurred and the prior employer had continued to operate such business.

(2) Nothing in this subsection shall relieve any prior employer of conducting such business.

SEC. 303. (a) During any period in which a State workmen's compensation law is not included with respect to any particular respiratory disease on the list published by the Secretary under section 421(b) each employer having employees working in the health-hazard industry associated (under section 102(e)) with such disease in such State shall secure the payment of benefits for which he is liable under section 302 by (1) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary, or (2) insuring and keeping insured the payment of such benefits with any stock company or mutual company or association, or with any person or fund, including any State fund, while such company, association, person or fund is authorized under the laws of any State to insure workmen's compensation.

(b) In order to meet the requirements of clause (2) of subsection (a) of this section, every policy or contract of insurance must contain—

(1) a provision to pay benefits required under section 302, notwithstanding the provisions of the State workmen's compensation law which may provide for lesser payments;

(2) a provision that insolvency or bankruptcy of the employer or discharge therein (or both) shall not relieve the carrier from liability for such payments; and

(3) such other provisions as the Secretary, by regulation, may require.

(c) No policy or contract of insurance issued by a carrier to comply with the requirements of clause (2) of subsection (a) of this subsection shall be canceled prior to the date specified in such policy or contract for its expiration until at least thirty days have elapsed after notice of cancellation has been sent by registered or certified mail to the Secretary and to the employer at his last known place of business.

SEC. 304. If a totally disabled worker or a widow, child, parent, brother, or sister is entitled to benefits under section 302 and (1) an employer liable for such benefits has not obtained a policy or contract of insurance, or qualified as a self-insurer, as required by section 303, or such employer has not paid such benefits within a reasonable time, or (2) there is no employer who was required to secure the payment of such benefits, the Secretary shall pay such worker or such widow, child, parent, brother, or sister the benefits to which he or she is so entitled. In a case referred to in clause (1) the employer shall be liable to the United States in a civil action in an amount equal to the amount paid to such worker or his widow, child, parent, brother, or sister under this title.

SEC. 305. With the consent and cooperation of State agencies charged with administration of State workmen's compensation laws, the Secretary may, for the purpose of carrying out his functions and duties under section 302, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may advance funds to or reimburse such State and local agencies and their employees for services rendered for such purposes.

SEC. 306. (a) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to issue such regulations as each deems appropriate to carry out the provisions of this Act. Such regulations shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding subsection (a) thereof.

(b) Within 120 days following the convening of each session of Congress the Secretary of Health, Education, and Welfare shall submit to the Congress an annual report upon the subject matter of title II of this Act, and, after January 1, 1976, the Secretary of Labor shall also submit such a report upon the subject matter of title III of this Act.

(c) Nothing in this Act shall relieve any employer of the duty to comply with any State workmen's compensation law, except insofar as such State law is in conflict with the provisions of this Act and the Secretary by regulation, so prescribes. The provisions of any State workmen's compensation law which provide greater benefits than the benefits payable under this Act shall not thereby be construed or held to be in conflict with the provisions of this Act.

SEC. 307. (a) The Secretary of Health, Education, and Welfare is authorized to enter into contracts with, and make grants to, public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory disease in active and inactive workers in health-hazard industries. The Secretary shall coordinate the making of such contracts and grants with the Appalachian Regional Commission.

(b) The Secretary of Health, Education, and Welfare shall initiate research within the National Institute for Occupational Safety and Health, and is authorized to make research grants to public and private agencies and organizations and individuals for the purpose of devising simple and effective tests to measure, detect, and treat respiratory disease in active and inactive workers in health-hazard industries. Any grant made pursuant to this subsection shall be conditioned upon all information, uses, products, processes, patents, and other developments resulting from such research being available to the general public, except to the extent of such exceptions and limitations as the Secretary of Health, Education, and Welfare may deem necessary in the public interest.

(c) There is hereby authorized to be appropriated for the purpose of subsection (a) of this section $10,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. There are hereby authorized to be appropriated for the purpose of subsection (b) of this section such sums as are necessary.

SEC. 308. (a) No employer employing workers in a health-hazard industry shall discharge or in any other way discriminate against any worker employed by him by reason of the fact that such worker is suffering from a respiratory disease associated (under section 102 (e)) with such industry. No person shall cause or attempt to cause an employer to violate this section. For the purposes of this subsection the term "worker" shall not include any person who has been found to be totally disabled.

(b) Any worker who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such worker may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Each hearing examiner presiding under this section shall receive compensation at a rate not less than that prescribed for GS–16 under section 5332 of title 5, United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the worker to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

(c) Whenever an order is issued under this subsection granting relief to a worker at the request of such worker, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such worker for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

SEC. 309. There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out his responsibilities under this Act. Such sums shall remain available until expended.

By Mr. HUMPHREY:

S. 1030. A bill to establish a Congressional Office of Budget Analysis and Program Evaluation; to provide participation by State and local officials and the general public in the departmental budget-making process; to provide investigations by the Comptroller General of impoundment reports; to provide legislative oversight and veto of impoundments; and for other purposes. Referred to the Committee on Government Operations.

Mr. HUMPHREY. Mr. President, the Fiscal and Budgetary Reform Act of 1973, which I now introduce, establishes the tools and mechanisms for closer coordination between the authorization and appropriation committees, sets up appropriate staff facilities for budget analysis, and establishes a program of evaluation for ongoing and newly proposed programs.

Specifically, the bill has the following major provisions:

First, it establishes, under the direction of the Joint Economic Committee, a Congressional Office of Budget Analysis and Program Evaluation, to recommend budget ceilings and control expenditures.

Second, it places responsibility on the respective Appropriation Committees of both Houses to report a budget ceiling bill.

Third, it opens the budget process to public scrutiny through a process of hearings, and congressional availability of transcripts of budget examinations within the executive branch.

Fourth, it establishes a procedure for the General Accounting Office to review, verify, and recommend congressional action concerning Executive impoundment.

Fifth, it prohibits impoundment if such action terminates or otherwise impairs the legislative intent of a program.

Sixth, it provides for a 3-year limit on all authorizations to force evaluation and oversight of all programs.

Seventh, it provides that all taxpayers will be made aware of exactly where their tax dollars are spent through a system of individual taxpayer notifications.

Mr. President, the Federal budget has grown at a rapid rate. In the beginning of this Nation, the budget took the form of "Books of Estimates," and annual Government expenditures were about $2.65 million.

Today, the Federal budget comprises four separate documents, a total of more than 1,000 pages, requires hundreds of thousands of man hours to prepare, and involves expenditures of more than $270 billion.

In addition, the famous "pipeline"—authorizations and funds obligated from past years and to be spent in future years—involves more total dollars than the actual budget of fiscal 1974—more than $305 billion.

This growth in the budget reflects an expanding country, expanding international responsibilities, expanding domestic programs to meet social needs, and expanded provision for national security.

Each new budget is really a social accounting. It represents the policies and priorities of the President as proposed and Congress as enacted. The budget should be examined not just as a collection of figures or as an exercise in cost accounting but rather from the perspective as to whether or not the budget meets the needs of our people.

This ought to be the criterion of governing: Are the people's needs reflected in this budget?

One budget of 1 single year cannot accomplish every goal that all of us would like. Neither borrowing nor tax revenues will permit that kind of spending. There have to be choices. There has to be a setting of priorities. That is what the budget does. Each budget contains unstated assumptions: Assumptions about the worth of Government programs—whether or not a particular problem is one that Government ought to address itself to; assumptions about the relative power position of various groups in our society; and assumptions about our Nation's leaders, how they view our country and its people.

On such assumptions, program choices are made for the allocation of competing resources. How much to allocate to education. How much to allocate to manpower, to health and the elderly. How much to be allocated to natural resources and environmental protection—to national security and the Armed Forces.

These are the kinds of choices that have to be made. These are the choices that are made, and made within a specific framework. The person or office who sets that framework—who establishes the bases and posture—both public and private—on which these choices are made, to a large extent controls the decisions that are made.

For too long, Congress has been content to accept the President's definitions of that framework. We have been content to assume that, because the President said no new taxes are necessary that no new taxes are in fact necessary. Or that, because the President says that we must spend $268.7 billion and only $268.7 billion, this becomes the budget ceiling.

The President has also been trying to structure the terms of the budget debate by repeating over and over again that Congress is the big spender; that Congress is fiscally irresponsible; that Congress just spends and spends and only the President can control expenditures.

Well, it simply is not true. The fact is that Congress is not the big spender. Since 1920, 32 Presidential budgets have been presented to Congress with a deficit.

In Mr. Nixon's last term of office alone, the 1970 budget deficit was $13 billion; in 1971, it was $30 billion; in 1972, it was $21 billion; and the 1973 fiscal year budget deficit is estimated to be around $34 billion. Those are Presidentially submitted budget deficits.

The fact is, however, that Congress has cut Mr. Nixon's budget requests in the last 4 years by $20 billion. Congress reduced the budget $8.2 billion in 1969; $3.4 billion in 1970; $2.6 billion in 1971; and $6.4 billion in 1972.

But even in the face of these cuts, the budget has increases. Why? There are two main reasons. First, both the executive branch and Congress have requested new initiatives. These programs—such as the black lung bill or Disaster Relief Acts were badly needed to deal with a pressing human and social problem. They are indeed worthwhile investments.

One branch of the Government ought not to blame the other branches of the Government for investing in these kinds of programs—even though total expenditures increase.

A second reason is more endemic to Congress as an institution.

The fact is that through Executive proposals such as general revenue sharing and congressional proposals such as water pollution control, the appropriations process has become splintered. There is a great deal of back door spending today—the kind of spending that is not reflected directly in appropriations bills, but ultimately must be paid.

We have, for example, such back door spending as borrowing authority, contract authority, permanent appropriations, and mandatory appropriations. These funds go for such programs as student loan guarantees, water pollution control, revenue sharing, social services, public assistance grants, and the like.

These are worthwhile programs. They are priority programs of Congress. Yet, they do require funding, and that means appropriations.

There is, in short, a need for congressional budget control. A need brought forth by both Congress and the executive branch.

The Joint Study Committee on the Budget has released its preliminary report. This report cites the need for a congressional mechanism to determine the proper level of expenditures, to provide an overall ceiling, and determine the revenues available for obligation.

I am encouraged by this report. I think it is a workable first step.

SECTION-BY-SECTION COMMENT—FISCAL AND BUDGETARY REFORM ACT OF 1973

The bill I am introducing today is complementary to the thrust of the Joint Study Committee's interim report.

OFFICE OF BUDGET ANALYSIS AND PROGRAM EVALUATION

Title I of the Fiscal and Budgetary Reform Act of 1973 would establish an Office of Budget Analysis and Program Evaluation as part of the Joint Economic Committee.

The Office would, prior to the submission of the President's budget report to the Joint Economic Committee on an estimate of revenues that will be received by the Federal Government and a recommendation of the amount, if any, by which the Federal outlays should exceed revenues, or revenues exceed outlays.

Such proposals would be made as the result of a thorough study of authorization committee proposals, budget initiatives, and current program refunding. It would take into account the current economic condition, budget assumptions, and objectives of the Employment Act of 1946.

The Joint Economic Committee—after receiving this report and the President's budget—would hold hearings, and report to the Congress and its respective committees a proposed limit on new obligations and a proposed limit on total outlays.

After receiving this report, the Appropriations Committees, within 15 days, will report to the floor a bill establishing the total amount of outlays to be made during the fiscal year.

Upon passage by the Congress and signature of the President, this bill becomes the budget ceiling.

The Office would have four separate divisions. The first division, the Informational Section, would be required to provide to all members and committees information on budget amounts requested by the Federal departments, request as set forth in the President's budget, amounts authorized, amounts appropriated, estimates of projected cost over a 5-year period, amounts obligated by the agencies and amounts apportioned by the Office of Management and Budget.

A second division, the Analytic Section, would analyze the assumptions on which the budget is based in light of current economic conditions, operation of the general economy as it affects revenues and budget outlays, choices evidenced in the President's budget.

A third division, the Program Evaluation Division, would examine and scrutinize the various programs, either proposed or enacted by the Congress. It would provide Congress with the information it lacks:

Is the program worth it? Is it working? Is it accomplishing its goals? Does the administration of the program follow legislative intent?

A fourth division, the Special Studies Section would be available to undertake specific budget analysis and projects from Members of Congress and the committees.

In all cases, the various divisions of the Office would be required to work closely with the General Accounting Office to see that the legislative mandates of this new bill and the Legislative Reorganization Act of 1970 are fully executed.

OPEN BUDGET PROCESS

Title II of the bill makes major changes in and overhauls the departmental budget process. It calls for the participation by State and local officials in the preparation of the budget. It requires opening hearings and the opportunity for elected officials to appear before budget examiners and departmental secretaries in the preparation of the budget.

Governors, mayors, and other elected officials would have an opportunity to offer comments and suggestions about their needs and submit general evaluations as to what they feel the budget of the various departments should attempt to accomplish—given a limited amount of resources.

In addition, after an executive agency has submitted its budget request to the Office of Management and Budget, transcripts of all budget examination meetings will be made available to the Congress and the public. And, executive agency heads would be required to submit such budget requests to the Congressional Office of Budget Analysis and Program Evaluation.

The goal of this title of the bill is to open up the budget process. It makes it an open document that would reflect the needs of the people.

IMPOUNDMENT

Titles III and IV are directed to the impoundment of congressionally appropriated funds by the executive branch.

The Comptroller General would be required to investigate the impoundments to verify the information provided by the executive branch and to assess the validity of the reasons given for the impoundment.

In addition, the Fiscal and Budgetary Reform Act of 1973 would expressly prohibit the President from impounding funds when such impoundment would impair a congressionally approved program. No programs would be permitted to be terminated by the impoundment procedure.

Under my proposals, the Comptroller General would make a report to the Congress as to whether or not the impoundment has impaired or terminated the program in question. If such a finding is made, then Congress must, within 30 days, approve such impoundment or the impoundment is disallowed and the funds must be spent.

A 3-YEAR LIMIT ON AUTHORIZATIONS

Title V provides for a 3-year limitation on authorizations. This title is included for one basic reason. It would require the Congress and the executive branch to conduct a thorough review and evaluation of the various programs. Limiting the life of the programs would give Congress a chance to assess the performance of the program, to find out whether or not the program is meeting legislative intent.

TAX EXPENDITURE AWARENESS ACT

Title VI of this legislation would require the Internal Revenue Service to provide information to taxpayers as to how their tax dollars are spent. This title is similar to the Tax Expenditure Awareness Act introduced last year. It would give the taxpayer an accounting of how much of his total tax dollars were spent on national defense, space, agriculture, natural resources, transportation, community development, housing, education, manpower, health, social services, welfare payments, veterans pensions, and benefits, law enforcement, national debt, and foreign aid.

Mr. President, I feel that the Budgetary and Fiscal Reform Act of 1973 will provide Congress with the vehicles and mechanisms that will allow it to examine rationally all expenditures. It utilizes an ongoing joint committee established by the Employment Act of 1946. This joint committee has demonstrated expertise in economics. And, this legislation provides the kind of staffing and authority for Congress to set its own budgetary priorities with sound, fiscal responsibility.

Mr. President, I ask unanimous consent that the text of the bill to establish a Congressional Office of Budget Analysis and Program Evaluation be printed at this point in the RECORD.

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

S. 1030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fiscal and Budgetary Reform Act of 1973".

TITLE I—CONGRESSIONAL OFFICE OF BUDGET ANALYSIS AND PROGRAM EVALUATION

PART A—ESTABLISHMENT OF OFFICE AND ESTABLISHMENT OF BUDGET CEILING

SEC. 101. (a) There is hereby established for the Congress an Office of Budget Analysis and Program Evaluation (hereafter in this title referred to as the "Office") which shall be subject to supervision and control by the Joint Economic Committee (hereafter in this title referred to as the "Joint Committee"). The Office shall have four sections as follows: (1) Informational Section, (2) Analytic Section, (3) Program Evaluation Section, and (4) Special Studies Section.

(b) The Joint Committee is authorized to appoint a Technical Director of the Office who shall serve as the head of the staff of the Office, subject to the general supervision of the Executive Director, in accordance with the purposes of the Employment Act of 1946. The Technical Director shall supervise the staff of the Office and shall perform such duties as the Joint Committee or the Executive Director may prescribe. The technical Director shall be appointed without regard to political affiliation and solely on the basis of his fitness to perform his duties. He shall receive compensation as may be prescribed from time to time by the Joint Committee, but not in excess of the highest rate of basic pay, as in effect from time to time, of grade 18 of the General Schedule of section 5332(a) of title 5, United States Code.

(c) The Technical Director is authorized, with the approval of the Joint Committee and the Executive Directors, to appoint such other personnel as may be necessary to carry out the duties and functions of the Office and to fix their compensation at rates not in excess of the highest rate of basic pay, as in effect from time to time, of grade 16 of the General Schedule of section 5332(a) of title 5, United States Code. All such personnel shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties.

SEC. 102. (a) Prior to the submission of the Budget of the United States Government for each fiscal year, the Joint Committee staff, including the Office, shall make a thorough study of the Nation's economic conditions, and the factors having a bearing thereon, including business investment, consumer spending, international trade, the availability of credit, and the state of Federal expenditures and revenues. Based upon such study, and developing conclusions about the prudent growth of Federal budget outlays, obligations and revenues, taking into consideration the objectives of the Employment Act of 1946, the Executive Director of the Joint Committee shall, two days prior to receipt of the United States Budget and the President's Economic Report, make a report to the Joint Committee with—

(1) an estimate of the revenues that will be received by the Federal Government during the forthcoming fiscal year;

(2) a recommendation of the amount, if any, by which Federal outlays should exceed revenues, or revenues should exceed outlays, in order to promote the general welfare and to provide maximum employment, production, and purchasing power.

(b) Upon receipt of the report submitted under subsection (a), and receipt of the Budget of the United States Government, the Joint Committee will within ten days hold hearings to determine the appropriate Federal fiscal policy as expressed in section (a)(2), and then shall make a committee report of this determination to all committees of the Senate and House of Representatives and all joint committees of the Congress. Such report shall include, but not be limited to—

(1) a proposed limit on the total amount of new obligational authority and a proposed limit on the amount of new obligational authority which should be enacted for the fiscal year,

(2) a proposed limit on the total amount of outlays, and a proposed limit on the amount of outlays for each functional category, which should be made during the fiscal year.

(c) Upon the request of any committee of the Senate or House of Representatives, or any joint committee of the Congress, the Office shall furnish additional information with respect to the report transmitted pursuant to subsection (b) relating to matters within the jurisdiction of that committee or joint committee.

(d) After receiving and giving consideration to the report of the Joint Economic Committee, the Committees on Appropriations of each House of Congress shall, not later than fifteen days after receiving such recommendations, report to its House a bill establishing the total amount of outlays to be made during the fiscal year by the United States Government.

(e)(1) A bill reported under subsection (d) of this section shall be highly privileged in each House. It shall be in order at any time after the third day following the day on which such a bill is reported to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and should not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on such bill and all amendments thereto, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the bill. A motion to recommit the bill shall not be in order, and it shall not be in order to move to reconsider the vote by which the bill is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of such a bill and motions to proceed to the consideration of

other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a bill or joint resolution shall be decided without debate.

(f) If, prior to the passage by a first House of Congress of any such bill of that House, such House receives from the second House such a bill, then the following procedure applies:

(1) Such bill received from the second House shall be reported to the first House not later than three days after being received.

(2) On any vote on final passage of such a bill of the first House, such a bill or of the second House shall be automatically substituted for the bill of the first House.

(g) If the amount specified in such a bill with respect to a fiscal year agreed to by the Senate and House of Representatives is not the same, conferees on the part of the Senate and the House of Representatives shall be appointed not later than two days after the House of Congress passing the bill last passes such bill unless within those two days both Houses of Congress agree upon the same total amount of outlay of the United States Government with respect to such fiscal year without the convening of a committee of conference. Upon appointment of conferees, the committee of conference shall meet immediately to resolve their differences. The provisions of subsection (b) shall be applicable with respect to the consideration of any report of a committee of conference on any such bill.

SEC. 103. It shall be the duty and function of the Informational Section of the Office, under Supervision of Executive Director, to provide information to committees and Members of the Senate and House of Representatives and joint committees for the Congress, on request, with respect to the budget, appropriation bills, revenue receipts and estimates, and changing revenue conditions. The information to be provided shall include, but not be limited to—

(1) budget requested by Federal departments and agencies,

(2) budget requests as set forth in the budget submitted by the President,

(3) amounts authorized to be appropriated for programs and activities, together with the legislative history of the laws authorizing such appropriations,

(4) estimates of projected costs of programs and activities, not extending beyond a five-year period,

(5) amounts appropriated for programs and activities, amounts of other types of budget authority, including contract authority, authority to spend debt receipts, loan authority, and supplemental budget authority,

(6) amounts apportioned by the Office of Management and Budget,

(7) amounts appropriated which have been obligated by Federal departments and agencies and balances of unobligated appropriations,

(8) summaries of all part evaluation or other program studies, including relevant reports of the Comptroller General, the Office of Management and Budget, and the several agencies; and

(9) reports on impoundments of funds as submitted by the Office of Management and Budget.

SEC. 104. It shall be the duty and function of the Analytic Section of the Office to undertake—

(1) an analysis of current and projected economic conditions and estimates of the effect of such on Government revenues and expenditures,

(2) an analysis of the fiscal policy embodied in the United States budget proposed for the forthcoming fiscal year and estimates of the probable effect on general economic conditions,

(3) an analysis of major reductions, terminations, or increases in Federal programs or taxes as outlined in the proposed United States budget, and the desirability of such changes in view of their likely economic and social effects,

(4) an analysis of alternative reductions, terminations, or increases in Federal programs or taxes than those outlined in the proposed United States budget, and the desirability of such changes in view of their likely economic and social effects,

(5) an analysis of the effect of budget changes as outlined in (3) or (4) above upon outlays, obligational authority, and revenues, not only in the current year, but also projected for three to five years ahead.

(6) to issue reports, from time to time, on the matters set forth in the preceding paragraphs.

SEC. 105. It shall be the duty and function of the Program Evaluation Section of the Office—

(1) upon request of any commitee of the Senate or House of Representatives or any joint committee of the Congress, to evaluate programs and activities of the Government and to analyze regulations and proposed regulations of departments and agencies with respect to their impact on outlays,

(2) upon request of the Committee on Appropriations of the Senate or House of Representatives, to provide information on, and analyses of, limits on new obligational authority and outlays recommended under section 102, and to provide liaison between such committees and committees of the Congress having legislative jurisdiction, and

(3) in the performance of this duty, the Office shall be empowered to coordinate and utilize both the General Accounting Office and the Library of the Congress resources as provided under the Legislative Reorganization Act of 1970.

SEC. 106. It shall be the duty and function of the Special Studies Section of the Office to provide special analyses of specific matters included within the functions and duties set forth in sections 104 and 105. Any such special study shall be made only upon the request of a committee or Member of the Senate or House of Representatives or a joint committee of the Congress, and only with the approval of the Director of the Office.

Sec. 107. (a) In the performance of its functions under this title, the Office is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations of the Office;

(2) to employ and fix the compensation of such employees, and purchase or otherwise acquire such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and as may be appropriated for by the Congress;

(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code;

(4) to equip itself with up-to-date computer capability, and to obtain the services of experts and consultants of the computer technology; and

(5) to use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(b) (1) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Office, upon request made by the Director, such information as the Director considers necessary to carry out the functions of the Office.

(2) The Comptroller General of the United States shall furnish to the Technical Director copies of analyses of expenditures prepared by the General Accounting Office with respect to any department or agency in the executive branch.

(3) The Office of Management and Budget shall furnish to the Technical Director copies of special analytic studies, program and financial plans, and other information, data, and reports that may be required to fully analyze the United States budget.

SEC. 108. There are authorized to be appropriated such sums as may be necessary to enable this Office to carry out its duties and functions. Expenses of the Office shall be paid on vouchers approved by the Chairman of the Joint Committee.

PART B—SUPPLEMENTAL PROVISIONS

SEC. 121. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(13) a detailed evaluation of functions, activities, and authorities for which appropriations are proposed in the Budget (other than new functions, activities, and authorities proposed in the budget);

"(14) a detailed explanation of increases or decreases in amounts proposed for appropriation or expenditure for functions, activities, or authorities in comparison with amounts appropriated for or expended during the last completed fiscal year and amounts appropriated for and expected to be expended during the fiscal year in progress;

"(15) with respect to each function, activity, or authority, a detailed explanation of the reasons for proposing appropriations in amounts less than the amounts authorized to be appropriated."

SEC. 122. Whenever any executive agency undertakes an evaluation of any program or activity administered or carried on by it, the head of such agency, shall, upon conclusion of such evaluation, transmit a copy thereof to the Office of Budget Analysis and Program Evaluation established by section 101 of this Act.

TITLE II—DEPARTMENTAL BUDGET PROCESS

SEC. 201. Title II of the Budget and Accounting Procedures Act of 1950 is amended by adding at the end thereof the following new sections:

"PARTICIPATION BY STATE AND LOCAL OFFICIALS

"SEC. 204. (a) The head of each executive agency shall, at least six months prior to submission of the budget requests for such agency to the Office of Management and Budget for a fiscal year, give notice to the Governors of the various States and to the chief executive officers of their political subdivisions that such agency is formulating its budget requests for such fiscal year. Such notice may be given by publication or by such other means as the head of the agency considers appropriate.

"(b) After notice has been given under subsection (a) and upon request of the Governor of a State or the chief executive officer of a political subdivision, the head of an executive agency shall—

"(1) inform the Governor or chief executive of the proposed budget requests (as then formulated and they may be revised from time to time) which would affect such State or such political subdivision, as the case may be, and

"(2) provide an opportunity for such Governor or chief executive officer to submit comments and suggestions, written or oral, or both, with respect to such budget requests (as then formulated or as they may be revised from time to time.)

Insofar as possible, meetings held between Governors or chief executive officers and

budget officers of an executive agency shall be held at locations convenient to the Governors and chief executive officers.

"PUBLIC HEARINGS ON BUDGET REQUESTS

"SEC. 205. The head of each executive agency shall, at least two months prior to the submission of the budget requests of such agency to the Office of Management and Budget for a fiscal year, give public notice of the budget requests which such agency intends to submit and conduct hearings thereon. At such hearings, all interested parties, including representatives of the general public, shall be given an opportunity to submit comments and suggestions, either written or oral, or both. Insofar as possible, such hearings shall be held at locations throughout the United States so as to provide an opportunity for the citizens of the United States to participate therein.

"TRANSCRIPTS OF BUDGET MEETINGS

"SEC. 206. After an executive agency has submitted its budget requests to the Office of Management and Budget for a fiscal year, a transcript shall be kept of all meetings between officers or employees of such agency and officers or employees of the Office of Management and Budget at which matters relating to such budget requests are discussed. Copies of such transcript shall be made available for public inspection, during normal office hours, at the office of such agency and at the office of the Office of Management and Budget.

"SUBMISSION OF COPIES TO CONGRESSIONAL OFFICE OF BUDGET ANALYSIS AND PROGRAM EVALUATION

"SEC. 207. The head of each executive agency shall promptly submit to the Office of Budget Analysis and Program Evaluation, established by section 101 of the Fiscal and Budgetary Reform Act of 1973, a copy of—

"(1) each request for legislation which, if enacted, would authorize subsequent appropriations transmitted by his agency to the Office of Management and Budget.

"(2) each budget request submitted by his agency to the Office of Management and Budget, and

"(3) each transcript made under section 206 involving any officer or employee of his agency.

"MATTERS RELATING TO NATIONAL SECURITY

"SEC. 208. Pursuant to regulations approved by the President, the provisions of sections 204, 205, 206, and 207 shall not apply with respect to budget requests or requests for legislation which the national security requires to be kept confidential.

"DEFINITIONS

"SEC. 209. For purposes of sections 204 through 208—

"(1) the term 'executive agency' means any department, agency, or establishment (including an independent establishment) in the executive branch of the Government; and

"(2) the term 'budget request' includes both requests for new obligational authority (including loan authority) and for authority to make outlays."

TITLE III—INVESTIGATION BY COMPTROLLER GENERAL OF IMPOUNDMENT REPORTS

SEC. 301. The Federal Impoundment and Information Act (title IV of Public Law 92-599) is amended by adding at the end thereof the following new section:

"INVESTIGATIONS AND REPORTS BY COMPTROLLER GENERAL

"SEC. 403. (a) Upon receipt of a report of any impoundment pursuant to section 203 (a) of the Budget and Accounting Procedures Act of 1950 (as added by section 402 of this title), the Comptroller General of the United States shall promptly conduct an investigation—

"(1) to verify the information contained in such report,

"(2) to determine whether all the information required by such section is contained in such report, and, if possible, to supply any missing information, and

"(3) to assess the validity of the reasons given pursuant to paragraph (6) of such section for the impoundment.

"(b) The Comptroller General shall, as soon as possible, submit a report to the Senate and House of Representatives with respect to each investigation conducted pursuant to subsection (a). If the Comptroller General determines that a continuing investigation of any impoundment is necessary, he shall, as soon as possible, submit an interim report with respect to such impoundment."

TITLE IV—LEGISLATIVE OVERSIGHT AND VETO OF IMPOUNDMENT OF FUNDS

SEC. 401. For purposes of this title, the impounding of funds means—

(1) the withholding or reserving of obligational authority or other budget authority provided by law (whether by establishing reserves or otherwise), and

(2) the withholding or reserving of funds from outlay, without regard to the purpose or reason for the withholding or reserving of such obligational authority or other budget authority, or the withholding or reserving from outlay, as the case may be.

SEC. 402. Nothing in any law of the United States shall be construed to give power to the President to impound funds to the extent that such impoundment would cause any program or activity provided by law—

(1) to be terminated, or

(2) to be reduced to a level below that intended by the Congress in enacting the law or laws which provide such program or activity.

SEC. 403. (a) As a part of each investigation of an impoundment of funds conducted by him under section 403 of the Federal Impoundment and Information Act (as added by section 301 of this Act), the Comptroller General shall determine whether such impoundment, if continued in effect, would cause any program or activity provided by law—

(1) to be terminated, or

(2) to be reduced to a level below that intended by the Congress in enacting the law or laws which provide such program or activity.

(b) If with respect to any impoundment of funds the Comptroller General makes an affirmative determination under subsection (a), he shall immediately—

(1) make a special report to the Senate and the House of Representatives of his determination, and

(2) notify the President of his determination.

Such special report shall be made to the Senate and the House of Representatives on the same day and shall be delivered to the Secretary of the Senate, if the Senate is not in session, and to the Clerk of the House of Representatives, if the House is not in session. Each such special report shall be printed as a document of each House.

SEC. 404. Any impoundment of funds with respect to which the Comptroller General has made a special report under section 403 shall cease to be effective at the end of the first period of thirty days of continuous session of the Congress after the day on which such special report is received by the Senate and House of Representatives, unless, before the close of such thirty-day period, the Senate and the House of Representatives have agreed to a concurrent resolution approving such impoundment in accordance with section 405. For purposes of the preceding sentence, (1) continuity of session is broken only by an adjournment of the Congress sine die, and (2) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the thirty-day period.

SEC. 405. (a) The following subsections of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in subsection (b)); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) As used in this section, the term "resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows (the blank spaces being appropriately filled): "That the Congress approves the impoundment of funds reported in the special report of the Comptroller General to the Congress dated ——————, 19— (House Document ——————, Senate Document ——————)."

(c) A resolution with respect to an impoundment shall be referred to a committee (and all resolutions with respect to the same impoundment shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d)(1) If the committee to which has been referred a resolution with respect to an impoundment has not reported it before the expiration of ten calendar days after its introduction (or, in the case of a resolution received from the other House, ten calendar days after its receipt), it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such impoundment which has been referred to the committee.

(2) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same impoundment), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same impoundment.

(e) (1) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an impoundment, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order,

and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f) (1) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to an impoundment, and all motions to proceed to the consideration of other business, shall be decided without debate.

(2) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an impoundment shall be decided without debate.

(g) If, prior to the passage by one House of a resolution of that House with respect to an impoundment, such House receives from the other House a resolution with respect to the same impoundment, then—

(1) If no resolution of the first House with respect to such impoundment has been referred to the committee, no other resolution with respect to the same impoundment may be reported or (despite the provisions of subsection (d) (1)) be made the subject of a motion to discharge.

(2) If a resolution of the first House with respect to such impoundment has been referred to committee—

(A) the procedure with respect to that or other resolutions of such House with respect to such impoundment which have been referred to committee shall be the same as if no resolution from the other House with respect to such impoundment had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such impoundment the resolution from the other House with respect to such impoundment shall be automatically substituted for the resolution of the first House.

TITLE V—THREE-YEAR LIMITATION ON AUTHORIZATIONS FOR APPROPRIATIONS; CONGRESSIONAL REVIEW OF MAJOR EXPENDITURE PROGRAMS

SEC. 501. (a) All provisions of law in effect on the date of the enactment of this Act which authorize appropriations for any major expenditure program for a period of more than three fiscal years, beginning with the first fiscal year which commences after such date, shall cease to be effective at the end of the third fiscal year commencing after such date.

(b) Subsection (a) shall not apply to any major expenditure program funded in whole or major part by user taxes.

SEC. 502. (a)(1) During the period prescribed in subsection (b), each committee of the Senate and the House of Representatives which has jurisdiction to report legislation authorizing appropriations for a major expenditure program shall conduct a comprehensive review and study of such program and shall submit a report thereon to the Senate or the House, as the case may be. In conducting such review and study, the committee shall receive testimony and evidence in hearings open to the public.

(2) Prior to the beginning of the period during which any committee of the Senate or the House of Representatives is to conduct a comprehensive review and study of a major expenditure program, the head of the department or agency of the Government which administers the program (or any part thereof) shall submit to the committee a cost-benefit analysis of the program.

(b) The period referred to in subsection (a) for the review and study of a major expenditure program is the last fiscal year for which appropriations are authorized for such program.

(c) Insofar as possible, the committees of the Senate and the House of Representatives which have jurisdiction over a major expenditure program shall conduct the review and study required by subsection (a) at the same time. Such committees may conduct the open hearings required by such subsection jointly.

(d) The report of a committee on a review and study of a major expenditure program shall contain a cost-benefit analysis of the program and the committee's evaluation of the overall success or failure of the program, and shall include (but not be limited to) the following matters—

(1) Whether the program objectives are still relevant.

(2) Whether the program has adhered to the original and intended purpose.

(3) Whether the program has had any substantial impact on solving the problems and objectives dealt with in the program.

(4) The impact of the program on the functions and freedom of the private sector of the economy.

(5) The feasibility of alternative programs and methods for dealing with the problems dealt with in the program and their cost effectiveness.

(6) The relation of all government and private programs dealing with the problems dealt with in the program.

(7) An examination of proposed legislation pending in either House dealing with the problems being dealt with in the program, including an examination of each proposed legislation in the context of—

(A) existing laws,

(B) other proposed legislation,

(C) private efforts, and

(D) whether public efforts will hinder or help private efforts.

SEC. 503. It shall not be in order in either the Senate or the House of Representatives to consider—

(1) any bill or joint resolution which authorizes appropriations for any major expenditure program for any fiscal year beginning after the period within which the committee of that House which has jurisdiction over the program is required to submit a report with respect to the program under section 502 until that committee has submitted such report, or

(2) any bill or joint resolution which authorizes appropriations for any major expenditure program for more than three fiscal years.

SEC. 504. (a) Sections 502 (except subsection (a)(2)) and 503 are enacted by the Congress—

(1) as an exercise of the rulemaking powers of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) For purposes of sections 502 and 503, the members of the Joint Committee on Atomic Energy who are Members of the House of Representatives shall be deemed to be a committee of the House, and the members of such Joint Committee who are Members of the Senate shall be deemed to be a committee of the Senate.

TITLE VI—INFORMATION TO TAXPAYERS ON SPENDING OF INCOME TAXES PAID BY THEM

SEC. 601. (a) Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"Sec. 7517. Tax expenditure accounting.

"(a) STATEMENTS BY SECRETARY.—Upon the receipt of each individual's income tax return, the Secretary or his delegate shall furnish to that individual a statement setting forth in dollar amounts the proportionate amounts of that individual's income taxes which were spent by the Federal Government, based upon the most recent information furnished by the Director of the Office of Management and Budget, for each of the following:

"(1) national defense;
"(2) space research and technology;
"(3) agriculture and rural development;
"(4) natural resources;
"(5) transportation;
"(6) community development;
"(7) housing;
"(8) education;
"(9) manpower;
"(10) health;
"(11) social services;
"(12) welfare payments;
"(13) veterans' pensions;
"(14) veterans' benefits and services;
"(15) law enforcement;
"(16) general administrative expenses of government;
"(17) interest payments;
"(18) foreign aid consisting of military assistance; and
"(19) foreign aid consisting of economic and technical assistance.

"(b) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"SEC. 7517. Tax expenditure accounting."

(c) The amendments made by this section shall apply with respect to income tax returns filed for taxable years ending after the date of enactment of this Act.

SEC. 602. The Director of the Office of Management and Budget shall furnish to the Secretary of the Treasury in December of each year a report, based upon data from the most recent fiscal year for which such data is available, setting forth that part of the total Federal outlays for such fiscal year which was expended for each of the items listed in section 7517(a) of the Internal Revenue Code of 1954.

By Mr. HARTKE (for himself, Mr. WEICKER, Mr. PASTORE, Mr. PELL, Mr. WILLIAMS, Mr. KENNEDY, Mr. RIBICOFF, and Mr. CASE):

S. 1031. A bill to designate a national network of essential rail lines; to require minimum standards of maintenance on such lines; to create a not-for-profit corporation to acquire and maintain rail lines in the Northeast; to provide financial assistance for rehabilitation of rail lines; and for other purposes. Referred to the Committee on Commerce.

ESSENTIAL RAIL SERVICES ACT OF 1973

INTRODUCTION

Mr. HARTKE. Mr. President, Senators WEICKER, RIBICOFF, PASTORE, PELL, WILLIAMS, KENNEDY, CASE, and I today introduce a bill which is entitled "The Essential Rail Services Act of 1973." This legislation is a first effort to overcome the serious transportation problems presented to the Nation by the Northeastern railroad crisis.

Briefly stated, this legislation provides for establishment of a nonprofit corporation which would acquire the track and roadbed of distressed carriers in the Northeast. The Corporation would be responsible for upgrading the property which comes into its possession, and would charge user fees for railroads op-

erating over such facilities. In addition, the Corporation would receive Federal grants to assist with rehabilitation and maintenance, and the payment of State and local property taxes. Also, the bill makes available loan guarantees on a nationwide basis for track and roadbed improvement.

Another provision of the bill requires the Secretary of Transportation to advise Congress, within 2 years, whether rail carrier operations on rail lines of the Corporation should be taken over in whole or in part by the Corporation or by regional, State, or local agencies.

I am glad to note this important provision was drafted by Senator CASE of New Jersey, the ranking minority member of the Transportation Appropriations Subcommittee.

The concept embodied in this bill is worth careful examination as perhaps the only realistic way of resolving the critical transportation problems of the Northeastern segment of the United States and for avoiding the development of those same problems in other parts of the country. I would hope that my colleagues in the Senate would examine this statement and the copy of the bill which will be printed at the end of this statement and join with me in sponsoring the bill.

RAILROAD COLLAPSE

At the present time there are seven major railroads bankrupt in the Northeastern quadrant of the United States. The largest of these railroads, the Penn Central Transportation Co., announced on February 1 that without, first, drastic reduction in the size of the rail plant; second, a sizable reduction in the number of its employees; and third, larger payments from Amtrak, the railroad cannot be reorganized on an income basis. In short, the road would have to be fully nationalized. Even if the three steps outlined above could be substantially accomplished, the trustees' report appears to reflect their belief that a huge sum of Government money would also be required to catch up on long-deferred maintenance and for continued maintenance and necessary capital improvements.

Under the strike resolution adopted by the Congress on February 8, the Department of Transportation is required to submit to the Congress by the end of March its proposal for resolving the Northeastern railroad situation. The Interstate Commerce Commission is also working toward some proposals by the end of March.

A staff report prepared for the Senate Commerce Committee recently dealt with the Penn Central collapse in great detail. Probably the most important conclusion of the report was that there is no single reason for the Penn Central's financial failure. Major contributing factors include a changing and more unfavorable environment in the Northeast, the declining condition of the national economy, certain policy weaknesses on the part of management and their financial advisers and supporters, and the failure of public policy toward transportation. The Penn Central's financial difficulties, and the sad state of most rail transportation in the Northeast, stemmed from a critical combination of those factors.

The report suggested as one possibility the establishment of a Federal authority to take over the transportation assets of the bankrupt carriers in the Northeast. The bill which I propose today provides for the establishment of an entity which would acquire only a portion of the transportation assets. It is my hope that this less drastic action will suffice.

One of the most important causes of the deteriorated financial condition of the Northeastern railroads, according to the Commerce Committee's staff report, is the extremely poor condition of much Northeastern rail track and roadbed. A common practice among railroads when confronted with financial difficulties is to begin deferring maintenance on track and roadbed. For a large part of the Northeast, this practice has been standard for 15 or 20 years, with the result that slow orders abound even on mainline track and substantial investments are necessary to restore the facilities to proper condition. The carriers using such track cannot possibly provide the high quality transportation services the public needs, when they have inadequate funds for the restoration that is needed.

ADMINISTRATION POSITION

I, for one, am not willing to take a laissez-faire attitude, such as I understand is being proposed by the Department of Transportation. Preliminary indications are that the Department believes that the answer is to allow massive reduction in the railroad plant—for the Penn Ceneral this could mean the elimination of 9,000 miles of track out of a total of 20,000—and massive unemployment for railroad employees. I do not believe that the Congress of the United States is willing to accept that kind of approach as a substitute for rational transportation policy in the Northeast.

There is no question that many in Government have been hoping that, under private operations, the Northeastern railroad problem would correct itself, but it has not. While we have tried to set the problem aside over the past 10 to 15 years, it has gotten worse. It is now time to address the crisis directly while we have at last some time to provide for our transportation needs.

NEW DIRECTIONS

I think we must be forthright and recognize that, at this late date, it will cost money to correct the problem. But while we may be talking about a billion dollars in loan guarantees and perhaps another billion dollars in real money over the next few years, I think we must place this proposed financial outlay in perspective. Let us keep in mind that we spend $82 billion every year on the Defense Department. It is possible that more is wasted on defense than would be needed to restore the ailing segments of our rail system to a healthy serviceable condition. Throughout the country, including both Federal and State expenditures, we spend about $21 billion annually on highways. We spend around half a billion dollars on the merchant marine each year and about $1.5 billion on aviation. It would be almost impossible to estimate what has been spent on our inland waterways for dams, drought and flood control, dredging, et cetera. All of this has helped the inland waterways mode of transportation. Less than $300 million goes toward rail transportation.

I would not suggest that we should spend a billion dollars or more on railroads just for the simple reason that we spend much more than that on other modes of transportation, but it must be remembered that railroad rights of way are the only transportation rights of way to which the Federal Government has not addressed its considerable resources. Providing railroads with vastly improved rights of way on a user charge basis is certainly consistent with our attitudes toward transportation development in the United States.

We must provide a better climate for private enterprise in transportation in the Northeast. I think we can do so with a concept such as that proposed in the bill I introduce today.

We must concern ourselves with transportation needs consistent with our desire to protect the environment through more efficient land use and pollution control. Our social goals do not include forcing more industries and more people into the already overcrowded urban centers and contributing thereby to the overwhelming problems in those areas. Massive track abandonment with the economic disruption and the unemployment which would result must, therefore, be avoided as much as possible. Of immediate concern, as well, is the crisis in energy now being felt in the Midwest and threatening to develop in other parts of the country. In this connection, we should keep in mind that railroads are the most efficient surface transportation mode for a vast amount of our interstate shipping needs, and in many cases, for intrastate and commuter and "corridor" mass movements of people.

SUMMARY OF BILL

The bill which I introduce today will do the following:

First, require the designation of an interstate railroad system which would identify main lines in the United States which must be upgraded to standards which would insure dependable operation of freight trains at speeds up to 60 miles an hour and passenger trains at speeds up to 80 miles an hour;

Second, require the Secretary of Transportation to provide within 2 years a report on the long-term capital needs for railroads;

Third, provide for the creation of a Northeast Rail Line Corporation. The Corporation would be a not-for-profit entity with 13 members on the Board of Directors appointed by the President, affected States, railroads, Amtrak, rail labor, and shippers;

Fourth, provide that within 6 months after enactment of the act, the Corporation will acquire all track and roadbed—exclusive of terminals and declassification yards—owned by bankrupt railroads in the Northeast in exchange for debentures equivalent to the net liquidation value of the property conveyed. On different terms, the rail lines of other Northeast carriers may also be acquired;

Fifth, require that the Corporation assume responsibility for rehabilitation and maintenance of all lines it owns, including secondary and branch lines, and for the operation of signalling and communication devices. The operation of the carriers' rail service would remain with the railroads or in the case of passenger service with the Amtrak Corporation.

Sixth, require that line abandonments be in accordance with procedures providing substantial notice, ICC approval, plus an opportunity for affected States, communities, or private companies to retain the service by sharing on a 50–50 basis the maintenance and rehabilitation costs;

Seventh, require substantial protection for railroad employees from job loss or worsening of position;

Eighth, require the payment of user charges by railroads or Amtrak on a 60 cents per thousand gross ton-miles of locomotive and train operations. The 60 cents represents a cost figure for maintenance and rehabilitation by some of the healthier railroads. That is a preliminary figure subject to later revision—see attachment at end of statement; and

Ninth, provide for an authorization of $50 million for organization expenses of the Corporation; $300 million in each of the first 2 years for rail line rehabilitation of corporation rail lines; $100 million per year for maintenance, capital improvements and overhead expense of the Corporation; $1 billion of Federal guarantees for debentures for the acquisition of track and roadbed by the Corporation; and loan guarantees not to exceed $200 million to all qualified railroads throughout the United States for track and roadbed improvements to meet Federal standards.

Mr. President, I ask unanimous consent that the text of the proposed bill together with a preliminary staff analysis of the basis for a user charge computation be printed in the RECORD at this point.

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

S. 1031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Essential Rail Services Act of 1973".

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. The Congress finds that modern, efficient rail service is essential to interstate commerce and to national defense; that better utilization of existing rail rights-of-way is more compatible with the environment in terms of land use, air pollution, noise levels, and energy conservation than is expansion of facilities for other modes of transportation; that many railroad tracks and roadbeds have greatly deteriorated in recent years, especially in the Northeast section of the country; that such deterioration has resulted in inferior railroad transportation for both freight and passengers, together with a sharp increase in train derailments; that rehabilitation of such tracks and roadbeds will provide substantial public benefits through improved rail freight and passenger service; that the efficiency and quality of railroad service and the economic utilization of the railroad plant in the Northeast can be improved by freer access by rail carriers to portions of rail lines they do not own; that these measures will be of material assistance in restoring viability to private rail operations in the Northeast; and that to assure preservation of essential rail services it is necessary to designate an Interstate Railroad System; to require minimum standards of maintenance on the rail lines comprising such System; to organize a not-for-profit corporation to rehabilitate, maintain, modernize and where necessary, to restructure rail lines in the Northeast; to establish rights of access by rail carriers to the rail lines of such corporation; and to provide Federal financial assistance for rehabilitation, maintenance, modernization, and any necessary restructuring, of essential rail lines.

DEFINITIONS

SEC. 102. For the purposes of this Act the term—

(1) "automatic block signals" includes automatic train stop systems, automatic train control systems, automatic cab signal systems, and any system of centralized traffic control by which a train is operated in accordance with signal indications without train orders;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Northeast Rail Line Corporation created by this Act;

(4) "Northeast region" means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois, together with the District of Columbia;

(5) "rail carrier" includes railroad companies; mail, express, or less-than-carload freight carriers; State, regional, or local transportation agencies; the National Railroad Passenger Corporation; and other private passenger carriers;

(6) "rail line" includes main rail track or tracks; side tracks and yard tracks adjacent to such main tracks; the roadbed supporting such tracks; signalling, communication, and power transmission structures and devices as are permanently installed on or adjacent to such tracks and roadbed; bridges, culverts, fills, tunnels, and other structures occupied by such tracks and roadbed; real estate occupied by such tracks and roadbed; and real estate adjacent to such tracks and roadbed which is used for drainage of, maintenance of, access to, and protection of such tracks and roadbed; but does not include classification yards; station and terminal tracks and facilities, other than running tracks; any structures and devices other than those specified in this paragraph; and does not include air rights over, nor mineral rights under, such tracks and roadbed;

(7) "railroad company" means a class I or class II railroad, including switching and terminal companies, as defined by the Interstate Commerce Commission and subject to part I of the Interstate Commerce Act;

(8) "Secretary" means the Secretary of Transportation; and

(9) "System" means the National Interstate Railroad System established by this Act.

TITLE II—INTERSTATE RAILROAD SYSTEM

INITIAL DESIGNATION OF SYSTEM

SEC. 201. (a) The initial Interstate Railroad System shall consist of all rail lines operated by domestic railroad companies which as of the date of enactment of this Act are equipped with two or more main tracks or with automatic block signals.

(b) Within ten days after the date of enactment of this Act, the Secretary of Transportation shall release a concise descriptive summary, together with a map, of all rail lines included within the initial system.

HEARINGS BY COMMISSION

SEC. 202. Commencing thirty days after release of the initial system, the Interstate Commerce Commission shall hold public hearings both in Washington, District of Columbia, and in other parts of the country. Notice of the dates, times, and places of such hearings shall be given in a manner as to assure a full and fair opportunity to be heard for consumers, shippers, industry, labor, and State and local governments.

RECOMMENDATIONS OF COMMISSION

SEC. 203. Within one hundred and twenty days after release of the initial system by the Secretary, the Commission shall release and report to the Secretary its recommendations for additions and deletions thereto. In making its recommendations, the Commission shall utilize the information developed during the hearings, and shall take into consideration the interests of persons, communities, States, and regions affected thereby; the existing pattern of service by railroads and alternative modes; present and future economic and population patterns; and the public interest in a balanced, integrated, competitive, and economical transportation system responsive to the needs of the public and the users of such system. Such report shall include findings in support of each recommended addition to or deletion from the initial system.

FINAL DESIGNATION OF SYSTEM

SEC. 204. (a) Upon receiving the recommendations of the Commission, the Secretary shall within thirty days, after giving full consideration to such recommendations, release and transmit to the Congress the final Interstate Railroad System. The report of the Secretary shall include findings in support of each addition to or deletion from the initial System. To the extent consistent with the purposes of this Act, the Secretary shall not designate as part of the System rail lines which are parallel to, and duplicative of, other lines included in the System. Furthermore, the Secretary shall identify all short- to medium-distance corridors in densely populated areas in which major upgrading of rail lines for passenger operation at speeds of one hundred and twenty miles an hour or over would return substantial public benefits in relation to the cost of such upgrading.

(b) The System as designated by the Secretary shall become effective for the purposes of this Act upon the date that the report of the Secretary is submitted to Congress, and shall not be reviewable in any court.

MAINTENANCE STANDARDS

SEC. 205. (a) Within ninety days after enactment of this Act, the Secretary shall prescribe standards for maintenance of all main track included within the System, with respect to track geometry, rail mismatch, rail-end batter, and frogs, for smooth, dependable operation of freight trains at speeds up to sixty miles an hour and passenger trains at speeds up to eighty miles an hour. In formulating such standards, the Secretary shall be guided by preferred or recommended practices from an engineering and economic standpoint as distinct from minimum requirements for safety.

(b) In all respects other than those enumerated in subsection (a), all main track included within the System shall meet the requirements for class four track of the track safety standards prescribed by the Secretary pursuant to the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.).

(c) All main track included within the System shall be in compliance with standards prescribed in accordance with this section on or before the expiration of two years following the date of establishment of such System pursuant to section 204 of this title.

(d) No owner or possessor of rail lines shall contract out any project for rehabilitation or maintenance work required by this Act of a value of over $450 per month in labor and materials which is normally performed by employees in any bargaining unit covered by a labor agreement between such owner or possessor and any labor organization.

(e) Owners and possessors of rail lines shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. No one shall enter into any construction contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by an employee of the Corporation or of a railroad company. Wage rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

QUARTERLY AND ANNUAL REPORTS BY THE SECRETARY

SEC. 206. (a) The Secretary shall submit to Congress on the first day of each regular session an annual report on the performance of the railroad industry, including the Corporation established by this Act. The report shall be based upon an analysis of the fundamental condition of the industry, of specific carriers, and of specific regions of the country, from the point of view of the rail system as an integral part of a national system of transportation of several modes. The report should evaluate the level of performance of the industry and its components; the condition of the plant and facilities; the level and quality of service; and the implications of apparent trends for the continued provision of transportation service. The report shall evaluate the performance and efficiency of railroad management, and shall recommend such changes in management techniques and procedures as are indicated by such evaluation. The report shall include recommendations as to whether all or any portion of the rail carrier operations on rail lines of the corporation should be taken over in whole or in part by the Corporation or by regional, state, or local agencies. The report shall include a statement of the receipts and expenditures of the Secretary pursuant to the Act during the previous fiscal year.

(b) The Secretary shall publish and report to the Congress quarterly on the net improvements to rail facilities resulting from the implementation of this Act and the extent of compliance with the requirements of sections 205 and 606 of this Act.

RAIL SERVICE SCHEDULE AND FACILITY INVENTORY

SEC. 207. (a)(1) The Secretary shall prepare and keep current a schedule setting forth major transportation services that should be provided by railroads in the United States. In formulating such a schedule the Secretary shall take into consideration the interests of persons and communities affected thereby; existing rail facilities and the pattern of service by railroads; the facilities of alternative modes of transportation currently in existence; the cost of establishing transportation facilities in addition to existing facilities; the cost of providing service by extension of existing transportation services; the cost of providing transportation by rail and alternative modes; the existing investment in the transportation facilities of rail and alternative modes and the economic value thereof; the existing pattern of service by alternative modes; and the public interest in a balanced and economical transportation system responsive to the needs of the public and the users of such system.

(2) Such schedule shall identify rail freight services that are—

(i) essential to the public welfare, or

(ii) essential to the major needs of the economy of the Nation or of a substantial region of the Nation, that do not fall within clause (i).

(b) The Secretary shall compile an inventory of the rail transportation facilities (including, but not limited to, track, rights-of-way, yards, terminals, equipment, rolling stock, signal and communication equipment) in the United States and shall annually update such inventory. Such facilities shall be classified as follows:

(1) necessary to the continued provision of services identified in subsection (a)(i);

(2) necessary to the continued provision of services identified in subsection (a)(ii);

(3) necessary for continued provision of services essential to localities; and

(4) unnecessary, duplicative or redundant. The Secretary may make such new categories, or subcategories of the above categories as may be appropriate to classify rail transportation facilities in a useful and informative manner.

(c)(1) The Secretary shall complete the schedule and inventory provided by subsections (a) and (b) not later than one year after the date of enactment of this Act. He may develop parts of such schedules or inventory for particular regions of the country as may be necessary to implement this Act in advance of such deadline and before completion of the entire inventory and plan.

(2) The Secretary shall publish such schedule and inventory, or summaries thereof, in a manner designed to acquaint affected industries, citizens, and communities of the classification of rail transportation facilities upon which they may rely and of the Secretary's schedule for transportation service by railroad.

(d) The Secretary shall conduct hearings in accordance with section 553 of title 5, United States Code, in various cities and towns throughout the United States after initial formulation of the schedule and inventory in order to permit persons affected thereby to comment thereon. The Secretary shall solicit the opinions and views of representatives of communities, cities, and appropriate transportation regions (as defined by geographic, demographic, and economic relationships between areas within a prospective region). The Secretary shall periodically conduct such hearings in order to provide information and views to be considered in updating such schedule and inventory.

MODIFICATION OF SYSTEM

SEC. 208. At any time after the expiration of two years following the designation of the System under section 204 of this title, any party may request the Secretary to add or delete rail lines to or from such System. The Secretary shall, with reference to the rail service schedule prepared in accordance with section 207 of this title, make the addition or deletion if provided with sufficient proof that such addition or deletion is consistent with the public interest. Approval of a deletion shall not be considered by the Commission as evidence in an abandonment proceeding that service on the line deleted is no longer required by public convenience and necessity.

LONG-TERM RAILROAD CAPITAL IMPROVEMENT NEEDS

SEC. 209. (a) Within two years after the date of enactment of this Act, the Secretary shall undertake and carry out a study of the long-term capital needs for line relocation, tunneling, highway grade crossing elimination, electrification, and other major upgrading of the Interstate Railroad System, including the high density corridors identified by the Secretary under section 202 of this Act. The study shall include recommendations for investment priorities among the various possible upgrading projects, with reference to the service schedule and facility inventory required by section 206 of this title. The study shall evaluate the form and extent to which the Federal Government should assist with the financing of such upgrading. The study shall include an evaluation and recommendations regarding the acquisition and operation by the corporation established by this Act, of railroad freight yards and terminal facilities.

(b) Upon completion of the study, the Secretary shall submit to the President and to the Congress, and shall release to the public, a full report thereon together with his recommendations for such legislative, administrative, and other actions as he deems appropriate for implementing the report.

AUTHORIZATION OF FUNDS

SEC. 210. There is hereby authorized to be appropriated to the Secretary and the Commission such sums as are necessary to fulfill the requirements of this title, not to exceed $1,000,000 for the Secretary and $250,000 for the Commission.

TITLE III—NORTHEAST RAIL LINE CORPORATION

CREATION OF THE CORPORATION

SEC. 301. There is authorized to be created a Northeast Rail Line Corporation. The Corporation shall be a not-for-profit corporation, the purpose of which shall be to rehabilitate, maintain, and modernize rail lines and to make certain capital improvements as outlined in section 501(b) of this Act so as to fully develop the potential of modern rail service in meeting the transportation requirements in the Northeast region of the Nation. The corporation will not be an agency or establishment of the United States Government. It shall be subject to this Act, and, to the extent consistent with this Act, to the District of Columbia Not-For-Profit Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.

PROCESS OF ORGANIZATION

SEC. 302. The Secretary of Transportation, the Under Secretary of Transportation, and the Federal Railroad Administrator shall serve as incorporators of the corporation, and as the board of directors for thirty days following the enactment of this Act. The incorporators shall take whatever actions are necessary to establish the corporation, including the filing of the articles of incorporation.

BOARD OF DIRECTORS

SEC. 303. (a) The corporation shall have a board of thirteen directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually to serve as chairman. The initial board of directors shall take office on the thirty-first day after the date of enactment of this Act.

(1) Two members of the board shall be appointed by the President of the United States for terms of four years, except that the first member so appointed shall continue in office for a term of two years.

(2) One member of the board shall be appointed by the President of the United States upon recommendation of the Senate leader (majority leader or minority floor leader) of the political party opposite to the political party of the President for a term of four years, except that the first member appointed shall continue in office for a term of one year.

(3) One member of the board shall be appointed by the President of the United States upon recommendation of the House of Representatives leader (Speaker or minority leader) of the political party opposite to the political party of the President for a term of four years, except that the first

member appointed shall continue in office for a term of three years.

(4) Three members of the board shall be appointed annually by the National Governors Conference upon recommendation of the Governors of the States of the Northeast region. One of the members appointed shall be of the opposite political party to the other two members.

(5) Two members of the board shall be elected annually by the railroad companies who have conveyed rail lines to the corporation. Each such railroad company shall have one vote per one billion gross ton-miles in freight train service operated during the last calendar year for which such data has been reported to the Interstate Commerce Commission. If the gross ton-miles of any single railroad company together with its controlled and affiliated subsidiaries is more than 50 per centum of the total eligible to vote, such company and subsidiaries shall be eligible to vote for only one of the two members.

(6) One member of the board shall be appointed annually by the National Railroad Passenger Corporation.

(7) One member of the board shall be appointed annually by the Congress of Railway Unions.

(8) One member of the board shall be appointed annually by the Railway Labor Executives Association.

(9) One member of the board shall be appointed annually by the National Industrial Traffic League.

(b) Any member selected to fill a vacancy may be selected only for the unexpired term of the director whom he or she succeeds. A director whose term has expired shall continue to serve until his or her successor is selected.

(c) Upon the inauguration of a President of a different political party than his or her predecessor, successors of members who have been appointed upon recommendation of the Senate and House leaders shall be appointed by the President in accordance with paragraph (1) of subsection (a) of this section, and successors of members who have been so appointed shall be appointed upon recommendation of the Senate and House leaders, the first such successor upon recommendation of the Senate leader.

(d) No director other than these elected by railroad companies may have any direct or indirect financial or employment relationship with any railroad company during the time that he or she serves on the board.

(e) No director elected by railroad companies shall vote on any action of the board of directors relating to any contract or operating relationship between the corporation and a rail carrier, but he or she may be present at meetings of the board at which such matters are voted upon, and may be included for purposes of determining a quorum and may participate in discussion at any such meeting.

(f) Each director shall receive compensation at a rate of $300 for each meeting of the board that he or she attends. In addition, each director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the board.

BYLAWS AND OFFICERS

SEC. 304. (a) The board of directors is empowered to adopt and amend bylaws governing the operation of the corporation. Such bylaws shall not be inconsistent with the provisions of this Act, the District of Columbia Not-for-Profit Corporation Act, or of the articles of incorporation.

(d) The corporation shall have a president and such other officers as may be named and appointed by the board. The rates of compensation of all officers shall be fixed by the board. Officers shall serve at the pleasure of the board. No individual other than a citizen of the United States may be an officer of the corporation. No officer of the corporation may have any direct or indirect employment or financial relationship with any railroad company during the time of his or her employment by the corporation.

GENERAL POWERS

SEC. 305. The corporation is authorized to own, possess, construct, control, maintain, rehabilitate, and modernize rail lines, including operation of signaling and communication systems; to acquire by construction, purchase, or gift, or contract for the use of, real estate, physical facilities, equipment, and devices necessary to its functions; to exercise the power of eminent domain in connection with such acquisitions; and to conduct research and development related to its mission. To carry out its functions and purposes the corporation shall have the usual powers conferred upon a not-for-profit corporation by the District of Columbia Not-for-Profit Coporation Act. Leases and contracts entered into by the corporation, regardless of where the same may be executed, shall be governed by the laws of the District of Columbia.

ISSUANCE OF DEBENTURES

SEC. 306. The corporation is hereby authorized to issue debentures of a face value of up to $1,000,000,000 for the purpose of financing the acquisition of rail lines of railroad companies in the Northeast section of the Nation which are presently, or will be in the future, undergoing reorganization in bankruptcy proceedings in United States district courts. Debentures shall be issued serially and shall mature not later than twenty years from the date of issuance including all extensions and renewals thereof.

BOOKS AND RECORDS

SEC. 307. (a) The corporation shall maintain books and records in accordance with the Uniform System of Accounts prescribed by the Interstate Commerce Commission, insofar as is applicable.

(b) The corporation shall file form A report with the Interstate Commerce Commission at the same time and in substantially the same format at such reports of railroad companies, insofar as such format is applicable.

(c) The Interstate Commerce Commission is hereby empowered to promulgate and modify rules and regulations governing accounting and recordkeeping requirements of the corporation, if and when such action is deemed appropriate in view of the nature of the corporation and the requirements of this Act.

(d) All books, papers, records, and documents of the corporation, other than internal memorandums, shall at all times be open to public inspection. Any person desiring to inspect such material shall reimburse the corporation for the time of corporation employees required to assist with such inspection. Any person requesting reproduction of any such material shall reimburse the corporation for the cost of such reproduction.

AUDIT OF RECORDS OF THE CORPORATION AND OF CERTAIN RAILROAD COMPANIES

SEC. 308. (a) (1) The accounts of the corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit shall be made available to the person conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person.

(2) The report of each such independent audit shall be included in the annual report required by section 309(b) of this Act. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the corporation's assets and liabilities, surplus or deficit, with an analysis of the change therein during the year, supplemented in reasonable detail by a statement of the corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(b) (1) The financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at the place or places where accounts of the corporation are normally kept. The representative of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by the corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the corporation shall remain in possession and custody of the corporation.

(2) To the extent the Comptroller General deems necessary in connection with audits as he may make of the financial transactions of the corporation pursuant to paragraph (21) of this subsection, his representatives shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any railroad company which has conveyed rail lines to the corporation, or by any rail carrier which has used or is using corporation rail lines, pertaining to such railroad company's or rail carrier's financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of such railroad company or rail carrier shall remain in the possession and custody therewith.

(3) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the corporation at the time submitted to the Congress.

QUARTERLY AND ANNUAL REPORTS

SEC. 309. (a) Within thirty days following the end of each quarter of the year, the corporation shall release to the public a complete report of its activities and finances for the previous quarter. Such report shall include, but not be limited to, the amount and location of new and relay rail laid; ties installed or replaced; miles of track surfaced; signals and interlockers installed or replaced; grade crossing protection installed;

and communication systems installed. The report shall also include a summary of all train derailments and collisions on corporation rail lines, including the probable cause thereof.

(b) On or before October 31 of each year, the corporation shall submit to the President and to the Congress, and release to the public, a comprehensive and detailed report of its activities and accomplishments during the preceding fiscal year, including a balance sheet and statement of receipts and expenditures. The report shall include a projection of receipts and expenditures for the current fiscal year, and a proposed budget for the forthcoming fiscal year, which shall provide specific justification for each and every proposed expenditure.

TITLE IV—ACQUISITION OF RAIL LINES BY THE CORPORATION

CONVEYANCES OF RAIL LINES OF BANKRUPT RAILROAD COMPANIES

SEC. 401. (a) Within six months after enactment of this Act, and in consideration of debentures to be issued by the corporation in an amount equivalent to just compensation as determined in accordance with Section 402 of this title—

(1) the trustees of all railroad companies which are undergoing reorganization in bankruptcy proceedings in Federal district courts, and a majority of whose rail lines are located in the Northeast region;

(2) all owners of rail lines leased to such railroad companies; and

(3) all wholly owned subsidiaries and affiliates of such railroad companies

may convey or cause to be conveyed to the corporation all rail lines owned or operated by such railroad companies free and clear of all liens, charges, and encumbrances.

(b) Such conveyances shall not be deferred by reason of any controversy concerning the amount of compensation to be paid, and shall not be restrained or enjoined by any court on account of such controversy.

COMPENSATION FOR RAIL LINES

SEC. 402. (a) Compensation for rail lines acquired by the corporation shall be the net liquidation value of the property conveyed.

(b) Compensation for rail lines conveyed by trustees in bankruptcy shall be fixed by the United States district court before which the bankruptcy proceedings are being held, in accordance with subsection (a) of this section.

(c) Compensation for rail lines conveyed by others than trustees in bankruptcy may be negotiated by the parties in accordance with the standards set forth in subsection (a) of this section. In the event of a failure to agree, the property owner may institute an action in the United States district court in which the property is located for a final determination of the compensation due from the corporation.

CONVEYANCES OF OTHER RAIL LINES

SEC. 403. On or after six months from the date of enactment of this Act, and in consideration of the assumption by the corporation of all maintenance, rehabilitation, signaling, and communication functions, and the payment of State and local property taxes, any railroad company, subsidiary, or affiliate other than those specified in section 401 of this title, the majority of whose rail lines are located in the Northeast region, may convey to the corporation all its right, title, and interest in all its rail lines, or in those of its rail lines, including branches and feeders, which are substantially parallel to rail lines already conveyed to the corporation.

LEASED RAIL LINES IN FOREIGN COUNTRIES

SEC. 404. Upon the conveyance to the corporation of rail lines by any railroad company, subsidiary, or affiliate, the corporation shall assume and fulfill the obligations of such railroad company, subsidiary, or affiliate of all leases of railroad real estate located in foreign countries.

TITLE V—OPERATION OF CORPORATION RAIL LINES

OPERATIONAL RESPONSIBILITIES OF CORPORATION

SEC. 501. (a) Upon acquisition of the rail lines of any railroad company, the corporation shall, consistant with the provisions of section 508 of this title, assume responsibility for the rehabilitation and maintenance of such rail lines, and for the operation of signalling and communication devices on such rail lines.

(b) The corporation shall make capital improvements on its rail lines in accordance with its evaluation of expected benefits from such improvements in relation to the cost thereof, and in accordance with available financial resources. Such capital improvements shall include, but not be limited to, interlocking devices; centralized traffic control; improved safety devices governing train movements; extra main tracks; new and extended sidings; interchange and connecting tracks; removal of restrictive clearances; improved grade crossing protection; and reduction of curves and grades.

FREIGHT SERVICE

SEC. 502. (a) A railroad company which conveys its rail lines to the corporation, or which holds trackage rights over rail lines which are conveyed to the corporation, shall have the right to continue operations as a rail carrier of freight over all such rail lines that it was conducting such operations prior to the conveyance thereof, in return for payment to the corporation of $0.60 per thousand gross ton-miles of locomotive and train operation. The terms and conditions of pre-existing agreements and contracts for the use of track and other facilities shall be of no force and effect as between the corporation and any rail carrier, but insofar as applicable, shall remain in effect as between two or more rail carriers of freight using the same rail line.

(b) Upon application to the Commission by any rail carrier for the use of any rail line of the corporation for freight service, if the applicant is fit, willing, and able to properly perform the service proposed; if such service is or will be required by the present or future public convenience and necessity; and if the operations of the applicant will not significantly impair the level of performance of the carrier or carriers already using the line who are adequately serving the public, the Commission shall by order require the corporation to permit the applicant to use such rail line for compensation to the corporation at $0.60 per thousand gross ton-miles of locomotive and train operation, and upon such other terms and conditions as are reasonable under the circumstances.

(c) If, in the opinion of the corporation, the transfer of freight traffic off of one rail line and onto another rail line will permit significant economies through reduction in maintenance expenditures, it may apply to the Commission for an order requiring such transfer. If after notice and hearing the Commission finds that such transfer will not result, directly or indirectly, in a significant impairment in the rail service provided to any rail customer, the Commission shall issue an order requiring the transfer on such terms and conditions as are reasonable. Applications under this section shall be acted upon by the Commission within one hundred and twenty days after the application is filed.

(d) No one shall commence freight operations over rail lines of the corporation other than in accordance with the provisions of this section.

PASSENGER SERVICE

SEC. 503. (a) Any rail carrier shall have the right to continue passenger service over any rail line conveyed to the corporation at the same frequency with which it was providing such service prior to the conveyance, in return for payment to the corporation of $0.60 per thousand gross-ton-miles of locomotive and train operation. All pre-existing agreements and contracts for the provision of passenger service shall be of no force and effect as between the corporation and such rail carrier.

(b)(1) Any rail carrier shall have the right to initiate new passenger service, or to increase the frequency of passenger service already being provided, in return for payment to the corporation of $0.60 per thousand gross ton-miles of locomotive and train operation, unless the corporation determines that the rail carrier is not fit, willing, and able to properly perform the service proposed.

(2) A rail carrier or freight shipper whose service or operations are afflicted by new or expanded passenger service may file an application with the Secretary requesting appropriate relief. If after hearing and upon sufficient proof the Secretary finds that such passenger service causes a significant downgrading of the quality of service provided to freight shippers, he shall issue an order fixing such terms and conditions for the operation of such passenger service as are reasonable in the interest of adequate freight service.

OPERATING RULES

SEC. 504. (a) The corporation shall have the power to fix rights of trains, maximum train speeds, size and weight limits for equipment, and other rules governing operations over corporation rail lines. The provisions of this Act and of rules adopted by the corporation shall supersede the terms of any agreements previously entered into between rail carriers and railroad companies for the provision of passenger service.

(b)(1) Except in an emergency, passenger trains shall be accorded preference over freight trains in the use of any given line of track, junction or crossing of the corporation, unless the Secretary has issued an order to the contrary in accordance with paragraph (2) of this subsection.

(2) A rail carrier or freight shipper whose service or operations are affected by paragraph (1) above may file an application with the Secretary requesting appropriate relief. If after hearing and upon sufficient proof, the Secretary finds that adherence to paragraph (1) causes a significantly downgrading of the quality of service provided to freight shippers, he shall issue an order fixing rights of trains, on such terms and conditions as are reasonable in the interest of adequate freight service.

LIABILITY FOR INJURY AND DAMAGE

SEC. 505. The corporation shall be responsible for all bodily injury and property damage arising out of any accident on occurrence caused by defects in, or improper maintenance of, track, roadbed, signals, communications, or other facilities owned or controlled by the corporation or caused by the negligence of a corporation employee. Rail carriers shall be responsible for all bodily injury and property damage arising out of any accident or occurrence caused by reasons other than those enumerated in the preceding sentence.

REDUCTION IN CAPACITY OF RAIL LINES

SEC. 506. If at any time the corporation desires to realize economies through the elimination of any extra main track or tracks, or other type of reduction in capacity of any of its rail lines that would not result in elimination of service to any point, it shall give notice of its intention to the carriers using the line, to the States and localities through which the line runs, and to any other person who has requested to be given such notice. The corporation may proceed with such elimination or reduction on or after the expiration of one hundred and twenty days following the giving of notice

unless it determines, on the basis of protests submitted in response to the notice, that such elimination or reduction will not be consistent with the present and future public interest in adequate rail service.

ABANDONMENT OF RAIL LINES

SEC. 507. (a) The corporation shall not abandon any rail line in whole or in part except in accordance with this section.

(b) Within one hundred and twenty days after enactment of this Act, the corporation shall prepare and file with the Commission, and serve by registered mail all Governors of affected States; chief executives of affected communities and regional agencies; all rail carriers operating on corporation rail lines; and anyone else who has requested to be served, a full and complete list and diagram of its rail lines describing in particular those lines during the prior calendar year on which less than one million gross ton-miles of traffic were carried per mile, or on which less than thirty-five carloads originated or terminated per mile. The corporation shall also identify on such list or diagram any other line for which it may seek authority to abandon, including the traffic density on such line during the prior calendar year in terms of gross ton-miles and of carloads originated and terminated. Such list and diagram shall be amended quarterly to reflect any additions or deletions of rail lines thereon. Such amendments shall be filed and served in the same manner and to the same extent as the original list and diagram.

(c) The corporation shall not give notice of a proposed abandonment of all or any portion of a rail line unless such rail line has been identified on the list and diagram required by subsection (b) for at least one year, and unless all passenger service on such rail line has been terminated.

(d) At such time as the corporation determines to abandon any rail line in whole or in part, it may file with the Commission and serve by registered mail all Governors of affected States; chief executives of affected communities and regional agencies; all rail carriers operating on the line; and anyone else who has requested to be served, notice of the proposed abandonment at least one hundred and twenty days prior to the proposed effective date thereof. Abandonments pursuant to such notice shall be governed by the provisions of this section, the laws or constitution of any State, or the decision or order of the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Such notice shall include a full and complete statement of the estimated expense to be borne by the corporation for rehabilitating the line and for its continuing annual maintenance, together with estimated receipts from rail carriers using the line, and shall otherwise be in such form as the Commission shall prescribe. A copy of the working papers underlying all data contained in the notice shall be filed with the Commission contemporaneously with the notice, and made available by the Commission for public inspection. A copy of such working papers shall also be made available for public inspection at the principal office of the corporation.

(e) Upon the filing and serving of any notice pursuant to subsection (d), parties who may be affected by the proposed abandonment shall have thirty days to file protests with the Commission against such abandonment. Such protests shall contain a complete and concise justification for requiring that the rail line not be abandoned, in such form as the Commission may prescribe. Such protests shall be mailed to all rail carriers using the line.

(f) Within thirty days after the date for filing protests, the Commission may enter upon an investigation of the abandonment proposed in the notice, and, unless all service on the line has been terminated, it shall enter upon such an investigation. If no such investigation is instituted, the Commission shall issue a certificate at the expiration of such thirty-day period that public convenience and necessity permit the abandonment proposed in the notice, upon such terms and conditions as are reasonable.

(g) If an investigation is instituted, the Commission, by order served upon the corporation and rail carrier or carriers affected thereby at least sixty days prior to the day on which the abandonment proposed in the notice would otherwise become effective, shall postpone the abandonment in whole or in part, pending hearing and such investigation, but not for a longer period than nine months from the date of issuance of such order. Any investigation instituted under this paragraph shall include full public hearings at a point or points on or reasonably adjacent to the line proposed to be abandoned. On or before the expiration of the nine-month period, the Commission shall determine whether the proposed abandonment is consistent with public convenience and necessity. In making such determination, the Commission shall consider the following: avoidable cost, less receipts to the corporation from rail carriers using the line, of maintaining the line proposed to be abandoned, as measured by cost of recurring maintenance and such repairs or improvements necessary to continue the line at a physical standard necessary to provide safe, reliable, and efficient service; extent of actual use of and need for the line by shippers or receivers; prospects for reduction of losses through traffic increases, reduced expenses, or other changes; prospects for future development of passenger service; and provision of efficient and economical transportation for rural areas. The burden of proof in support of the abandonment shall be on the corporation.

(h) If the Commission determines that the abandonment in whole or in part is consistent with public convenience and necessity, it shall issue a certificate authorizing such abandonment, upon such terms and conditions as are reasonable, to be effective sixty days after the expiration of the nine months' investigation period. Upon the effective date of the certificate, the rail carrier or carriers using the rail line shall terminate operations unless such effective date has been suspended in accordance with subsection (i).

(i) If prior to the effective date of any certificate authorizing an abandonment in whole or in part of any rail line of the corporation, a State, regional, or local agency, or private entity, makes a binding commitment to pay to the corporation 50 per centum of the maintenance and rehabilitation costs, less receipts from rail carriers using the line, of the line to be abandoned, such certificate shall be suspended for so long a period as such commitment is met.

(j) In disposing of any real estate which becomes available through abandonment, the corporation shall consider preserving such real estate for future transportation needs and to the maximum extent feasible, make such real estate available to public or nonprofit agencies for recreational or other public use. Any such real estate which was originally granted to any railroad company by Federal, State, or local governments shall revert to such grantor.

PROTECTION FOR EMPLOYEES

SEC. 508. (a) All rehabilitation, maintenance, and improvement work, and signaling and communication operations, performed by the corporation shall be done by railroad company employees under the direction and supervision of the corporation. Collective bargaining agreements previously entered into between any bargaining unit representing such employees and such railroad company shall remain in full force and effect. Upon request of the corporation, a railroad company shall initiate and pursue negotiations for revision of such agreements in accordance with procedures specified therein or otherwise required by law. Such railroad company shall give due consideration to the recommendations of the corporation before entering into any new or revised agreement.

(b) The corporation shall be subject to the same laws and regulations with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between employer and employees, compensation for job-related injuries and other disabilities, employee retirement annuity, unemployment systems, and other dealings with its employees as any carrier subject to part I of the Interstate Commerce Act.

(c)(1) In connection with any transaction under this title for access to rail lines; removal of freight traffic; or abandonment of any rail line, the corporation or rail carrier whose employees will be affected by such action shall be required to protect the interests of its respective employees. Such protective arrangements shall be those agreed to by the corporation or rail carrier and the representatives of its employees, or in the absence of such argeement, as the Commission may determine. Such protective arrangements shall be included in any order which authorizes such transaction.

(2) The protection arrangements required by paragraph (1) shall protect individual employees from the date first affected against a worsening of their positions with respect to their employment and shall include, without being limited to, such provisions as may be necessary (A) to provide for notice and negotiations and execution of implementing agreements prior to the interests of employees being affected: *Provided, however,* That where such implementing agreement has not been executed within thirty days after the date on which the action became effective either party may submit for binding arbitration any unresolved questions in connection therewith, the arbitration decision to be rendered if possible within thirty days thereafter, but if such decision is for any reason delayed beyond said thirty days, the rights of the parties to such arbitration shall not be affected; (B) for the preservation of compensation (including subsequent wage increases), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, vacations, and the like, under the same conditions and so long as such benefits continue to be accorded to other employees of the corporation or rail carrier in active service or on furlough as the case may be) to such employees under existing collective-bargaining agreements or otherwise; and (C) to provide for the arbitration of disputes arising out of the protective arrangements which cannot be settled by the parties. In such arbitrations the burden shall be upon the corporation or rail carrier to prove that the employee was not affected by the action taken. In no event shall said arrangements provide benefits less than those established pursuant to section 5(2)(f) of the Interstate Commerce Act.

TITLE VI—FINANCIAL ASSISTANCE

ORGANIZATIONAL EXPENSES OF CORPORATION

SEC. 601. There is hereby appropriated to the Secretary in fiscal year 1974 the sum of $50,000,000 to remain available until expended for disbursement to the corporation for the purpose of assisting in the initial organization and operation of the corporation.

REHABILITATION OF RAIL LINES BY CORPORATION

SEC. 602. There is hereby authorized to be appropriated to the Secretary for disbursement to the corporation such sums as may be necessary to bring all rail lines into compliance with the requirements of this Act and of the Rail Safety Act of 1970, but not to exceed $300,000,000 in each of the two fiscal years ending June 30, 1974, and June 30, 1975.

MAINTENANCE, TAXES, AND CAPITAL IMPROVEMENTS BY CORPORATION

SEC. 603. There is hereby authorized to be appropriated to the Secretary for disbursement to the corporation such sums as may be necessary to reimburse the corporation for the annual amounts spent for maintenance, State and local property taxes, capital improvements, and overhead expense, over and above annual receipts from user changes imposed by section 602 of this Act. Appropriations under this section shall not exceed $100,000,000 in any one fiscal year.

GUARANTEE OF DEBENTURES ISSUED BY CORPORATION

SEC. 604. (a) Holders of debentures issued by the corporation in accordance with the provisions of this Act for the purchase of rail lines are hereby guaranteed against loss of principal and interest, which guarantee shall constitute a general obligation of the United States of America backed by the full faith and credit of the Government of the United States of America. Such guarantee shall not be terminated, canceled, or otherwise revoked; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act and of the legality of the principal amount, interest rate, and all other terms of the debentures and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed debenture, except for fraud or material misrepresentation on the part of such holder.

(b) Upon any default by the corporation on principal or interest on any debentures, the Secretary of the Treasury shall pay to the holder of such debentures the principal and interest due. For that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such payments. All such payments shall be treated as public debt transactions of the United States.

RESEARCH AND DEVELOPMENT BY CORPORATION

SEC. 605. The corporation shall undertake a continuing program of research and development, including demonstration projects, into improving the stability, ride quality, longevity, and maintenance economics of railroad track and roadbed. There is hereby authorized to be appropriated to the Secretary for disbursement to the corporation for purposes of this section $10,000,000 in each of the three fiscal years 1974, 1975, and 1976.

REHABILITATION ASSISTANCE LOAN GUARANTEES FOR RAILROAD COMPANIES

SEC. 606. (a) The Secretary is authorized, upon application by a railroad company not undergoing reorganization in bankruptcy proceedings in a United States district court, to guarantee any lender against the loss of principal and interest on securities, obligations, or loans (including refinancings thereof) issued to finance rehabilitation work required by this Act or by the Federal Railroad Safety Act of 1970, upon such terms and conditions as are just and reasonable and consistent with the public interest. Applications shall specify the estimated itemized cost of rehabilitation work to be performed with the proceeds of guaranteed loans. In passing upon applications, the Secretary shall consider the relative ability of applicants to pay for the required rehabilitation work from their own resources or from nonguaranteed commercial loans.

(b) The maturity date of guaranteed loans under this section, including all extensions and renewals thereof, shall not be later than twenty years from the date of issuance. No railroad corporation which receives such a guaranteed loan shall increase any dividend disbursement on any class of stock above the level paid during calendar year 1972 make any investments in nontransportation enterprise without the express approval of the Commission.

(c) The Secretary shall ascertain that recipients of such guaranteed loans accomplish the required rehabilitation work in an economic and efficient manner.

(d) All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the Government of the United States of America.

(e) Any guarantee made by the Secretary under this section shall not be terminated, canceled, or otherwise revoked; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, or loan, except for fraud or material misrepresentation on the part of such holder.

(f) The aggregate unpaid principal amount of securities, obligations, or loans outstanding at any one time which are guaranteed by the Secretary under this section may not exceed $200,000,000. The Secretary shall prescribe and collect a reasonable annual fee for such guarantees.

(g) There are authorized to be appropriated to the Secretary such amounts, to remain available until expended, as are necessary to discharge all his responsibilities under this section.

(h) If at any time the moneys available to the Secretary are insufficient to enable him to discharge his responsibilities under guarantees issued by him under subsection (a) of this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations available under subsection (g) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act as amended are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations as acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

EMERGENCY RECONSTRUCTION GRANTS TO RAILROAD COMPANIES

SEC. 607. Any railroad company may apply to the Secretary for a grant to reconstruct railroad lines which have been damaged or destroyed by flood, washout, windstorm, earthquake, or other unforeseeable disaster outside the control of the applicant. Such assistance shall not be extended to applicants which are able to finance reconstruction with their own resources. There is hereby authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, not to exceed $10,000,000 in any one fiscal year.

TITLE VII—ADMINISTRATION AND ENFORCEMENT

POWERS OF THE SECRETARY

SEC. 701. The Secretary is authorized to perform such acts, including, but not limited to, conducting investigations, holding hearings, making reports, issuing subpenas, requiring production of documents, taking depositions, prescribing recordkeeping and reporting requirements, promulgating rules and regulations, and delegating to any public bodies or qualified persons functions respecting examination, inspecting, and testing of railroad facilities as he deems necessary to carry out the provisions of this Act. Officers, employees, or agents of the Secretary are authorized to enter upon, inspect, and examine railroad facilities and pertinent books, papers, and records. Such officers, employees, and agents shall display proper credentials when requested.

RIGHT TO COURT ORDERS

SEC. 702. The United States district court shall, at the request of the Secretary and upon petition by the Attorney General on behalf of the United States, have jurisdiction, subject to the provisions of rules 65 (a) and (b) of the Federal Rules of Civil Procedure, to enforce the provisions of this Act, and orders of the Secretary issued thereunder, by the issuance of injunctions or restraining orders or by the granting of such other relief as may be appropriate.

PENALTIES

SEC. 703. (a) It shall be unlawful for the corporation or any railroad company to disobey, disregard, or fail to adhere to the provisions of this Act or to any rule, regulation, order, or standard prescribed by the Secretary under this Act.

(b) The corporation or any railroad company violating any rule, regulation, order, or standard referred to in subsection (a) shall be assessed by the Secretary a civil penalty for violation thereof in such amount, not less than $250 nor more than $2,500, as he deems reasonable. Each day of such violation shall constitute a separate offense.

(c) Such civil penalty is to be recovered in a suit or suits to be brought by the Attorney General on behalf of the United States in the district court of the United States having jurisdiction in the locality where such violation occurred. Civil penalties may, however, be compromised by the Secretary for any amount, but in no event for an amount less than the minimum provided in this section, prior to referral to the Attorney General. The amount of any such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged. All penalties collected under this Act shall be covered into the Treasury as miscellaneous receipts.

SUBPENAS IN COURT ACTIONS

SEC. 704. In any action brought under this Act, subpenas for witnesses who are required to attend a United States district court may run into any other district.

OTHER RIGHTS AND LIABILITIES RESERVED

SEC. 705. Nothing contained in this Act shall be construed as depriving any person of any right of action which he may have otherwise than under this Act, or of relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

ANTITRUST EXEMPTION

SEC. 801. Persons contracting for the joint use of railroad tracks and facilities shall be

and hereby are relieved from all prohibitions of existing law, including the antitrust laws of the United States, with respect to such contracts, agreements, or leases insofar as may be necessary to enable them to enter into such contracts and to perform their obligations thereunder.

EVIDENCE IN DIVISIONS CONTROVERSIES

SEC. 802. For a period of five years following the enactment of this Act, evidence that the operating expenses of any rail carrier were reduced as a consequence of any direct or indirect assistance provided by this Act shall not be admissible as evidence before the Commission in any controversy involving the division of revenues.

SEPARABILITY

SEC. 803. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

BASIS FOR USER CHARGE COMPUTATION

The proposed user charge of $.60 per thousand gross ton-miles was derived from an analysis of expenses of maintenance of track and roadbed, and of operation of signal and communications systems, which would be borne by the Corporation rather than the individual railroad companies. The following accounts or portions thereof shown in the "Form A" annual report to the Interstate Commission were assumed to become the responsibility of the Corporation.

MAINTENANCE OF WAY AND STRUCTURES

Account:		*Percent assigned to corporation*
201	Superintendence	90
202	Roadway maintenance—running tracks	100
206	Tunnels and subways—running tracks	100
208	Bridges, trestles, and culverts—running tracks	100
212	—Ties—running tracks	100
214	Rails—running tracks	100
216	Other track material—running tracks	100
218	—Ballast—running tracks	100
220	Track laying and surfacing—running tracks	100
221	Fences, snowsheds, and signs—running tracks	100
229	Roadway buildings	100
247	Communications systems	25
249	Signals and interlockers	100
269	Roadway machines	90
270	Dismantling retired road property	50
271	Small tools and supplies	90
272	Removing snow, ice, and sand	50
273	Public improvements—maintenance	50
274	Personal injuries	90
277	Employees health and welfare benefits	90
281	Right-of-way expenses	90
278–279	Maintaining joint tracks, yards, and other facilities—NET	90

TRANSPORTATION—RAIL LINE

404	Signal and interlocker operation	100
405	Crossing protection	50
406	Drawbridge operation	100
407	Communication system operation	25
409	Employees health and welfare benefits	5
416	Damage to property	10
418	Freight loss and damage	10
420	Personal injuries	10
412–413	Operating joint tracks and facilities—NET	100

ROAD PROPERTY—ADDITIONS AND BETTERMENTS

Account:		
1	Engineering	50
2	Land for transportation purposes	10
3	Grading	50
5	Tunnels and subways	100
6	Bridges, trestles and culverts	100
8	Ties	100
9	Rails	100
10	Other track material	90
11	Ballast	90
12	Track laying and surfacing	90
13	Fences, snowsheds, and signs	90
17	Roadway buildings	100
26	Communications systems	25
27	Signals and interlocks	100
37	Roadway machines	90
38	Roadway small tools	90
29	Public improvements—construction	50

TAXES

Account: 350A	Other than U.S. Government taxes	50

The following table breaks out the amounts in the above accounts for the years 1970 and 1971 for the five major bankrupt railroads—Penn Central (PC), Erie-Lackawanna (E-L), Reading (RDG), Boston and Maine (B&M) and Lehigh Valley (LV)—and for the three major non-bankrupt railroads in the Northeast—Chesapeake and Ohio (C&O), Baltimore and Ohio (B&O), and Norfolk and Western (N&W). The table also shows gross ton-miles in freight service (also as reported in "Form A"), and the amount of expenses to be assumed by the Corporation per 1000 gross ton-miles. As information, net railway operating income and net ordinary income are also shown. Finally, the table shows the yield to the Corporation of user charges of $.60 and $.70 per 1000 gross ton-miles, together with the differences between such yield and the expenses incurred by the Corporation:

	PC		E-L		RDG		B M		LV		C. & O.		B. & O.		N. & W.	
	70	71	70	71	70	71	70	71	70	71	70	71	70	71	70	71
M. & W./S. expenses assumed by corp (millions)	146	175	20	19	9.6	10.6	6.1	6.6	3.8	3.2	36	41	42	48	53	48
Trans expenses assumed by corp (millions)	33	36	6	6	1.5	1.6	1.7	1.7	.8	.7	2	2	2	2	7	8
A. & B. expenses assumed by corp (millions)	22	11	1	1	1.5	1.0	1.1	1.4	1.2	.4	6	6	5	7	12	4
State/local taxes assumed by corp (millions)	29	27	4	3	1.7	1.8	1.0	1.1	.6	.6	7	6	6	6	13	13
Total expenses assumed by corp excluding taxes (millions)	201	222	27	26	12.6	13.2	8.9	9.7	5.8	4.3	44.	49	49	57	72	60
Total expenses assumed by corp including taxes (millions)	230	249	31	29	14.3	15.0	9.9	10.8	6.4	4.9	51	55	55	63	85	73
Gross ton-miles in freight service (billions)	206	199	38	36	9.1	7.8	6.4	6.4	6.1	5.2	71	60	69	64	115	102
Expenses assumed by corp per 1,000 GTM excluding taxes	97¢	1.11	72¢	73¢	1.38	1.69	1.39	1.52	95¢	83¢	62¢	82¢	71¢	89¢	63¢	58¢
Expenses assumed by corp per 1,000 GTM including taxes	1.11	1.25	82¢	81¢	1.57	1.92	1.55	1.69	1.05	94¢	71¢	92¢	79¢	98¢	75¢	71¢
Net railway operating income (millions)	−237	−180	−.3	9.0	−2.3	−5.8	−6.5	−1.6	−6.4	−5.8	44	38	19	29	116	113
Net ordinary income (millions)	−326	−285	−8.9	−1.4	−5.6	−11.7	−10.8	−5.7	−9.5	−8.0	44	25	13	10	76	78
Yield to corp of $0.60 per 1,000 GTM user charge (millions)	124	119	23	22	5.5	4.7	3.8	3.8	3.7	3.1	43	36	41	38	69	61
Deficit of corp (millions)	106	130	8	7	8.8	10.3	6.1	7.0	2.7	1.8	8	19	14	25	16	9
Yield to corp of $0.70 per 1,000 GTM user charge (millions)	144	139	27	25	6.4	5.5	4.5	4.5	4.3	3.6	50	42	48	45	81	7
Deficit to corp (millions)	86	110	4	4	7.9	9.5	4.4	6.3	2.1	1.3	1	13	7	18	4	

PUBLIC ACQUISITION OF RAIL RIGHTS-OF-WAY IN THE NORTHEAST

Mr. WEICKER. Mr. President, I am delighted to join with the distinguished Senator from Indiana in introducing the "Essential Rail Services Act of 1973."

The thrust of this bill is help make balanced transportation a practical reality. Recognizing the large-scale impetus that public ownership of roadways has given to the automobile, I have long advocated Government acquisition of railroad rights-of-way. Placing all forms of transportation on an equal foundation will significantly increase prospects for the improved rail and freight passenger service we all desire.

In June of 1970, I introduced with endorsement from 18 of my colleagues in the House of Representatives, a joint resolution ordering the Secretary of Transportation to study the feasibility of Federal takeover of rail rights-of-way.

The inequities that existed then have not been changed with the passage of time. The 1973 Federal transportation budget clearly indicates the ongoing imbalance in financial commitment: 70.1 percent for highways; 22.8 percent for airports; 5.4 percent for mass transit; and 1.8 percent for railroads.

The cumulative effect of financial neglect now requires a positive step away from outmoded burdens on railroads. While rail systems struggle to pay the cost of maintaining their roads and tracks, our highways, traffic control systems, airports, and airway systems are paid for by the Government.

The tragic consequences of this inequity are now becoming apparent. In the Northeast transportation corridor, a gradual deterioration of rail bedding has resulted in inferior service, increased derailments, and a basic inability to implement the technological capability of engines and cars that run on those rails right now.

The Senator from Indiana and I propose to rehabilitate and modernize these rail lines by means of a northeast rail line corporations. This corporation would relieve railroads, in the Northeast sec-

tor, of maintenance costs. It would, in turn, free up capital resources for the improvement of equipment and services.

This nonprofit Corporation would be composed of 13 members on the Board of Directors. They would be appointed by the President, upon recommendation from a number of sectors, including the congressional leadership, the National Governors Conference, the railroad companies, Amtrak, the Congress of Railway Unions, the Railway Labor Executives Association, and the National Industrial Traffic League.

The Corporation would acquire all track and roadbed owned by bankrupt railroads in the Northeast, in exchange for debentures equal to the net liquidation value of the property conveyed. A $1 billion Federal loan guarantee would be authorized for financing of these acquisitions.

In addition, the Corporation would be allotted $300 million in the first 2 years for rehabilitation of existing tracks, and $100 million per year for maintenance, for capital improvements, and for overhead expenses of the Corporation.

It is important to note that the operation of rail service would remain with the railroads, or in the case of passenger service, with Amtrak. However, user charges would be levied by the Corporation at a suggested rate of 60 cents per thousand gross ton mile of locomotive and train operations. This preliminary figure is based on standard maintenance and rehabilitation costs presently incurred by healthier railroads.

Finally, this measure would designate certain essential rail lines to be part of an interstate railroad system in the United States which must be upgraded to insure safe and dependable travel of freight trains at 60 miles-per-hour and passenger trains at 80 miles-per-hour. A maximum of $200 million in Federal loan guarantees will be given to these railroads for improvement of their roadbed to meet Federal standards. The effort to develop a modern and efficient rail service in the Northeast is only part of a larger national need for a better transportation system.

We must finally admit that American railroads are being killed by highways, waterways, and airports built and maintained by the Government. Rails are the most efficient, cleanest, and least land-hungry of all forms of surface transportation, but their only chance for survival is the takeover, rebuilding, and maintenance of roadbeds by government.

Today the Government can control rail rates. It can investigate accidents after they occur. But to create a nationwide rail system for the future, we must permit railroad operating companies to run over federally owned rights-of-way and require, in return, the kind of high quality service which will mean a rebirth of rail transportation in America.

The Senate Commerce Committee will begin hearings on this issue tomorrow. Our proposal will provide the necessary vehicle for productive and meaningful discussion. I am confident that the Surface Transportation Subcommittee, after hearing from all interested parties, will report out appropriate legislation. The goal is simply to provide the proper economic climate for healthy and viable rail service in the future.

Mr. KENNEDY. Mr. President, I am pleased to join today with the distinguished Senator from Indiana and others to introduce the Essential Rail Services Act of 1973 in an effort to promote safe, efficient and economical rail service in the Northeast and the Nation.

I believe this act is a fitting step to accompany the creation of Amtrak and the passage of the Federal Railroad Safety Act of 1970.

I believe its major provisions constitute a strong reassertion of the need to upgrade rail service in America. It does not cope with all of the problems facing railroads; but it clearly is a major break with the past negligence of Government toward insuring modern, efficient rail service.

The creation of a public nonprofit Corporation to acquire rail lines of the Penn Central and other carriers in serious financial distress will revamp the past pattern of Government-industry relations. The need for direct involvement in the Government to assure the adequacy of rail service in the Northeast is a clear conclusion of recent studies, including the Commerce Committee staff report issued last month.

This act also will speed the realization of major portions of the Northeast Corridor Transportation Project of the Department of Transportation which recommended improved high speed rail service in the Washington-Boston corridor as the best way to meet transportation needs.

The report found the Northeast Corridor to be the most extensively urbanized region in the Nation with some 44 million persons, 20 percent of the Naton's population, living on less than 2 percent of the Nation's land.

The sprawling growth of suburbia and exurbia, the exodus of industry and population from the central city, the steady concentration of people in new metropolitan areas joined in an urban band 500 miles long—all have created a transportation crisis.

Traffic congestion on the highways and congestion at airport terminals already exist so that travel times both by air and by road are increasing between Boston and New York and between Washington and New York. In fact, it takes longer today on the average to get from National Airport to New York than it did in 1953.

The report noted that:

Aircraft and terminal delays between 1968 and 1969 increased 20 percent. Almost 30 percent of this delay was registered at five major corridor airports.

It was after years of detailed investigation that the final report recommendations were made. And I believe it is essential that action be taken now to begin to put the recommendations into effect.

The report concluded that:

The only system capable of increasing the speed of travel and which can be rapidly implemented is improved high-speed rail which expands and improves the demonstration service on the existing right of way between Washington and Boston.

This action is necessary, the report concluded, while further investments in creating a high speed ground corridor for the 1980's are being made.

The creation of the Northeast Railline Corporation with wide representation in its board membership, including the Northeast Governors, the Congress, the railway unions, the railroads, and Amtrak, the railway labor executives association and the National Industrial Traffic League, is a first step toward promoting rational rail service in the Northeast.

The Corporation will have the authority to issue long-term loans to acquire these rail lines at liquidation cost and will be authorized to expend $600 million over the next 2 years to improve and modernize these facilities, including centralized traffic control, improved safety devices, extra main tracks, removal of restrict clearances, improved grade crossing protection, and reduction of curves and grades.

The railroad companies using the Corporation's rail lines will be charged a user fee which ultimately is expected to reimburse the Corporation for the original purchase of these lines.

At the same time, by insuring common usage of the existing tracks, we will be promoting real competition for the first time in rail freight service.

With railroad companies frequently seeking to abandon lines, we have placed strong protections in this measure to prevent any reduction of passenger service. There is a strong public interest in the maintenance of passenger service in many rural areas of this Nation which cannot be judged solely on economic grounds. I worked with the chairman of the Surface Transportation Subcommittee in drafting these protections.

The range of the Corporation is authorized to extend beyond the Northeast to the entire rail mileage of Penn Central, the Boston-Maine, the Erie-Lackawanna, the Reading, the Central Railroad of New Jersey, the Lehigh-Hudson River Railroad and the Lehigh Valley Railroad. This will involve the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois as well as the District of Columbia.

This bill also recognizes similar problems affecting other regions of the Nation and provides for the designation of all major rail lines in the Nation as part of an Interstate Rail System with a requirement that the Secretary of Transportation recommend how to improve that system. The bill provides that the Secretary shall establish standards for the maintenance of all main track including "smooth, dependable operation of freight trains at speeds up to 60 miles an hour and passenger trains at speeds up to 80 miles an hour." These standards are to be met within 2 years of establishment of the Interstate System. In addition, the Secretary will designate the urban corridors around the Nation which are similar to the Northeast corridor where upgrading rail lines for passenger operations of 120 miles an hour and more are desirable.

To aid railroad companies in meeting these standards, the bill, as presently drafted, provides for $200 million in loan guarantees. There are stringent reporting requirements on these loans and prohibitions on dividends being paid without prior approval.

Although I have reservations about the loan provisions, I believe it provides the basis for discussion of how to stimulate the improvement of rail freight and passenger service in other parts of the Nation. Clearly, the continuing crisis of the Penn Central is not a situation that we want to see repeated in other parts of the Nation. This bill will permit the Congress to focus on this matter and take appropriate action now before the crisis occurs.

I believe action this year is essential if we are to move toward a balanced national transportation system. Passage of this legislation would be a major step in that direction.

By Mr. BAYH:

S. 1032. A bill to provide for loans for the establishment and/or construction of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STRAY AND ABANDONED PETS

Mr. BAYH. Mr. President, the increasing size of America's stray and abandoned pet population presents a serious health and moral problem to the country. In 1970, Los Angeles animal shelters handled more than 120,000 stray dogs and cats. The same year Washington area shelters handled 110,000. According to one study, dogs in Los Angeles increased during the past 10 years at a rate—40 percent—more than double that of the rise in human population—15 percent increase. In Indianapolis the ratio of pets to people is almost 1 to 2.

Since 1970, the population of stray and abandoned pets has continued to increase creating what the Journal of Modern Veterinary Practice has called the pet population bomb.

This explosion in the population of roaming animals creates serious problems for both the animals and the humans living in America's urban areas. In addition to the injury and starvation faced by the animals themselves, this wild dog and cat population presents important health problems to humans.

The journal, Modern Veterinary Practice, summarizes the problem. In addition to diseases and bites from dogs and cats which can be serious, the magazine states:

> Strays or otherwise uncontrolled animals pollute the streets, disturb sleep, damage property, kill other animals (and an occasional child) and—more frequently than may be realized—cause traffic accidents, all too often injuring or killing innocent persons.

More specifically, the incidence of rabies in a given community seems to be related to the size of the stray pet population. As the same journal points out:

> The root of the rabies problem as it affects persons always has been and still is the uncontrolled animal population—until recently of dogs and now of cats. What can be accomplished by an intensified program is now evident in El Paso, Texas, where rabies had been enzootic since 1835. With a population of about 375,000 persons and 45,000 dogs, only some 14,000 dogs were registered and vaccinated in 1964, vs 34,000 in 1968 after a rigorous control program had been in effect (since 1965). Since 1953 the annual incidence of animal rabies had ranged from 32 to 94 (mean 46), with dogs accounting for about 90% of the total; in 1968 there were only 11 cases, none in dogs.
>
> More important, the number of persons given antirabies treatment (at $75) decreased from 1,116 to 170, and the per capita cost of the program declined from 27¢ to 16¢ per year. A fringe benefit has been a lessened incidence of canine distemper, perhaps due to the reduced contact among dogs, especially with strays.

For a different perspective on the problem of pet overpopulation, in Indianapolis, 50,000 dogs and cats are killed each year by the humane society and dog pound combined. Yet the sanitation department is still faced with the task of removing and disposing of 20,000 more pets which have starved or been killed accidentally.

The Nation's humane and other animal protective societies have labored manfully over the past few years to cope with this problem. However, most solutions advanced have met some difficulty. The Modern Veterinary Practice journal has described alternative pet control programs in some detail.

> Of the numerous measures promulgated to control unwanted animal populations, few have been notably successful in doing much beyond keeping the problem within tolerable limits. Perhaps the most drastic is prohibition by governmental decree, but as in other forms of prohibition this requires a measure of acceptance by the public. During the late 1800s in Iceland the dog and human populations were about equal, and hydatid disease was a major problem. A punitive dog tax was inadequate, and the government later banned all dogs from the cities. The same is true of mainland China, where the leaders have decreed that all available food be used for human consumption or for more productive animals. In both instances, however, public education was essential to persuade the public of the wisdom of these restrictions—and in China the people are their own law enforcers.
>
> Voluntary surrender of excess and unwanted animals can be a significant means for reducing such populations—as in Los Angeles—provided the public is assured these animals will be disposed of humanely. A recent California law requiring all cats to be neutered before being adopted from shelters, however, had the unanticipated effect of virtually stopping voluntary surrender. Owners apparently realized that few persons wanting to adopt cats would pay for neutering, and rather than surrender their cats knowing they would be destroyed, many simply turned them loose—thus creating a problem for someone else.
>
> In some cities even properly leashed dogs create such noise and filth on the streets as to evoke nonowner resentment, but few politicians are willing to discriminate against man's best friend. The housing shortage had made landlords more successful, but there should be a middle ground that would protect the rights of nonowners. Perhaps a graduated surtax based on the animal's size could be used to create dog parks and comfort stations as has been done in some European cities.
>
> The proposal to encourage destruction of all but one male of a litter shortly after birth seems unlikely to gain much acceptance, and the once-common practice of drowning whole litters of kittens has been largely abandoned. Large numbers of kittens are surrendered to humane societies, once such source indicating that some 18 million cats—undoubtedly including new-born litters—are disposed of annually. Since this figure is about ⅔ of the estimated cat population—and Los Angeles destroys about 15% of its estimated dog population annually, it is evident that these measures are not adequate. Nor does capture of strays—a costly procedure at best—help much beyond eliminating the most obnoxious segments of this excess population, and wherever unspayed animals can be adopted the problem is perpetuated by agencies charged with "solving" it.
>
> Penalties for abandonment have been proposed but seem the least realistic as an effective control method under the conditions which obtain in most areas, except as they encourage voluntary surrender. To establish ownership would require strict licensing and tattooing since few owners intent on abandoning an animal would be so naive as to leave its license tag on the collar. Punitive fees for owner redemption of animals found at large may help, especially in reducing the number of repeat offenders if an increasing scale of fines is imposed.

It is my belief that one of the most successful programs to control pet population has been initiated by the city of Los Angeles. After many months of study the city opened a pilot Spay and Neuter Clinic in February of 1971. It operated so well that at the end of the pilot period the city created two additional clinics to serve the public. The city's Department of Animal Regulation prepared two reports on December 22, 1971, for Mayor Yorty which document the cost effectiveness of this clinic. The first demonstrates that long-term savings in a city's animal control costs more than offset initial costs of establishing and operating a public spay and neuter clinic. The second argues that a properly run clinic, once established, need not act as a drain on the public purse at all. I ask unanimous consent that these two reports be printed at the end of my remarks.

As positive and useful as individual, local efforts at pet population control have been to date, the national magnitude of the problem presented by abandoned pets requires a solution that is national in scope.

Today I am introducing legislation which will help to begin to provide that solution. The bill would authorize the Department of Health, Education, and Welfare to loan up to $200,000 to any municipality or county qualifying for such a loan to construct and/or establish a spaying and neutering clinic.

The most attractive feature of this program is the assurance that the Government loans will be repaid. As the attached reports indicate, cost analyses of currently operating spay and neuter clinics indicate that institutions such as those authorized for receipt of loans by this bill can end up paying for themselves by the end of their first operating year. In addition financial analyses of these institutions show that over a decade's operations they return $6.50 in reduced animal control costs for every dollar invested in their operation. From the standpoint of community economics the low-cost spaying and neuterizing clinics

for which this bill authorizes initial financial loans are good business.

When an opportunity presents itself to advance the public health and at the same time, to save the community direct costs in currently operating programs, it is an opportunity which should not be permitted to slip by. When that same opportunity presents the chance to eliminate the suffering of hundreds of thousands, if not millions, of displaced animals, it must be seized.

Passing the spaying and neutering clinic loan authorization program can improve public health, make sound economic sense and can relieve the suffering of thousands of animals in each urban center. I urge its adoption.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD, together with certain other material.

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

S. 1032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that Congress finds and declares as follows: that because of an over-abundance of pets, there is an enormous homeless dog and cat population; that this over-abundance results in a serious nuisance to the public, a grave health hazard to communities, and needless suffering to the homeless animals; that there is a shortage of clinics and trained personnel to provide the spaying and neutering necessary to rid us of the over-abundance; that humanitarian groups are unable to cope effectively with the problem; that most pet owners are willing to pay for spaying or neutering at a reasonable fee if sufficient facilities are available and accessible; and that the public will be served generally by the construction of low-cost, non-profit municipal clinics for the spaying and neutering of dogs and cats.

ESTABLISHMENT OF LOANS

SEC. 2 (a) The Secretary of Health, Education, and Welfare is authorized to make loans to cities and counties throughout the United States with populations of at least 500,000 persons according to the 1970 census for the purpose of establishing and/or constructing and providing initial operating costs of municipal, low-cost, non-profit clinics for the spaying and neutering of dogs and cats. No loan may be made to any city or county in excess of $200,000.

(b) Any such loan shall be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe. It shall be mandatory that the borrowing authority agree to abide by such maximum fee charges as the Secretary shall promulgate, from time to time, until the loan is paid off in its entirety.

(c) Each such loan bears interest at the rate of 5% per annum on the unpaid balance thereof and shall be repayable over a period determined by the Secretary to be appropriate, but not exceeding fifty years.

(d) To carry out the provisions of this section, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next four fiscal years the sum of $4,000,000.

PARA-PROFESSIONAL PERSONNEL

SEC. 3. Each clinic established or constructed in whole or in part with loans under this Act shall employ at least one trained veterinarian to supervise the spaying and neutering when such a veterinarian is available. The actual spaying and neutering may be performed by qualified para-professional personnel; and, when no veterinarian is available, as determined by the Secretary of Health, Education, and Welfare, a properly trained and qualified para-professional may supervise the spaying and neutering.

TRAINING OF PARA-PROFESSIONALS

SEC. 4. (a) The Secretary of Health, Education, and Welfare is authorized to make grants to qualified individuals and institutions for the purpose of setting up and giving short courses for the training of para-professionals in the anesthetising and spaying and neutering of dogs and cats.

(b) Any such grant shall be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe.

(c) Grants shall be limited to $25,000 per annum to any one person or $100,000 per annum to a qualified institution (as defined by the Secretary of Health, Education, and Welfare).

(d) There are hereby authorized to be appropriated $1,000,000 to carry out the provisions of this section.

REPORT ON FINANCIAL JUSTIFICATION FOR ESTABLISHMENT OF LOW-COST, PUBLIC SPAY AND NEUTER CLINICS

(Applies to both the clinic proposed for Palo Alto and that proposed for San Mateo County.)

OBJECTIVE

To determine if the costs of establishing and operating a low-cost public spay and neuter clinic can be justified by savings in future animal control costs.

APPROACH

(1) Determine animal control costs and express them as incremental costs per animal handled. Certain overhead costs and indirect costs are fixed and these, naturally, do not vary with the number of animals handled until a plateau of higher fixed costs is necessitated by need for expanded animal shelter facilities. Then, these fixed costs rise to a higher level and the process begins anew.

On the other hand, certain costs must rise with the number of animals handled. Assuming the minimum retention time for animals must be observed, then more animal control officers and kennel men must be hired. Expenses for food and destroying and disposing of animals increase. These variable costs are proportional to the number of animals handled.

(2) Compare these costs with simulated costs of preventing overproduction.

ASSUMPTION

Because the Palo Alto 1970–71 budget figures are available (readily), consider it as a working base. This budget can be divided into fixed and variable elements as follows:

	Fixed costs	Variable costs
Administration and indirect costs	$22,643	
Animal control		$39,317
Animal care and disposal		12,627
Total		51,944
Total fixed and variable costs		74,587

Note: Variable costs expressed as a percentage of total costs: 51,944 over 74,587 equals 69.5 percent.

As the minutes of the August 2, 1971 meeting of the Palo Alto Finance and Public Works Committee show, the average total cost per animal handled is approximately $7.00.

It follows, then, that 69.5% of this $7.00 (or $4.86) represents costs which are additional (incremental) due to the fact that the animal must be handled.

The other $2.14 represents overhead and administrative expenses which must be incurred whether the animal under consideration is handled or not.

At this point, let's make the simplifying assumption that $4.86 also represents the incremental cost of handling one additional animal at the Peninsula Humane Society's shelter at Coyote Point.

Next, consider the fact that the number of animals handled at the Peninula Humane Society has increased from 34,113 to 59,384 in the past six years. This is a 9.7% increase per year. (In the 13 years from 1956 through 1968 the number of animals impounded statewide has increased at an even higher rate of 11.0%.) The alarming fact of the matter is that if the trend observed in San Mateo County continues "as is" until 1980, it will be necessary to handle 148,000 animals in that year. The reason this figure is so high is that the annual increases are getting larger and larger and the growth curve is not a straight line (unless plotted on a semi-logarithmic chart).

Since the Coyote Point Shelter is going to be expanded in the near future, consider the animal control picture for the next 11 years (going back to 1970 as a reference point), assuming that no steps are taken to curb the reproduction of these animals:

Year	Base	Multiplication factor for annual growth of 9.7 percent (times)	Animals handled (equals)
1970	(59,384)		59,384
1971	59,384	1.097	65,000
1972	65,000	1.097	71,200
1973	71,200	1.097	78,000
1974	78,000	1.097	85,500
1975	85,500	1.097	93,700
1976	93,700	1.097	102,800
1977	102,800	1.097	112,600
1978	112,600	1.097	123,200
1979	123,200	1.097	135,100
1980	135,100	1.097	148,000
Animals handled from 1970 through 1980			1,015,000

Now, consider the question of whether the costs of operating a public spay and neuter clinic can be justified economically by savings in future animal control costs.

The approach here will be to begin with the very idealistic and widely accepted concept that one female dog and her offspring can give rise to 4,372 pups in 7 years. In the following presentation I hope to show how I modified this to what I believe is a much more realistic estimate of only 72 pups. Even with this conservative and greatly reduced figure, there appears to me to be considerable financial justification for the public spay clinic.

In the following simulation it will be assumed that a female dog gives birth to only 4 pups. It will be assumed that 50% are females. Finally, it will be assumed that only one owner in four is "careless" (a generous assumption) and that 25% of females are going to give birth to a litter in a given year because they are not spayed and are allowed to roam. You'll note that in certain generations I assume slightly more than 25% but that in others I assume slightly less than 25% will become pregnant. This is because the calculations would sometimes arise in "half" a dog if this adjustment wasn't made. An assumption of a 5-year average life span is also used.

For simplicity, this simulation considers only dogs (cats reproduce even more rapidly and would even be more helpful to the spay clinic argument). It is realized that some of the offspring in the following simulation would not survive; therefore a very conservative litter size of four is employed.

SIMULATION

Begin this process with 8 young, unspayed female dogs.

First Year: The owners of 2 of these dogs are careless and the dogs run the streets when in heat (these dogs represent the "D_0", or initial generation). Each female has 4 puppies, making a total of 8. Of these pups, 4 are females. At this point assume that 25% (or 1 of these pups) will become pregnant in the following year (these pups can be considered the "D_1" or first-year generation). Also remember that the 2 D_0 females will also be likely "candidates" again.

Second Year: 2 D_0 and 1 D_1 females produce 12 puppies of which 6 are females. Assume 2 (slightly more than 25% THIS time) are allowed to roam (these are "D_2" generation dogs).

Third Year: 2 D_0, 1 D_1, and 2 D_2 females produce 20 puppies (2+1+2 females+5 females x 4 puppies per female=20 puppies). 10 are females of which 2 (slightly less than 25% this time) are allowed to roam (D_3).

Fourth Year: 2 D_0, 1 D_1, 2 D_2, and 2 D_3 females produce 28 puppies. 14 are females and 4 are allowed to roam. (D_4 generation.)

Fifth Year: 1 D_1, 2 D_2, 2 D_3 and 4 D_4 females produce 36 puppies. 18 are females and 4 are allowed to roam. (D_5).

NOTE: Because I am assuming a 5-year life span, it is no longer possible to use the 2 D_0 females. They are considered "dead" and the offspring from this year excludes their contribution.

Sixth Year: 2 D_2, 2 D_3, 4 D_4, and 4 D_5 females produce 48 puppies. 24 are females and 6 are allowed to roam. (D_6).

The one D_1 female "dies" at this point—contributes no offspring.

Seventh Year: 2 D_3, 4 D_4, 4 D_5, and 6 D_6 females produce 64 puppies. 32 are females and 8 are allowed to roam. (D_7).

2 D_2 females "die" at this point.

Eighth Year: 4 D_4, 4 D_5, 6 D_6, and 8 D_7 females produce 88 puppies. 44 are females; 11 are allowed to roam. (D_8).

2 D_3 females "die" at this point.

Ninth Year: 4 D_5, 6 D_6, 8 D_7 and 11 D_8 females produce 116 puppies. 58 are females and 16 are allowed to roam. (D_9).

4 D_4 females "die" at this point.

Tenth Year: 6 D_6, 8 D_7, 11 D_8 and 15 D_9 females produce 160 puppies. 80 are females and 20 are allowed to roam. (D_{10}).

4 D_5 females "die" at this point.

Finally, it can be shown that 580 dogs have been produced (above) over a period of 10 years. Since we started with 8 unspayed females, this is approximately 72 offspring due to one unspayed female. This figure is not nearly so favorable to our arguments for spay and neuter clinics as the 4,372 figure possible under perfect conditions. Even then, I think the figure of 72 will show the advantages (financial) of such a clinic.

Assume that of the 580 animals produced, 25% were allowed to roam. Further assume that only 50% of the 145 which roamed were picked up just once by animal control officers. This would mean:

72 animals handled* x $4.86 incremental cost per animal or $349.92 of costs incurred in animal control activities as a result of unspayed females (8 females).

On the other hand, assume the 8 original females were spayed even at a loss. If $17.50 was charged but the cost was as high as alleged by the Southern California Veterinary Medical Association ($24.23) in their 1970 estimate, this would mean 8 x ($24.23—$17.50) or $53.84 would have been spent to save $349.92 of animal control costs.

Using the above assumptions, $1.00 invested in spay-neuter clinics will prevent $349.92/53.84 (or $6.50) of animal control costs.**

*580 x 25%=145 allowed to roam; 145 x 50%=72 handled.

** Perhaps I could better state this by saying that *IF* a low-cost clinic ran at even a small operating deficit, every $1.00 of deficit will prevent the incurrence of an additional $6.50 of animal control costs over the next 10 year period. By similar calculations it can be shown that savings in animal control costs will more than absorb this deficit within a 5 year period. However, there is little evidence to even suggest a deficit would exist. During June (its 4th full month of operation), the Los Angeles Spay Clinic had revenues of $4,217.90; expenses were $2,729.

In addition, it should be pointed out that in this analysis:

(1) The reproductive capacity of 290 males which were produced would have resulted in numerous impregnated females. The animal costs resulting from these offspring are completely ignored here.

(2) The likely possibility that even more capital expenditures will be needed for shelter expansions (if the 9.7% growth rate continues in future years) is not considered here, either.

In view of the purely financial benefits which I believe will be realized here, there are considerations of services to the public and great strides in our approach to humane treatment of animals which can be achieved with a county-operated clinic.

THEODORE J. SORICH II.

MENLO PARK, CALIF., *September 19, 1971.*

REQUEST TO CONTINUE THE LOW-COST SPAY AND NEUTER CLINIC OPERATED BY THE DEPARTMENT OF ANIMAL REGULATION

Pursuant to instructions of the Los Angeles City Council and Mayor, the Department of Animal Regulation has prepared the following recommendation and report concerning a pilot program to determine feasibility of operating a low-cost Spay and Neuter Clinic for dogs and cats at the Ann Street District Animal Shelter.

RECOMMENDATION

That the Department of Animal Regulation be authorized to *continue* the Spay and Neuter Clinic as an established and approved program by the City of Los Angeles for *effective* animal population control.

To continue the Spay and Neuter Clinic for the balance of the current fiscal year, February 7, 1972 through June 30, 1972, the following adjustments are required:

1. That, subject to the approval of the mayor and Los Angeles City Council, $17,038 be appropriated in the amount and to the accounts indicated below:

Expenditure classification	Account	Amount
Animal regulation department:		
Salaries	101—Salaries, general	$13,440
Expense	602—Operating supplies and expense	3,598
Total		17,038

2. That, subject to the approval of the mayor and the city council the Department of Animal Regulation be authorized by resolution authority to continue employment for the balance of the current fiscal year 1971–72, with provision that the Department Personnel Ordinance be amended for fiscal year 1972–73 to provide as follows:

Class title	Number	Class code	Schedule
Veterinarian	1	2365	54(3)(b).
Kennelman	1	4310	31.
Clerk-typist	1	1358	22.

FINDINGS

The Department of Animal Regulation has established, beyond reasonable doubt, that the Spay and Neuter Clinic Program as a modern concept of animal population control to cope with a serious environmental problem deemed detrimental to the health and welfare of the community, is not only feasible, but a necessary function to establish a totally effective animal care and control program until non-surgical means of sterilization of animals is available for distribution to the general public.

This position adopted by the Department of Animal Regulation supporting the continuation and expansion of Spay and Neuter Clinics in the City of Los Angeles was based upon the Spay and Neuter Clinic Pilot Program which was funded and authorized to operated for one year, February 17, 1971 through February 6, 1972. Discussion of findings made through the operation of the pilot program are as follows:

1. Revenue and expenditures

The Spay and Neuter Clinic for the period February 17, 1971 through February 6, 1972, will produce revenue in the amount of $33,934 and expenditures, as adjusted, in the amount of $43,292. This represents a deficit of $9,358 during pilot program period. (See Appendix I). Considering that the Spay and Neuter Clinic was operating at less than one half capacity from February 17, 1971 through June 30, 1971, which represents approximately four and one-half months, the deficit is greatly overstated. That is, if the Clinic was operating at full capacity for a complete fiscal year the following revenue and expenditures would be reflected:

	Amount
Revenue	$39,362
Expenditures:	
Salaries	34,380
Expense	6,956
Amortization:	
Equipment	709
Alterations and improvements	923
Total	(43,292)
Estimated deficit, adjusted	(3,606)

Note: To eliminate this deficit of $3,606, a very minor adjustment to fee schedules could be made as follows:

Clinic fee schedules	Existing	Adjusted
Male	$11.50	$13
Female	17.50	19

The Department of Animal Regulation does not recommend an adjustment to increase the fee schedules. Quite to the contrary, the Department recommends restructuring the Spay and Neuter Clinic in such a manner to create a fully self supporting program. This restructuring of the clinic would mean the addition of two positions to clinic staff in the form of a Veterinarian and Veterinary Medical Assistant. Clinic staff would be as follows:

2—Veterinarians
2—Veterinary Medical Assistants
1—Clerk Typist

The results of increasing clinic staff would increase operational capacity from 2,360 surgeries per year to 5,750 surgeries. Revenue and expenditures would be reflected as indicated in Appendix III and as follows:

	Amount
Revenue	$95,897
Expenditures:	
Salaries	59,821
Expense	13,042
Amortization plan	1,362
General city overhead	5,98
Total clinic program costs	(80,477)
Estimated revenue over clinic program costs	15,420

5. Proposed method of expanding spay and neuter clinic program

The Department of Animal Regulation proposes to expand the Spay and Neuter Clinic concept through a bond fund proposal to be presented to the electorate in June 1972. The Department is currently finalizing cost estimates and upon completion will be presented to the Mayor and City Council for such action as may be required. Major feature of this clinic program is the proposal to create a centralized clinic with operational capacity of 60 to 80 surgeries per day. Supporting this central clinic concept is the proposal to maintain a combination of Hospital for treatment of sick and injured impounded animals and a Spay and Neuter Clinic at each Animal Service Center.

6. Objectives of the spay and neuter clinic by the veterinary medical profession

Prior and subsequent to the adoption of the Spay and Neuter Clinic Program, the Southern California Veterinary Medical Association has continually expressed opposition to this program. Opposition to this program is based upon their concern that the City of Los Angeles is invading the veterinary medical field and that such surgical alteration should remain a private enterprise effort. Primary objection to the Spay and Neuter Clinic program, as provided by the Department of Animal Regulation is that the clinic is open to any person without regard to his ability to pay and therefore constitutes a clear and unwarranted invasion of private enterprise.

However, two considerations should be noted. Firstly, no provision exists concerning the income level of persons using the Spay and Neuter Clinic. Secondly, no effort has been made by the veterinary medical profession directed toward those persons who do not have the ability to pay, nor would they provide a low-cost clinic or reduced prices to encourage those who . . . have the ability to pay. Finally, the veterinary medical profession recognizes that a serious animal population problem does exist, but they have not implemented a single program to cope with the problem.

7. Proposed implementation of the Spay and Neuter Clinic concept in other communities

The Department has received numerous requests for information regarding the Spay and Neuter Program from private organizations, cities and counties throughout the United States.

Information to date indicates that a large number of spay and neuter clinic programs are under study and in the process of being implemented to meet serious environmental problems caused by dogs and cats in both large and small communities. It may be fully anticipated, that upon adoption by the City Council and Mayor to continue the existing program and expand this concept through a bond fund proposal, that many communities will implement similar programs.

The Department of Animal Regulation has submitted a request, dated December 8, 1971, concerning a proposal to improve the Veterinary Medical Program in the Department of Animal Regulation. This communication also indicated four additional areas of immediate concern, in order of priority, which will require immediate consideration by the Mayor and Los Angeles City Council in the current fiscal year 1971–72. Accordingly, the second such proposal to be submitted is a request for authorization and financing to continue the low-cost Spay and Neuter Clinic for the balance of the current fiscal year 1971–72 and as a regular program in ensuing fiscal years.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 16

At the request of Mr. SCHWEIKER, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 16, the Broadcast License Act of 1973.

S. 31

At the request of Mr. HOLLINGS, the Senator from North Carolina (Mr. ERVIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. MAGNUSON), the Senator from Georgia (Mr. NUNN), and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of S. 31, authorizing the Secretary of Defense to utilize Department of Defense resources for the purpose of providing emergency medical transportation services to civilians.

S. 70

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 70, a bill to promote commerce and establish a Council on Energy Policy, and for other purposes.

S. 260

At the request of Mr. CHILES, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 260, a bill to provide that meetings of Government agencies and of congressional committees shall be open to the public.

S. 268

At the request of Mr. ROBERT C. BYRD (for Mr. JACKSON), the Senator from Wisconsin (Mr. NELSON) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 268, a bill to establish a national land-use policy, to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land-use programs; to coordinate Federal programs and policies which have a land-use impact, to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands, and to establish an Office of Land Use Policy Administration in the Department of the Interior.

S. 318

At the request of Mr. WEICKER, the Senator from Tennessee (Mr. BROCK) and the Senator from New Jersey (Mr. CASE) were added as cosponsors of S. 318, a bill to safeguard the professional news media's responsibility to gather information, and, therefore, to safeguard the public's right to receive such information, while preserving the integrity of judicial processes.

S. 424

At the request of Mr. ROBERT C. BYRD (for Mr. JACKSON), the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 424, a bill to provide for the management, protection, and development of the national resource lands, and for other purposes.

S. 548

At the request of Mr. HUMPHREY, the Senator from Washington (Mr. JACKSON) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 548, a bill to provide price support for milk at not less than 85 percent of the parity price therefor.

At the request of Mr. AIKEN, the Senator from Kentucky (Mr. COOK) was added as a cosponsor of S. 548, a bill to provide price support for milk at not less than 85 percent of the parity price therefor.

S. 582

At the request of Mr. SCOTT of Pennsylvania, the Senator from Nevada (Mr. BIBLE), the Senator from California (Mr. CRANSTON), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 582, a bill providing social services for the aged.

S. 783

At the request of Mr. CHILES, the Senator from New Jersey (Mr. WILLIAMS), the Senator from Michigan (Mr. HART), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 783, a bill to establish the Everglades-Big Cypress National Recreation Area.

S. 842

At the request of Mr. KENNEDY, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 842, to assist the survival of publications threatened by increased postal rates.

S. 980

At the request of Mr. JAVITS, the Senator from Connecticut (Mr. WEICKER), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 980, the unemployment compensation bill.

EXTENSION OF THE AGRICULTURAL ACT OF 1970—AMENDMENT

AMENDMENT NO. 21

(Ordered to be printed and referred to the Committee on Agriculture and Forestry.)

Mr. CURTIS. Mr. President, I am submitting today an amendment to S. 517, of which I am a cosponsor with the distinguished Senator from North Dakota (Mr. YOUNG) and others. S. 517 extends the first seven titles of the Agriculture Act of 1970 for an additional 5 years. In title VIII of that act, which is not extended by S. 517, is a provision for indemnity payments to beekeepers whose bees are killed by pesticides which are registered for use by the Federal Government.

I ask unanimous consent to have printed in the RECORD a letter I have received from Mr. Clarence L. Benson, President of the American Honey Producers Association. This letter explains very well the need for extension of the beekeeper indemnity provision.

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

THE AMERICAN HONEY PRODUCERS ASS'N., INC.,
February 23, 1973.

Senator CARL T. CURTIS,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR CURTIS: The beekeeper indemnity legislation was enacted by the Congress to reimburse beekeepers for the annual destruction or damage to hundreds of thousands of colonies of bees by pesticides recommended and approved by the govern-

ment. Insecticides applied by various government agencies and farmers have been responsible for the devastation of the beekeeping industry.

Since DDT has, for all practical purposes, been banned, more toxic pesticides have been used. Beekeepers have been helpless to protect their interests and in many areas of the country other segments of agriculture have suffered. One instance: it is now impossible to grow alfalfa seed crops in Arizona due to the destruction of bee pollinators.

Only recently has anyone in a responsible position in the USDA taken a direct interest in this deplorable situation. However, Dr. Ned Bayley, as Director of Science and Education, made the Pest Management concept a policy of the USDA. The concept is quite simple—recommending that insecticides be used only if needed. That is a reversal of past USDA policies that advocated the use of more and more pesticides as an answer to agriculture's injurious insect problems. Extensive application of the Pest Management concept coupled with the research now being conducted by the Department of Agriculture to control injurious insects without the use of more and more pesticides should eventually alleviate the problem of the destruction of bees. Such a change in practices cannot, however, be expected to develop over-night.

Therefore, if the beekeeping industry is to be maintained in this country—and it is obvious that it must, as approximately 3½ billion dollars worth of crops require or are benefitted by bee pollination and approximately ⅓ of the diet of the American public is derived from insect pollinated crops, either directly or indirectly—then it is imperative that indemnification legislation be reenacted by the Congress so that beekeepers can receive compensation for the loss of bees attributable to pesticides *registered* and *recommended* by the government.

Yours sincerely,

CLARENCE L. BENSON,
President,
American Honey Producers Ass'n.

ADDITIONAL STATEMENTS

HOW MUCH DO YOU KNOW ABOUT THE FOOD YOU EAT?

Mr. HARTKE. Mr. President, one has only to take a good nutrition course to learn how little we know about the food we eat. There may not be much hunger in this Nation, but there is certainly a large amount of malnutrition. We are far too content to stuff our stomachs with nonnutritional foods in the belief that the quantity will make up for the lack of quality.

Unfortunately, there is mounting evidence that poor food quality is dangerous to our health and well-being. Poor nutrition causes both physical disease and mental deficiency. Too few of us care about this problem. We do not look at food labels to find out what is in the food we eat. And even if we did look, it would be difficult for the average consumer to know just what the nutritional content of each food product is.

Last year, I introduced the Truth in Food Labeling Act—S. 3083. This Hartke proposal would require, among other things, that the nutritional content of all food products be stated plainly on the label. It is a simple requirement, but one which would add immeasurably to the quality of American diets.

Recently, an article appeared in the Washington Post highlighting the need for people to pay more attention to nutrition. Mr. President, I ask unanimous consent that the text of that article be printed at this point in the RECORD.

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

JUST ASK YOUR DOCTOR

(By Nicholas von Hoffman)

When thalidomide, the drug that deforms fetuses, was taken off the market, the news of this dramatic act by the Federal Drug Administration was presented as a rare and unusual occurrence. The impression the public was given was that there had been a strange, flukish, one-of-a-kind accident.

It would be closer to the truth to say the thalidomide incident was more of an ordinary occurrence than we'd like to believe. New drugs with awful unforeseen consequences—artfully called "side effects"—are pumped out on the market all the time. When the people and institutions responsible for them are questioned they answer that this is the price of progress.

But are we making any progress or has medical research run out of ideas and fruitful hypotheses? The efforts in areas like cancer and arthritis look more like the search for the philosopher's stone than they do science. While medicine continues to do new and better things with traumatic injuries, with diseases like cancer and arthritis—and even heart trouble—the doctors have plainly run out of gas. For the most part they can't define these disorders, they have no blinking idea what their causes may be, and they can't even begin to explain why one person gets them and another, living in much the same environment, doesn't.

One man who does have some ideas about where to start looking is Roger J. Williams, a professor of biochemistry at the University of Texas. Williams has a string of credentials to show he's no quack—a president of the American Chemical Society, a member of the National Academy of Sciences and the President's Advisory Panel on Heart Disease. In addition, he's spent a career working in vitamin research and studying life at the level of the cell.

He thinks: "The most basic weapons in the fight against disease are those most ignored by modern medicine: the numerous nutrients that the cells of our bodies need." (Quoted from Nutrition Against Disease: Environmental Prevention, by Roger J. Williams, Pitman Publishing Corporation, New York, 1971, $7.50).

Now, don't go running to your doctor to ask him if he agrees. There is a good chance that you know as much as your doctor about the field. "The very people who should have been able to give expert guidance . . . about nutrition have, in fact, virtually abandoned the field. If more doctors really were experts with respect to nutrition and heredity, they would be able to give their patients sufficiently intelligent advice so that quackery and faddism could have very little scope. A depressing aspect of the situation is that the laymen's intuitions, uninformed as they may be, are more often justified than the physician's neglect."

Thus your doctor, your advertising agency and the guy who fixes your car will tell you that avoiding polyunsaturated fats will keep your heart healthy. The same three savants will also tell you that cholesterol is what gives you hardening of the arteries. They don't know what Williams, the biologist, could tell them, "Cholesterol is an absolute essential for our bodies all through life" and that if you eat less of it, your body will manufacture it; but that if you don't want it building up and clogging your arteries, you'd be better advised to consume a scarcely known but inexpensive substance called lecithin.

All of this is by way of illustrating Williams' main point, which is that we are all a unique combination of heredity and a complex nutrition involving vitamins, minerals, hormones, enzymes and some yet to be isolated substances; and it is this complexity and interaction of many biochemicals which determines why one man will contract tuberculosis and another man won't, why one person will get cancer and another person won't.

Williams is the first person to say that the hypotheses he's advancing are yet to be proven out, but more and more evidence of a more and more persuasive nature is accumulating that it is in these directions that medical research should be moving. Read his book and learn what is already known about the etiology of nutrition and alcoholism or arthritis or the mental retardation of unborn babies, and the least you'll say is that obstetricians without up to date knowledge of the field are hardly better than quacks.

American medical science is, as Williams points out, the captive of its own doctrinaire orthodoxies, and it isn't going to change without a boot in the tail from lay people. We can't keep on letting the doctors say, "Shut up, we're looking for a cure."

We have to hound our personal physicians, too. If all they know about nutrition is to say some inanely ignorant thing like "Eat a balanced diet," we've got to tell them they should turn off Marcus Welby and read a few books, starting with Roger Williams.

RELEASE OF AMERICAN POW'S

Mr. THURMOND. Mr. President, I rise today with deep concern over developments which have taken place in Vietnam within the past 24 hours. Official reports indicate that the Communists, once again, have no intentions to honor the cease-fire agreements of January 27.

In a manner which reeks of contempt, the Communists apparently have rewritten the agreements which, by their signatures, they solemnly pledged to uphold.

More specifically, the Communists are demanding that their civilian detainees in the South be returned, that the United States should assume a larger role in the cease-fire and that their members of the military commission be given better facilities before any more POW's can be released.

This is a blatant violation of the spirit and letter of the agreement. The language in both the protocols and agreement clearly links the return of our prisoners of war only to the withdrawal of United States and free world forces. There are no other requirements for the return of our brave men.

Undoubtedly, the United States is withdrawing our remaining troops as rapidly as possible. The withdrawal has now reached over 50 percent of those forces which were in South Vietnam when the agreement was signed. We are keeping our side of the bargain. We expect the other side to do the same.

Although the American POW exchange is not linked to management of the cease-fire, the United States has nevertheless undertaken an active and responsible role in overseeing the precarious situation. But, obviously, we can do just so much. The South Vietnamese, North Vietnamese, and Vietcong must be willing to abide by the intent of the agreement before any concrete progress can be made.

But, as far as the Communists are concerned, this has not been the case. The enemy has conducted heavy campaigns against strategic locations such as Quang Nhai Province and the town of Tri Ton, just to name a few. Aside from these kinds of incidents, an unarmed U.S. helicopter was shot down while on a peacekeeping mission on February 16. These violent acts of aggression by North Vietnam were immoral before the signing of the cease-fire agreement. They take on even more ominous significance after the signing.

The Communist attempt to link the return of our men to these new demands is clearly wrong. All four parties have agreed to leave these matters up to the Vietnamese themselves. The return of our POW's is not connected with this part of the agreement. Each stands separately. It is criminal to use the remaining American POW's as pawns in this illegal international gambit the Communists have undertaken.

The President, backed by a huge majority of the people, has done everything possible to obtain a fair, lasting peace for all parties concerned. In return for our good will, the Communists have made these contemptible demands. Let us all hope that they will be rescinded so we can resume our progress toward peace.

PEW MEMORIAL TRUST

Mr. SCOTT of Pennsylvania. Mr. President, it has come to my attention that a recent article in the Washington Post, concerning the role of foundations, prompted a letter from one which was specifically singled out. Believing that the article presented a distorted picture of it, a trustee of the Pew Memorial Trust wrote a letter to the editor. For reasons best known to the Post, the letter was never published.

In the interest of fairness, I ask unanimous consent to have the letter to which I referred printed at this point in the RECORD.

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

THE GLENMEDE TRUST CO.,
Philadelphia, Pa., November 16, 1927.

To the Editor,
Washington Post,
Washington, D.C.

DEAR SIR: Over the years, those individuals who are responsible for administering the Pew Memorial Trust have not sought publicity, nor have they engaged in controversy over their grant policies. However, your staff writer, Phillip Greer, reporting the recent press conference of Waldemar S. Nielsen on the release of his book, "The Big Foundations", created such a slanted picture that we as Trustee of this Trust must ask for "equal time".

Any large organization engaged in widespread philanthropy will attract attention from some self-styled critics, but contrary to the prevalent attitude today, the critic may be wrong and the target may be right.

Mr. Nielsen cited the Pew Memorial Trust as an entity that ignores its true responsibility. Unfortunately, he does not make clear the standards by which such performance is to be measured. The original Trust Agreement directed the administrators to make thorough investigations of all applications to determine not only that the projects had merit but that there was every likelihood of proper application of the funds. In line with these standards, the administrators have supported those with proven records of accomplishment and we are proud of the fact that very few of the charitable recipients have failed to perform up to expectation. This is the way responsible performance should be measured.

There is a distortion in the Nielsen statement that Pew Memorial Trust "gives most of its grants to support existing institutions, very often hospitals" but that "What Pew has not done is to try to study the needs of the Philadelphia community for better health services and then try to fill the gaps". We feel that the evidence readily available to Mr. Nielsen supports a different view. For example, the Trust gave $780,000 for the Ambulatory Services Pavillion at the Presbyterian Hospital which provides out-patient care in one of the neediest inner city areas in Philadelphia. Similarly, it has contributed $850,000 to the Children's Hospital—Guidance Center building at the University of Pennsylvania Hospital, a major new facility for child services, as well as contributing $1,500,000 to the new Home for the Aged at Lankenau Hospital, facing up to the growing need in the geriatric field. In addition, the Trust recently donated $20,000 toward construction of a new gymnasium at the soon-to-be completed Zion Baptist Church, another Philadelphia inner city institution. This gift was the largest received since a fire destroyed the old facilities two years ago. This gymnasium will be part of a community center which is expected to provide day care facilities, a library and other facilities for education and development of youth and the aged.

While it has recognized the needs of the Philadelphia community, the Trust was also one of the early major supporters of Cancer research, a field which the Federal Government did not move into on a large scale basis until many years later and a field in which we think that current progress reflects the efforts of those who earlier recognized the need. The record of the Trust in other fields will similarly show an important record of supporting projects as well as recognizing particular needs through the placing of the funds under the guidance of those who by their past performance give us most promise of proper application.

By any standard, we have faithfully executed the Trust Agreement, and in a manner consistent with all federal and state regulations relating to charitable trusts.

Thank you for giving us this opportunity to respond.

Sincerely yours,

ALLYN R. BELL, Jr.,
President.

A RIVER AND A STATE REVITALIZED

Mr. FULBRIGHT. Mr. President, the Washington Post of February 27, 1973, carried an article by Joseph Kraft about the program controlling the Arkansas River, which flows through the center of Arkansas.

Some years ago, Mr. Kraft and several other journalists opposed the project and ridiculed it as a waste of money. I am pleased that Mr. Kraft has changed his mind and now recognizes the dramatic change which this project has brought in that area, and points out that this kind of project has great promise for the amelioration of the problem of congestion and ecological distortion which arises from the excessive concentration of population along our seacoast. It is not only beneficial to Arkansas, but has tremendous significance for the Nation.

I think the Members of this body will be encouraged by this confirmation of their judgment in authorizing and funding this magnificent project on the Arkansas River. Great credit for the leadership in this body of this project is due to the senior Senator from Arkansas, JOHN MCCLELLAN. In addition, the late Senators Ellender and Kerr contributed so much to this great achievement.

I ask unanimous consent that the article be printed in the RECORD:

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

A RIVER—AND A STATE—REVITALIZED

(By Joseph Kraft)

LITTLE ROCK, ARK.—Headlong growth, bringing pollution, and congestion and a riot of other ills, is visibly destroying many parts of the country along the Atlantic and Pacific coastlines. But how can growth be arrested in a country where the national ethic is to give maximum scope to individual initiative?

The answer is that instead of trying to restrict growth, it makes better sense to disperse it to less advanced parts of the country. A good case in point is the tonic effect on the area around Little Rock of the Arkansas River project.

That project has made the river navigable for 450 miles from its juncture with the Mississippi to Tulsa, Okla. Dredging and construction of 18 dams and locks cost an estimated $1.3 billion spread over 15 years beginning in 1957 with formal completion last year. During the 1960s the project became known as the "biggest pork barrel in history."

I remember flying over the project about 10 years ago with its most powerful sponsor, the late Sen. Robert Kerr of Oklahoma. The stream below us was a muddy trickle. Sen. Kerr stopped along the way to open (with a golden bulldozer) construction on various ports so obscure that I do not remember their names.

At the end of the day I asked an officer from the Army Corps of Engineers which was building the project whether it wasn't unduly expensive. "Hell," he said, "it would have been cheaper to pave the river."

But that judgment, which echoed my own sentiments, has been unsaid by the results. The river has been totally transformed.

The dams have stopped the silting, and with the sediment gone, the tiny organisms known as plankton have reappeared, reopening the river to the life-giving force of the sun. The river has become greenish-blue in color, instead of brown. Bass and other freshwater fish rare 10 years ago are now abundant. A fresh-water shrimp, unknown before, has turned up.

The cleaning up of the river and the lakes created back of the dams has made the area exceedingly attractive for recreational purposes. Arkansas has become a magnet for retirees from Illinois, Missouri and Kansas. Many companies which value recreation highly in their choice of sites are turning toward the state. The town of Russellville, 65 miles from Little Rock, is one good example.

The Firestone Company is putting in a plant. So is a food division of the conglomerate company, International Telephone and Telegraph Middle South Utilities, the chief power company in the area, is investing an estimated $300 million in new generating facilities.

Improved navigation facilities have quickened commerce throughout the area. Hundreds of thousands of tons of Arkansas rice and soy beans go down river and across the oceans to Europe and Japan every year.

Bauxite from the Caribbean feeds aluminum plants near Little Rock. Steel from Japan is building a new bridge across the river. Over last weekend, two new foreign auto agencies, stocked with cars shipped direct to Little Rock by sea, opened their doors here.

The result of all this activity is a mild population boom. This state lost population throughout the 1930s, the 1940s and most of the 1950s. With the Arkansas River project, the adverse trend has been turned around. Population is now back where it was in 1940 at about 2 million and steadily rising.

No one in this state doubts that the project has paid off. "It has exceeded the highest hopes of all its sponsors by far," Dale Bumpers, the attractive and energetic young Democratic governor said the other day.

More important are the national implications of what has been done here. Ecologists and environmentalists cannot on their own check forever the pressure for more and more development along the coasts.

At best they can slow down the headlong growth. They can achieve full success only if the pressure for growth which comes from individuals and families and companies is channeled elsewhere, as it has been here in the Arkansas River Valley.

SHIELD LAW COULD EASILY BACKFIRE ON NEWS MEDIA

Mr. HELMS. Mr. President, Clark Mollenhoff is known by the fellow members of his profession as one of the ablest investigative reporters in Washington. For 30 years, Mr. Mollenhoff has been walking the corridors of power in the bureaucracy and in the Congress, ever alert to developing situations which required the full light of public scrutiny. I would like to point out that Mr. Mollenhoff was criticizing the bureaucrats in the Pentagon long before it became fashionable; he was exposing personnel problems in the State Department at a time when such reporting was a distinct threat to his reputation in certain circles. He continued to be objective even when the present administration came into power, and despite a period of service within the administration, he has not ceased to look upon the bureaucracy—and even the White House—with a piercing eye.

I set forth these observations as a brief preface. Mr. Mollenhoff has recently written a lengthy commentary on the proposed "newsman's shield" laws, which appeared in the Washington news weekly, Human Events. His article is an articulate plea against the passage of such "shield laws" in any degree. He has been around Washington too long, and his experience is too broad to countenance any law which would be an intervention into the area of the press, positively or negatively. His argument is that any intervention will eventually be twisted and manipulated by the bureaucrats—those who in another context he described as the "despoilers of democracy"—to the detriment of press freedom.

Mr. President, before joining this distinguished body in January, I myself spent most of my life in the field of journalism, both as a reporter, city editor, and TV editoralist. In all those years, and I have done my share of investigative reporting, I never encountered the so-called dilemma of some newspapermen today who are asking for a special exemption. I never needed a shield to get the facts. Clark Mollenhoff agrees. He says:

I have been working as an investigative reporter for more than thirty years and that experience has involved a broad and varied use of "confidential sources." It has involved exposure of scandal from the Polk County, Iowa courthouse to the White House and essentially every type of city, county, state, or federal agency. I have always protected my "confidential sources," and in only a few instances have been even faced with a choice of whether to reveal the source or risk contempt. The crisis never did materialize.

It is seldom that the crisis does materialize for the thinking reporters and editors who use some sense of responsibility in entering into "confidential" relationships with the sources and the manner in which the information is used.

My experience indicates that it is seldom that responsible editors and reporters need a shield law, and it could hardly be argued that the irresponsible press needs further encouragement. It is the irresponsibility of a few that makes the press vulnerable to the criticism that destroys public confidence.

Mr. Mollenhoff also goes on to raise these points:

1. In the long run, shield laws could become the instrument for government control of the press.

2. The government should not be involved in defining who a "legitimate newsman" is.

3. A skillful use of information from confidential sources will usually leave no hint that the original tip came from confidential sources.

4. Deadlines and the desire for a scoop should never be used as an excuse not to find corroborating evidence.

5. We should not establish a new legal area of confidentiality to the historically sanctioned relationships of doctor and client, lawyer and client, husband and wife, and priest and confessor. He points out that the major beneficiaries of a newspaper informant's statement that is confidential are the reporter and his newspaper, not the informant.

6. All citizens, whether in government or in a position to control public opinion, have a responsibility under our laws and our Constitution to give testimony in civil and criminal proceedings and to produce relevant records.

I want to commend Mr. Mollenhoff for a forthright statement which is full of unstudied wisdom and plain commonsense. Not only its internal logic, but also the silent testimony of Mr. Mollenhoff's extensive experience and reputation provide an eloquent and compelling argument against the passage of shield laws in a heated atmosphere.

I also wish to commend Human Events, which also has often gone against the prevailing grain in an effort to rethink fundamental questions. Human Events has scored more than its share of news beat exclusives and has the practical experience of investigative reporting. In commissioning this article, Human Events has performed a fine service for the journalism community.

Mr. President, I ask unanimous consent that the article "Let's Take a Closer Look at 'Shield Laws,'" by Clark Mollenhoff, from the February 24, 1973, Human Events be printed in the RECORD.

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

LET US TAKE A CLOSER LOOK AT "SHIELD LAWS"

(By Clark Mollenhoff)

I am reluctant to support any legislation to change, modify or clarify the 1st Amendment protection of the United States Constitution with regard to freedom of the press.

In the first place, it is impossible to define or limit those covered by the "freedom . . . of the press" clause without doing serious violence to the full meaning of the Constitution. It is not for the protection of the big newspapers and magazines and broadcasting only, but must include the weakest, poorest-financed pamphleteer regardless of beliefs.

This leads to the second point which nearly everyone mentions in proposing "shield" laws. How can it be written so it covers only "newsmen" entitled to protect their "confidential sources" and eliminates the possibility of its use by extremist groups or gangsters as a cover for illegal operations? It should be obvious that any restriction in coverage would be likely to eliminate the pamphleteer, who probably needs protection more than any of the better-financed groups. The underworld would have no problem in financing a newspaper that could meet any standards set in a shield law.

Thirdly, if reporters and editors are only reasonably competent, responsible and understanding of their job, they do not need shield laws to be effective in exposing government corruption and mismanagement or repressive measures.

I have been working as an investigative reporter for more than 30 years and that experience has involved a broad and varied use of "confidential sources." It has involved exposure of scandals from the Polk County, Iowa, courthouse to the White House and essentially every type of city, county, state or federal agency.

I have always protected my "confidential sources," and in only a few instances have been even faced with a choice of whether to reveal the source or risk contempt. The crisis never did materialize.

It is seldom that the crisis does materialize for the thinking reporters and editors who use some sense of responsibility in entering into "confidential" relationships with their sources and the manner in which the information is used.

My experience indicates that it is seldom that responsible editors and reporters need a shield law, and it could hardly be argued that the irresponsible press needs further encouragement. It is the irresponsibility of a few that makes the press vulnerable to the criticism that destroys public confidence.

There is a great deal of sympathy for public officials who are subjected to provably false attacks by other politicians or by the press. The public reactions against "smears" by the political critics or by the press is a proper reaction, and the last thing we need today is a law that could be a further invitation to irresponsibility.

It is a serious business to charge political figures with corruption, mismanagement or to otherwise reflect upon their integrity or competence. Certainly, it is also a serious business to consider clothing the press with a near total immunity that is comparable only to the immunity that members of the House and Senate enjoy in connection with remarks made in Congress.

Hardly a year ago goes by that we do not see some examples of what for the last 20 years has become known as "McCarthyism" by some member of the Senate or House. We have seen and we have probably deplored the abuse of the constitutional provision that no member of the House or Senate shall be "questioned in any other place" for "any speech or debate in either house."

To pass some of the broader shield laws suggested would in fact clothe all publishers, editors, reporters, columnists and commentators with the same immunity that

senators and representatives enjoy to fire charges at public officials on the basis of anonymous "confidential informants."

We should ask ourselves if we really believe that all publishers, editors, reporters and commentators are that much better in their motivations and that much more responsible than the members of the Senate and House we have criticized for "McCarthyism."

We should ask ourselves if an invitation to more irresponsibility is the medicine in the press needs in addition to the United States Supreme Court decision in the case of *New York Times vs. Sullivan* that frees us from libel responsibility in all except those instances involving provable malice.

This decision certainly gives all the protection the press needs to cover its unintentional errors and even sloppiness associated with meeting daily deadlines. And the United States Supreme Court in speaking on the Pentagon Papers case gave an added dimension to the news media's right to publish the contents of government papers carrying the highest national security classifications.

The prosecution of Daniel Ellsberg for "leaking" the Pentagon Papers is another problem since he identified himself as the source, and the government through other evidence had pretty well established his identity even before he made the admissions.

It is an irresponsible reporter who writes a story on the uncorroborated statements of a so-called "confidential source," and it is an irresponsible editor who does not insist upon such corroboration as a test of the truth or falsity of the confidential information.

A few unrelated arrests of reporters for failing to reveal "confidential sources" have resulted in a near hysterical atmosphere in which it is quite likely that legislators may be pressured into passing unwise laws.

I say unwise laws because I fear that in the long run shield laws could become the instrumentality for a government control of the press.

That danger comes in the demands of a large number of legislators for a definition of "legitimate newsmen" and "legitimate news media" to be shielded from disclosure of confidential sources. Once the definition is drawn some person or group of persons will have to be empowered to determine who are "legitimate newsmen" and what are "legitimate news media."

Obviously that power must vest in some entity selected by the press, the public or the government. Certainly a public election of those with this power has innumerable hazards, and who in the press would or should be trusted with this authority over his colleagues.

Any government role in naming or selecting the men to make the decision as to who are "legitimate newsmen" has the major drawback of permitting government to have "a little control" over the press.

The Standing Committee of Correspondents is the group that would come closest to being an objective committee, and present standards this group uses certainly would bring complaints from the extremist pamphleteers and propagandists who would undoubtedly be excluded from the definition of "legitimate newsmen."

The broadcasting industry is rightfully concerned that the so-called "fairness doctrine" will be used by this Administration or some later Administration as a vehicle for exerting a government control of radio and television licenses. The speech by Dr. Clay Whitehead gives some concept of the attitude of the Nixon Administration and *how it might seek to use the* "fairness doctrine" lever against those in the broadcasting industry who displease the Administration.

It is not wise to underestimate the ability of government lawyers to twist and distort almost any law into authority for withholding documents that the executive branch wants to keep secret.

We have seen the Nixon Administration's recent expansion of the claims of "executive privilege" to the point it is blocking Congress, the press, the public and even the General Accounting Office (GAO) auditors from important information on government operations and on the expenditures of tax money.

We have seen how the bureaucrats, often with White House approval, have even twisted the exceptions to the Freedom of Information Act to justify withholding documents from the press and the public. The Freedom of Information Act was passed only a little more than six years ago for the specific purpose of assuring a maximum free access to government information. The exceptions to the act have been expanded and distorted by misinterpretation by government lawyers into a law to suppress information.

It went to the ludicrous extreme where the Office of Economic Opportunity (OEO) and the AID agency refused to reveal such basic biographical information on employes as place of birth, schools attended, and prior places of employment. The refusal was justified by government lawyers on grounds that the Freedom of Information Act authorizes the withholding of personnel records as confidential.

Those of us who were active in amending the so-called "housekeeping statute" (5 U.S.C. 22) recognize the great capacity of the bureaucrats for interpreting any law to provide a justification for nondisclosure of information.

In that case, a law that was written to provide for the custody and preservation of government records had through a series of interpretations by the various attorneys general been turned into the most widely quoted grounds for withholding documents.

How are we to assure that a shield law that is written for the protection of the "confidential sources" of legitimate newsmen will not be turned around and used as an instrument of government control?

As I set out the reasons the press should be wary about a shield law, I do not wish to give the impression that I am downgrading the value of "confidential sources." As one who has availed myself of information from such "confidential sources," I know such informants are indispensable in our efforts to expose and correct the dishonesty and unfair practices that creep into every government agency from time to time.

My coolness to a shield law is based upon my belief that skillful use of information from confidential sources will usually leave no hint that the original tips came from confidential sources. The full protection of the confidential sources requires that the reporter and his editors handle the information in such a manner that there is no direct or indirect clue as to the source.

Deadlines and the need for a "scoop" are never justifications for failing to check out the information that comes from a confidential source. If the reporter has a true confidential relationship with his source the responsibility is not merely to not use his name, but to in every way possible avoid giving any indication of the identity of the source.

If a thorough job is done of corroborating the informant's story, the story itself need not indicate that it came from a confidential informant.

Over the centuries the only universally recognized confidential relationships have been those of doctor and patient, lawyer and client, husband and wife, and priest and confesser. In each of these four relationships the confidentiality is required for the benefit of the person making the disclosure—the patient, the client, and the confesser and, in theory at least, for the mutual benefit of husband and wife.

In each of those confidential relationships the area of confidentiality protected is carefully circumscribed, and specifically exempted are some statements made in the presence of other parties or information that is to be passed on to third persons.

The major beneficiaries of a newspaper informant's statement that is confidential are the reporter and his newspaper, not the informant.

The question that puts the whole thing in perspective involves the question of what the newspaper would do if a story from a confidential source resulted in a substantial libel suit against the newspaper. Would the newspaper, with its economic base threatened, permit its reporter to remain silent on a confidential source who might be the key to whether the newspaper had acted responsibly or irresponsibly?

It would be difficult to justify using a shield law to protect a reporter's confidential source in a criminal contempt action while refusing to permit the same reporter to protect those sources in a civil libel action against his newspaper, its publisher, or editors.

Finally, it is my deep belief that this is, and must be, a nation guided by laws and not a nation guided by the whims of any man who is temporarily in charge of government or any group of men who are in a position to control public opinion. All men have a responsibility under our laws and our Constitution to give testimony in civil and criminal proceedings and to produce relevant records.

Prof. James Wigmore in his celebrated treatise on evidence declared that "the public . . . has a right to every man's evidence," including that of "a person occupying at the moment the office of chief executive."

"His temporary duties as an official cannot override his permanent and fundamental duty as a citizen and as a debtor to justice," Prof. Wigmore wrote.

Chief Justice John Marshall in *United States vs. Burr* held that "a subpoena may issue to the President" and that the "accused is entitled to it of course . . . whatever difference may exist with respect to the power to compel the same obedience to the process."

In a letter responding to the subpoena, President Jefferson acknowledged the obligation of the chief executive to give testimony, but said he could not journey to Richmond for the Burr trial. However, it was noted that he would be available in Washington for the taking of a deposition.

The press properly criticizes the President for his expansion of the claim of "executive privilege" in a manner that makes his entire White House staff unaccountable to the Congress and to the courts.

It is illogical for the press to assail President Nixon for the power grabs inherent in his expansion of the claim of "executive privilege" at the same time that some segments are asking the Congress for a near total immunity from the process of grand juries, the courts and Congress.

I believe that law enforcement officials should be restrained in the use of subpoenas to compel newsmen to testify or produce records, and should not do it if there is any other alternative. There is a danger of its being used as a tool of harassment against an aggressive press, but the facts will usually speak for themselves in such cases.

The 1st Amendment guarantees of freedom of speech, freedom of press and freedom of assembly have served us well. Our Supreme Court has wisely ruled that radio and television are equally protected by the 1st Amendment, but has rejected expansion to protect reporters' "confidential sources" up to this point.

I have no doubt that the Supreme Court will come up with a protection for "confidential sources" when the fact situation makes it apparent that prosecutors and law enforce-

ment officials are using their power of subpoena to harass and intimidate the press.

In the meantime, the press would do well to be more discriminating and more thoughtful about the cases it pushes in court and the principles that those cases represent. It is well to remember the legal maxim that "bad cases make bad law."

We have shield laws on the books in a number of states providing us laboratories for continuous study of the problems encountered in their administration and enforcement. We should ask ourselves if we are interested in practical solutions, or are we interested in flashy stunting in front of a grandstand.

If we criticize an administration for sloganeering that we characterize as superficial, slick and deceptive gimmickry from the advertising world, we have a greater obligation not to be caught up with equally superficial efforts to make the cry of "freedom of the press" cover all of our sins. The need for a "scoop" is never a justification for rushing to press and failing to corroborate a confidential informant.

While I always feel a degree of sympathy for men who are jailed, I have always found it a good idea to examine the facts in each case before suggesting sweeping changes in the laws.

The banker who is imprisoned for embezzling funds may have been only engaging in the pursuit of his profession of making money in a manner that he regarded as more efficient. I am sure that there is a great deal of sympathy for the imprisoned bankers within the banking community. Yet few would argue that the laws on embezzlement should be changed to encourage the free enterprise system.

Every profession has its renegades. There are doctors, lawyers, bankers and even journalists who deserve to be in jail. Every journalist who shouts "confidential source" and "freedom of the press" is not a John Peter Zenger or Elijah Parish Lovejoy. I am sure that there have been occasions when a so-called "confidential source" was a nonsource, and there have been some journalists who have been little more than arms of the underworld.

These are just a few of the things one should keep in mind in determining whether we really need a shield law, and whether it would promote the responsible journalism that is our greatest need today.

MORE EFFECTIVE LAND-USE PLANNING

Mr. HASKELL. Mr. President, many Americans dream of the day when they will be able to purchase a second homesite and build a get-away place in the mountains, along the seashore, or far away from the ravages of winter. Many of these dreams are shattered when the would-be buyers visit their future hideaway only to find completely inadequate planning for necessities such as sewage treatment, water supply, electricity, or even access roads. Worse yet the buyers are not able to visit their Shangri-la, make the purchase sight unseen and come face-to-face with the harsh reality that they are unable to retire there only after investing thousands of their precious dollars.

My distinguished colleague from Wisconsin, Senator GAYLORD NELSON, addressed the Senate Interior and Insular Affairs Committee yesterday about this very problem. He shares my concerns about second homesites and would like to amend S. 268, the Land Use Policy and Planning Assistance Act of 1973, to insure that proper planning is done for these homesites. His testimony has extensive background information about the problem of second homesites and I commend it to my colleagues. I ask unanimous consent to have his testimony printed in the RECORD so we can all share in the benefits of his research.

There being no objection, the testimony was orderd to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GAYLORD NELSON

Mr. Chairman and members of the Committee, thank you for the opportunity to testify today.

Consideration of legislation to establish a national policy to encourage more effective land use management by states and local government comes none too early.

Had this country established such a policy 50 or 100 years ago, perhaps we still would have been able to sing "America, the Beautiful" without the discomforting awareness that the rich, diverse land which inspired these verses is under violent attack from coast to coast.

If we do not act now, the American bicentennial in 1976 may be but a tragic requiem for the bountiful natural heritage on which the freedom, wealth and pride of this nation have been built.

Establishing a national policy for land use before the values of the land are finally destroyed is a critical environmental requirement.

Confronting this challenge must involve the adoption in the society's value system of a new ethic which sees the land, the water, the air as treasured resources to be carefully managed in the interest of all, not as cheap commodities to be sold in a reckless drive for quick profit.

Passage of the land use bill authored by Senator Jackson would be an important initial step in nationwide land use reform. As the Chairman himself has pointed out, however, this measure falls short in some key respects, such as the elimination of penalties and the cutback in funds adopted over the Chairman's opposition in Senate Floor action late last year. In addition to co-sponsoring this legislation, I will support every reasonable effort to strengthen its provisions so that it will be an effective vehicle to help bring our nationwide land use policies into the 20th century.

The basic thrust of the Jackson land use measure is to encourage and assist in state and local development of a framework and process which will insure better land use decision-making.

In this purpose I heartily concur. But there is one land use practice that is of such pressing national concern that speedy action by the most appropriate government level must be begun immediately if we are to avoid a resource tragedy of unprecedented proportions.

I am speaking of the explosion of massive real estate developments for second homes or year-round living outside the nation's cities and suburbs. This is an epidemic of land development that is threatening nearly every remaining scenic area in this country, from prime agricultural land in suburban fringes to beautiful lake frontage in rural areas. It is an unparalleled land boom frequently involving poorly planned, unregulated, incompleted projects posing disillusionment and future financial loss to families who see their leisure living dream turn into a recreation slum. It is all too often a chaotic kind of growth which puts spiraling demands for services onto hard-pressed local governments who once may have seen only the allure of a big gain in tax base.

Within two weeks, I plan to introduce an amendment to the national land use bill which will specifically address this non-urban home development phenomenon.

The amendment will be aimed at establishing the requirement that in every state comprehensive environmental studies must be done before any future large scale residential development is allowed to proceed. State land use plans would have to include this provision in order to meet the Federal approval under the legislation before us.

The environmental studies would have to address specific criteria, including the project's impact on scenic, historic and recreational values; its air, water and solid waste pollution potential, and its pollution control plans; its compatibility with existing land use plans in the area; and both its benefits to local tax base and its future demands for local services. State guidelines would be developed on which to judge the significance of a project's effects on these land use criteria.

A state permit or a local permit with state concurrence would be necessary for such developments, and if the required studies showed the probability of significant environmental damage, the permit could not be issued. Only if the developer altered his plans to eliminate the environmental dangers could public clearance be granted.

With other Federal and state laws as precedents, the amendment would define a "large scale real estate residential development" as a project involving 50 or more lots, and the environmental studies and permits would be required of such developments. Projects of this scale or larger are almost certain to be of more than local concern in their potential environmental effects.

It should be emphasized that this amendment is concerned with an environmentally critical stage in the large real estate development that is not presently addressed in Federal law or in most state laws. Most Federal and state law to date in this area is concerned primarily with developers' advertising and sales practices. When it comes to environmental considerations, these measures are frequently after the fact. The environmentally critical decisions, of course, are the original site location and planning decisions, and this amendment would place state and local governments in a position to more effectively influence this vital concern.

In their questioning of previous witnesses, Committee members have already demonstrated their awareness of the growing abuse of the land by large scale home developments from the fringes of metropolitan areas to secluded mountain regions.

The Committee's support and adoption of this amendment would be an important boost to state and local efforts to deal with this ballooning land use phenomenon and would give appropriate national attention to the problems associated with it.

The arguments for Congressional steps now to strongly encourage and support more effective state and local environmental regulation of these large scale real estate developments are compelling.

The non-urban home development has swiftly become a nationwide trend with profound implications for the whole country's environment, economy, future growth patterns, and quality of life. The scope of this new phenomenon in American land use almost defies the imagination.

Giant developers are buying up and subdividing countryside at an appalling rate for second homes, retirement homes, year-round living for commuters. Not even the deepest wilderness is free from being quickly converted into a hodge podge landscape of condominiums, cottages, mobile home parks, and masses of campsites.

To say that America has enormous expanses of land that have yet to be touched is to miss the whole point. In their drive to capitalize on America's affluence, mobility and leisure time, private developers are carving up the already limited prime scenic areas first—the valleys, the waterfront, the hillsides, the mountain vistas, the historic sites,

the forests, the land surrounding national and state parks. Far from any random, local occurrence, the private development of our most treasured scenic areas has become a powerful national force and a major national concern.

To get an idea of the scale of what is happening, we must recognize that the current boom is comparable in magnitude to the gigantic explosion of the American suburbs that has dwarfed our cities since World War II. It represents the latest stage in what University of Minnesota Geographer John R. Borchert calls the Auto-Air-Amenity Epoch.

Ten or 20 years ago, it was the land just outside the city limits that was coming under assault, along with the most immediately accessible recreation spots and the famous retirement areas of Florida and the Southwest.

Now an army of platters and bulldozers is sweeping over the eastern slopes of the Appalachians; the Atlantic, Pacific and Gulf coastlines: the most distant inland lake and riverfront areas in Wisconsin, Minnesota and Michigan; the hills, valleys, forests and riversides of northern New England.

The instant, chaotic urbanization that has characterized much of America's metropolitan growth is now threatening or is already well underway in southern Vermont, the Poconos of Pennsylvania, the Adirondacks of New York, and the Everglades region of Florida.

First we abandoned the countryside for the cities. Then as the cities began to decay, we fled to the suburbs. Now, as the suburbs begin to choke in congestion and pollution, we are fleeing back to the countryside, to the mountains, the valleys, the streams, or, where these are scarce, to artificial lakes and nondescript rural land.

When we have destroyed the last remnants of our natural heritage, there will be no other frontier, no more hiding places. There will only be left the gutted hulk of a once beautiful land.

As Borchert and others point out, the current land boom reflects the same exploitative attitude that has characterized so much past American growth. Once again, we are viewing precious land as an expendable resource to be developed, used, then left. Once again, we are sacrificing the future quality of American life for a quick profit and fast satisfaction in the present. Once again, we have failed to make adequate provision for the continuous protection and renewal of the values of the land as it is developed.

Among those documenting the extent and environmental dangers of the current nonrural real estate development explosion are pulitzer-prize winning reporter Robert Cahn in a recent Christian Science Monitor series and Peter Borelli in an article in the October/November 1972 issue of the Sierra Club Bulletin.

Figures cited by Cahn and Borelli dramatically illustrate this tremendous new challenge to the future of the American environment and standard of life.

According to the National Association of Home Builders, two to three million Americans now own second homes. Sales volume to handle the non-urban home rush is now estimated at $4 to $6 billion a year, according to the U.S. Office of Interstate Land Sales. In Maine alone, it is estimated that land development is grossing about $1 billion a year.

Land developers in the U.S. now number more than 10,000, according to the American Land Development Association. Included in the giant companies is GAC Properties, Inc., which in 1971 sold land to 25,597 purchasers and ended the year with $414.6 million in contracts receivable. ITT Community Development Corp. now has underway a 100,000 acre development involving one-third of a Florida county, with a projected population of 750,000 people. In California, a single company, Boise Cascade, sold more than $300 million worth of lots within the state over the last five years. Horizon Corporation of Tucson has sold land to more than 100,000 families in recent years.

As our automobile-highway and air travel systems bring most of the country within easy reach of some metropolitan area, the remotest wilderness is now fair game for the landsellers and subdividers. "Southern Vermont is now swiftly becoming an upper middle class suburb," says former Vermont Governor Philip Hoff. Horizon Corporation has now bought 24,345 acres for a huge proposed development within New York's 6 million acre Adirondack Park. In the Poconos in northeastern Pennsylvania, 35,000 to 45,000 vacation home lots have been sold to refugees from crowded metropolitan areas of the East Coast. California City, a subdivision in the Mohave Desert, covers 100,000 acres.

The land development boom is now underway in the Upper Midwest. Already, Wisconsin has some 100,000 recreation homes. In the past 10 years in the state, about 20 of the large scale projects in rural areas have been built or are pending or proposed. As another indication of development, in 1972, the state received 918 applications for plats on 10,567 acres of land involving 17,711 lots (figures covering all of the state except Milwaukee).

With vast areas of Wisconsin and the nation still without effective land use management policies, giant private interests in effect have been given a blank check to create a Second American Suburbia with all the accompanying pollution, congestion, crowding and disruption of all previous order and balance in the natural environment.

The tremendous pressure of the buying, subdividing and selling of hundreds of thousands of acres of land for often hastily planned residential projects for millions of people simply transcends the limited resources and expertise of most local governments and the limited capacity of the environment to absorb such punishment.

The toll in environmental destruction is appalling. More than 900 square miles of our richest natural environment—the coastal wetlands—has been dredged and filled, much of it for private subdivisions. Open space that should have been permanently preserved for public access and use has been obliterated in some of the most scenic areas in the country. Only eight percent of the total of 17,864 miles of U.S. coastline has been reserved for public recreation, according to a recent Federal study.

In much of the upper Great Lakes region, soils are simply unsuited for septic tanks. Yet intensive home development with septic tanks along lake and river frontage long ago became a regional habit. The price is hundreds of once pristine lakes degraded or destroyed.

In Florida, a richly endowed natural environment has been a basic part of the foundation of the state's economy and way of life. Yet the massive alteration by developers of the estuaries and marshes that are vital to this fragile environment has been common throughout the state.

In Virginia, plans for about 50 separate subdivisions have been mapped out for Massanutten Mountain, a spectacular ridge which rises out of the Shenandoah Valley at the foot of Shenandoah National Park.

In New Mexico, despite present estimates that the state's water can only support 850,000 people without seriously disturbing other uses or tapping limited groundwater, the population is already one million and more than a million acres have been subdivided.

To make way for the vacation home boom in the Poconos, roadbuilding has accelerated soil runoff and erosion and small lots are being laid out on steep slopes and in floodplains.

Geologists studying a new California land sales project suggested in their report that some of the proposed buildings would eventually slide down the bluffs toward the sea, according to Mr. Cahn's articles. A 1970 California report stated that in the state's Nevada County, subdivision development had damaged 37 percent of the stream mileage by siltation, stream bank modifications and domestic water discharges.

In his recent testimony before the Committee, Governor Tom McCall of Oregon pointed out that in one county, he imposed a moratorium on any further building, connecting to water systems, or installation of subsurface sewage, in large part because of grossly inadequate subdivision planning for sewage disposal and safe drinking water.

A commonly heard argument in favor of instant development no matter what the environmental dangers is that local tax base will be greatly increased. Yet around the country, more and more areas are taking a second look at the flooding pressures of land speculation and asking if what once seemed to be the golden egg may in fact be proving to be a sour apple.

In a number of instances, voters and county boards in metropolitan fringes or in rural areas have actually turned down massive new real estate developments. They have weighed the costs and the benefits and decided that the environmental destruction and increased public service demands would exact a higher price than they were willing to pay.

These now-scattered actions would become a stampede of protest in which even legitimate, well-planned growth is rejected, unless government and economic interests can restore the public's confidence that they can act in the long-term public interest instead of solely for the short-term private gain.

In a few states, cities and counties around the country now, there are encouraging signs of an awakening to the need to add a concern for the Quality of Growth to our traditional views on land development.

As pointed out in a recent article in Urban Land magazine, Wisconsin, Minnesota, and Vermont have established statewide criteria concerning certain kinds of zoning. Washington and Vermont are implementing tax incentives for preservation of open space. New Jersey, Connecticut, Maryland, Delaware, Washington and Vermont are establishing statewide controls over "areas of critical concern." Maine, Vermont, and California have established statewide or regional review over developments above a certain minimum size. Hawaii has established a State Land Use Commission to define statewide zones for various uses.

Far-reaching new land use measures were among the list of new environmental initiatives approved by the voters in the nationwide elections last fall. For instance, California voters approved a measure to protect the state's coastline. The voters of Washington approved a similar program.

The actions these states and others have taken are a beginning. With the environmental awakening we have seen all across the country in the past few years, they add to the hope that the people of this nation are finally ready to take significant steps to harmonize the forces of American growth with the sensitivities of the American and world environment. Leadership at the national level is needed now, to complement the ground-breaking actions that have been taken by a few, to help increase the understanding of the many so that more effective land use policies can be forged from coast to coast. I urge the adoption of this amendment as a much-needed step in that direction.

AMERICAN EXILES IN CANADA

Mr. SCOTT of Pennsylvana. Mr. President, much has been written and spoken about amnesty. The number of men who left the country rather than serve the colors has been inaccurately reported by many persons, including elected officials and newspapers. The high figure representing those who would not serve their country has been published at 70,000. Great distortions have resulted. Now a survey shows that number really is 4,000, not 70,000.

An article in the Philadelphia Bulletin last week reveals some interesting facts. It is entitled, "How Many Exiles in Canada? Would You Believe 4,000?" Mr. President, I ask unanimous consent that the entire article be printed in today's RECORD.

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

HOW MANY EXILES IN CANADA? WOULD YOU BELIEVE 4,000?

WASHINGTON.—On Dec. 14, 1971, introducing his Amnesty Act of 1972, Sen. Robert Taft of Ohio observed, ". . . estimates of the number of young Americans living in exile range as high as 70,000." Therein lies a tale.

Within 72 hours, one free-lance journalist found Taft's highest estimate low and reported that "over 70,000 of these young men are now sitting in exile or in prison because of their opposition to the war in Vietnam."

"AMNESTY MANIFESTO"

Clearly, the situation called for a manifesto. On Jan. 1, 1972, 16 worthies, anchored by the indefatigable Joe Rauh, issued a call for blanket amnesty: "There are at least 70,000 and some say as many as 100,000 young American men in Canada, men who have quit the military or refused the draft. . . . We say: Let them go and let their records be made clean."

The next morning a nationally syndicated columnist redeployed the 70,000-man army somewhat, declaring, "There are 15,000 exiles in Canada, and some 55,000 in other countries."

By Jan. 11, The New York Times reported from Ottawa, "As many as 40,000 exiles . . . are in Toronto, the favorite haven, and some 10,000 may be in Montreal. Many others of the 50,000 to 70,000 draft resisters in Canada are not fortunate where jobs are concerned."

So it went through '72 and throughout the U.S. media. By early February of 1973, a Washington correspondent was declaring categorically, "There are about 60,000 to 100,000 draft evaders in exile from the United States."

VERIFIED EVADERS

What are the facts? Well, the fact is the United States Government places the figure of verified deserters and draft dodgers in Canada at just under 4,000. Outside Canada and the U.S. it estimates an additional 1,200.

Of the 2,533 "deserters at large" outside the U.S., the Pentagon places about 1,800 plus in Canada, while of the 2,400 "fugitives" from draft law indictments Selective Service places just under 2,000 with our neighbor.

Official Canadian statistics do not contradict U.S. estimates. Between 1960 and 1964, before Vietnam became an American war, roughly 1,300 U.S. males between the ages of 15 and 29 annually became "landed immigrants" in Canada. If one concedes that every single American male over 14 and under 30—above that annual average—who became a "landed immigrant" in Canada between January 1965 and January 1972, was either a draft dodger or a deserter—an obvious impossibility—even then the official total for all of Canada could have come to no more than 17,000 at the very time The New York Times located 40,000 in Toronto alone.

"FACTS" ON SWEDEN

What about the "50,000 in other countries?" Well, the second most popular sanctuary for the "over the hill" army has been Sweden. On that situation The Washington Post reported two weeks ago: "Sweden, generally believed to have the next (after Canada) largest number of American deserters or war resisters, does maintain an official count of deserters. A count made last fall said there were 602 deserters in Sweden."

This squares with official U.S. figures.

Thanks to the statistics-mindness of Mr. Palme's regime, we have an idea what the Stockholm crowd is up to when not guarding the national conscience. The Swedish Director of Immigration William Leth was quoted as saying last November that from 1967 to 1970, of the 585 Americans allowed to enter the country, 110 were involved in major crimes, citing the following: 36 thefts; seven robberies; 49 drug-related cases including pushing. . . . He said that 52 deserters had been jailed and nearly 30 persons deported. Quite a performance.

CRIME STATISTICS

What Mr. Leth is telling us in a nice way is that in one three-year period, 20 percent of our Stockholm brigade was involved in major crimes; 10 percent jailed, and 6 percent deported. Those statistics seem not only a trifle high for "guardians of the national conscience"; they would have been considered an embarrassment by Crazy Joe Gallo and the Brooklyn Mafia.

What do these statistics say? This, I think, First, 7,000 to 10,000 seems a more honest, justifiable estimate of the actual Canadian contingent of draft dodgers and deserters than the 70,000 to 100,000 we have been constantly fed. Secondly, that because of an ideological bias, otherwise competent, American newsmen have engaged in inexcusably sloppy journalism, swallowing whole without inspection bogus statistics fed them by Canadian-based anti-war groups—when a few phone calls and a little arithmetic would have shown the number almost certainly outlandish.

PUBLIC MISLED

Third, that, for two years, some of the nation's principal news organizations have thus grossly misled the American people about the magnitude of the problem they confront in the matter of amnesty for runaways. Fourth, that some U.S. journalists and politicians have been characterizing as the "best of our younger generation," and the "guardians of the national conscience" a collection of draft-dodgers and deserters whose statistical profile and performance in exile show them to contain more than the customary complement of malingerers, opportunists, criminals and cowards.

Especially as one watches the genuine heroes of our age and time debark at Clark Field, to hear the boys who ran away to Toronto and Montreal and Stockholm lionized as "moral heroes" is—obscene.

EXEMPTION FROM FEDERAL INCOME TAX FOR RETURNING PRISONERS OF WAR

Mr. HOLLINGS. Mr. President, on behalf of Senator THURMOND and myself, I bring to the attention of the Senate a concurrent resolution passed by the South Carolina General Assembly on February 15, 1973.

The South Carolina General Assembly passed a concurrent resolution memorializing Congress to exempt prisoners of war returning from Southeast Asia from the payment of Federal income tax.

On behalf of Senator THURMOND and myself, I ask unanimous consent that the concurrent resolution be printed in the RECORD.

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

A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO EXEMPT PRISONERS OF WAR RETURNING FROM SOUTHEAST ASIA FROM THE PAYMENT OF FEDERAL INCOME TAX

Whereas, many prisoners of war are returning to the United States from Southeast Asia; and

Whereas, it would seem fitting that these returning heroes should be exempt from the payment of federal income tax to show our gratitude to these most deserving men.

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

That the Congress is hereby memorialized to take such action as may be necessary to exempt prisoners of war returning from Southeast Asia from the payment of federal income tax for any year during which time they were held as prisoners of war.

Be it further resolved that copies of this resolution be forwarded to the President of the United States, to the Clerk of the United States Senate, to the Clerk of the United States House of Representatives, and to each Member of the United States Congress from South Carolina.

ESTONIAN INDEPENDENCE

Mr. SCOTT of Pennsylvania. Mr. President, 55 years ago on February 24, 1918, the council of elders of the democratically elected Estonian Diet proclaimed in the manifesto to all Peoples of Estonia:

By virtue of the right of self-determination of nations . . . Estonia in her historical and ethnic boundaries is declared to be an independent democratic Republic.

Two decades later the freedom that Estonians treasured so dearly was crushed by the great upheaval of World War II. Subsequently, as we all know, the Soviet Union invaded, occupied, and today is the oppressor of Estonia.

The people of Estonia have suffered long in their effort to maintain their unique national heritage. The Americans of Estonian descent in the Commonwealth of Pennsylvania and the Nation have constantly supported the native people of Estonia. The thought must be kept alive in our country that liberty is still in the hearts of all Estonians.

The American people should be resolute in offering encouragement to Estonia and proclaiming that this small country will never be forgotten. In this dark time under communist, Estonians have a special prayer that is a part of their National Anthem, "Su ule Jumal valvaku, mu armas isamaa!"—May God watch over thee my dear homeland.

AFRICAN PROBLEMS

Mr. HUMPHREY. Mr. President, Jim Hoagland recently wrote an article for the Washington Post which outlined some of the economic and political problems which affect the daily lives of Africans. And in so doing he revealed how little our Africa policy takes these problems into account.

More than 85 percent of Africa's 300

million people are peasant farmers and, for that reason "rain—is easily the most discussed topic in all of Africa, far ahead of neocolonialism, nation-building, apartheid, and all the other subjects outsiders view as the crucial issues for the continent." Diversification of agricultural production, providing jobs for the urban unemployed, and health facilities for the people in rural areas, are all cited as indigenous crucial issues.

Mr. Hoagland gives the example of a modern hospital AID built in Monrovia, only to discover that Liberia had neither the funds for operating expenses nor the doctors to staff it. The same funds could have been used to build 12 clinics around the country. Foreign investments inappropriate to the development needs of the countries have often been more of a curse than a blessing.

We must not be in the position of deciding for Africans the critical issues with which they should be concerned. In the past, this has too often been the case, and our relations have suffered from this tendency.

We must not see Africa merely as a group of nonaligned nations in our global strategy. Nor, as the present administration seems to be doing, should we see it merely as a market for our goods, a target for expanding investment. We must not be content to build monuments to our own generosity as Mr. Hoagland points out. We have capital, technical skills, and knowledge of agricultural production, all of which are needed to solve problems Africans face daily. But to use these as part of an effective policy we must take a hard, realistic look at what those problems are.

Mr. President, I ask unanimous consent that the Jim Hoagland article be inserted at this point in the RECORD.

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

AFRICA: FRAGMENTS IN THE MIND

(By Jim Hoagland)

Like pieces of shrapnel, fragments of Africa remain embedded in those who have lived there and then gone. A small psychic jostle brings a flash of the fresh greenness of the continent, the soft, pleasant grace of its people (who endure maddening bureaucracy and second-rate leaders with a tolerance that borders on passivity), or silhouettes of gazelles leaping against endless blue horizons.

The fragments stay vivid. But the over-all canvas of Africa blurs quickly. Ambitious projects to understand Africa, to trace broad patterns in the continent's behavior, amount in the end to little more than mocking questions that often remain unanswered for the white, Western mind.

Mrs. James Hooker, wife of a noted American scholar on Africa, and a Sierra Leone disc jockey provide a case in point.

Researching a Ph.D. on African music, Mrs. Hooker has examined sounds ranging from the sad, high pitch of the penny-whistle tunes of South Africa to the lusty rhythms of West Africa's "high life" jazz. One question plagued her, however, and she raised it with a disc jockey in Freetown, Sierra Leone, who ran a representative popular music show for African listeners.

"Why do African radio stations play so many Jim Reeves records? Why do you like Kitty Wells?" The disc jockey, obviously as big a country and western music fan as his listeners, quickly shot back: "Because they've got soul!"

An Oxford-educated Ghanaian diplomat once proudly showed me a prize collection of 78 rpms of Ernest Tubbs and Hank Snow left him by an uncle. I was startled to hear radio stations in Kenya and Nigeria frequently play "Cottonfields of Home" and songs by the Delta Rhythm Boys that many American radio stations would probably hesitate to play today because of their ethnic implications.

There should have been a strong story in all this. Music is after all a vital force, more than an interesting art form in Africa. Wandering minstrels, known as *griots*, have been the only historians for some West African societies. The death of a leading jazz band leader in Kinshasa caused President Mobutu to declare two days of national mourning in 1970. And only soccer players compete with high life musicians as folk heroes in Accra and Lagos.

Surely in the incongruous enthusiasm of Africa for America's simple, melodramatic country music, a decade or more old, lay a key to understanding something important in African culture.

The only thing I eventually came to understand was that all of this might be a cultural anomaly to a Western mind, but to Africans I asked it was perfectly natural and did not need explaining. There was no point in hunting great significance in enjoyment. Feeling, not analysis, was the important thing. There was, in short, less than met the eye.

It is the irreducibles that linger as fragments, their jagged edges projecting feelings rather than explanations. Here are a few that lie closest to the surface.

"Out of Africa," by Karen Blixen:

"The farmer who has lived through (Kenya's drought) will never forget it. Years afterwards, away from Africa, in the wet climate of a northern country, he will start up at night, at the sound of a sudden shower of rain, and cry, 'At last, at last.'"

Rain. It is easily the most discussed topic in all of Africa, far ahead of neocolonialism, nation-building, apartheid and all the other subjects outsiders view as the crucial issues for the continent. More than 85 per cent of Africa's 300 million people eke out their livings as peasant farmers, and a failure of the rains to come can be a devastating economic disaster. If the question, "How do Africans live?" means how do most of them spend the majority of their time, the answer probably is "Thinking about rain." Life tends to be organized around it, in the way that consumer goods are the centerpiece of Western societies.

In Equatorial and West Africa, the year splits into only two seasons—the rains, and the other. Sheets of rain cascade over Nigeria's coastal regions for four to six months each year, day after sticky monotonous day. There is a West African fever that has nothing to do with catching malaria; it is induced by the closeness of the air and the oppressiveness of the ever-gray skies. It is a humid sickness, partly of the mind.

In Kinshasa in early spring, in the pregnant days before the rains begin, a wet wind at last rushes the streets, holding out promise and helping clear the fetid stench of the city. The grayness closes in by 5 p.m. and streams of Africans leaving their jobs carefully pad along the unlighted, partly paved streets near the zoo. They stare in wonderment at a solitary white pedestrian. Whites always ride in cars here, according to their experience with Belgians and Americans.

But as Karen Blixen suggests, it is in Kenya that the coming of the rains is the most spectacular. The beautiful beige, soaring plains steam like a freshly baked pie crust when the rains are late. Then they parch and the air is filled with choking dust. Finally a moist wind rises out of the plains and the skies open. The *askaris*, the smiling, amiable night watchmen who theoretically guard houses in the affluent suburbs of Nairobi, huddle under porches or disappear inside the floppy army surplus overcoats they all seem to possess.

In the city yellow street lights softly glow on the forming pools of rain. In the forests nearby, the earth hungrily drinks in the rain, with an almost audible sigh. Thousands of winged insects that Kenyans call *kumbe-kumbe* flee the holes in the earth they have inhabited to begin life-ending flights toward the lights of houses. The forest nightingale sings, and African children laugh, even more loudly than usual.

How do Africans spend their money? Now that increasing numbers of them are entering a modern cash economy, advertising agencies are experimenting with market research to judge the best way of getting a sales pitch across in areas of low literacy, few television sets and restricted commercial radio time.

Lintas Overseas, a London agency, reckons that calendars and picture postcards are effective. They advise advertisers to take care in using photographic models with tribal markings and scars in West Africa, where tribal animosity could be transferred to the product. Colors that are popular in some countries are bad omens in others, and in East Africa Lintas advises against advertisements showing models wearing earrings.

A market research survey in Cameron reports that going to the movies is regarded as the most desirable way of spending money, followed closely by beer drinking and soccer games. (These findings reflect income distribution in Africa fairly well, since these are largely male-oriented activities. Women may work for the money, or the crops that bring the money, but the men usually spend it.)

Boozing is popular, but there is an at least superficial lack of many forms of vice that the West seems to be thrilled by or worried about at the moment. Homosexuality seems largely unknown in most black African societies. There is no evidence of pornography holding much interest here. Africans consume only one cigarette for every eight smoked by Americans on a per capita basis. Prostitution does flourish in urban areas—especially those frequented by foreigners with money—but is a difficult concept for rural areas.

"Do you call it prostitution if a girl shows appreciation for a ride in a car, which is a big adventure for her?" a resident of rural Malawi asked. In other ways, however, there is a strong and surprising sense of prudishness in many rural African communities, by contemporary Western standards—especially where missionary influence has been strong.

In the cities, where jobs are scarce and applicants many, African girls find those standards don't necessarily hold. "If you apply for a job as a government secretary, you are not likely to get it unless you come across," said a pretty young Kenyan girl. Propositioned three times in three job applications, she chose what seemed to be a more ethical path to work. She got help from a cabinet member to whom she was related. A Kenyan woman writer reports that her most popular short story concerns this problem.

Although most African countries continue to line up at the trough for foreign aid and investment, some are beginning to question whether foreign capital has proved to be a very effective tool for development. Africa is having difficulty absorbing grandiose aid projects and industry.

The multi-million-dollar John F. Kennedy Memorial Hospital was a glittering addition to the scruffy Monrovia shoreline of small huts, waving palm trees and softly rolling Atlantic surf. U.S. Agency for International

Development officials proudly handed it over to the people of Liberia when it was finished only to be told by the Liberian government that Liberia didn't want it.

More precisely, the Liberians didn't want the more than $638,000 a year operating costs the hospital would bring, didn't have nearly enough doctors and nurses to staff it and didn't expect enough patients to fill it. Only after AID pledged that the United States would cough up a major part of the annual costs and bend rules to get American doctors recruited for the hospital did the Liberians consent to take the unloved hospital.

"They could have built a dozen health clinics around the country for that amount of money and done one hundred times as much good," one American official in Monrovia said. "But you can't take a visiting congressman out to a bush health clinic, and he's the one who has to vote the funds. And the clinics wouldn't be a major contract for American equipment and construction."

Those new factories Africa sought so eagerly at the beginning of the 1960s have often turned out to be the same kind of monuments to the gap between intentions and African realities. In a surprising number of cases, the effect of local production is to add to Africa's harsh inflationary pressures. Whether it is an American company making flashlight batteries in the Ivory Coast or a Polish tool factory in Ethiopia, the markets are just too small and labor too costly when compared to productivity rates.

Ethiopians could buy imported shirts for about $2 before the government encouraged the setting up of a local shirt factory and established high protective tariffs on imported shirts. Now Ethiopians pay more than $4 for a locally produced shirt.

An executive of Union Carbide says in Abidjan, the Ivory Coast: "I can produce flashlight batteries in Singapore and offload them here much more cheaply per unit than I can produce them here."

Governments also find themselves losing money in encouraging "false booms." Customs revenues from imported goods are important sources of income for all African governments. Establishing local industries does away with the duties collected, and investment incentives such as long tax-free startup periods offset much of the gains made through taxes collected from the new jobs created.

"At present, most African countries will have to choose between providing jobs or continuing to collect revenue," an American banker said. "They can't have both."

Bwana, can you spare 10 makuta?

After tribal massacres, the most sensitive subject a foreigner can stumble onto in many African countries is beggars. Begging is alien to many African societies, which have had strong extended family systems of obligations to ensure that people are cared for. And, touchy over their own comparative poverty in the modern family of nations, Africans resent others talking about their poor.

But beggars seem to be proliferating in African cities today. The poor find themselves squeezed more as progress arrives in Africa. The demands of urban life and industrialization are breaking down the extended family at a time when no black African state is yet prosperous enough to have social security, national health care or more than a scattering of sanitariums, orphanages and other public institutions.

Tourist-hungry governments are more sensitive than ever to what they see as the damage done their image by beggars. Routinely before major African and international conferences in Addis Ababa, Haile Selassie's Ethiopian army gathers up the cripples, the blind and other beggars and trucks them 50 miles out of town. By the time they hobble back on their own, the conference is over, according to diplomats stationed in Addis Ababa and friendly to the emperor.

Africa's great unwritten story is the cattle rustling of eastern and central Africa. On your average weekend, more Turkana tribesmen are killed by their neighbors (or vice versa) in sporadic range warfare than were killed in momentous events like the overthrow of Kwame Nkrumah or even the first Nigerian coup.

The semi-nomadic tribesmen who carry out the cattle raids and retaliation missions are merely doing what their ancestors have done for centuries. But the creation of new sovereign states, often with poorly demarcated frontiers, is creating new problems as the tribesmen roam back and forth across borders, apparently not realizing the serious implications of international rustling.

For example, an Ethiopian border guard who strayed into Kenya to beat up half-dozen people and extract a protection payment in cattle justified it by explaining that he had thought he was still in Ethiopia, where this was his established routine.

"I am a teenager of 26 years. In 1965 I had a girl friend whom I divorced for her silly behavior. In 1968 I did the same thing to my tribal girl friend. I have now impregnated another girl. Please Lucy, help me, I am in hot soup."

Lucy, the lady who runs East Africa's widely read letters to the lovelorn column, advised J.K.J. in Tanzania's Sunday News Magazine to marry the girl. Other Letters to Lucy that week concerned manners, family relations, premature ejaculation, and seduction tips. Local newsmen say the lovelorn column is one of the most popular locally produced features in the African press.

If it is often difficult to get a handle on how Africa views itself, it is simple to see how others view Africa. Barclay's Bank, one of Britain's largest, publishes economic surveys of international trade. In a recent survey, the section on the United States is introduced by a drawing of people in big cars. For Britain, the symbol is a big bus. For the Bahamas, girls in bikinis.

For Kenya, it is women picking coffee. For Uganda, it is women picking cotton. For Malawi, women picking tobacco. Africa, in fact, is a giant commodity to be picked for most of the firms operating there. One of Africa's greatest problems is that the economies remain geared to colonial trade patterns. France's needs, and not Senegal's or Chad's, dictated that Senegal would ignore other crops and grow peanuts for sale, while Chad's monoculture would be cotton. There is no quick way to break out of this pattern without accepting a jarring economic transition that would probably bring down any government that tried it.

Emotionally, Liberia can be the most perplexing country in Africa for an American to visit. There is on the surface an Amos and Andy atmosphere around the so-called Americo-Liberians who run the country, with help from the American Embassy. But there are troubling echoes of America's past here, and a real dilemma in evaluating what is essentially a black settler society implanted back into Africa.

White blouses and black skirts, shiny black suits with some snap-brims and one pith helmet: A line of 150 people moving slowly under the large drops of rain falling silently on Monrovia's one main street. It was a funeral procession on a September Sunday, a scene from New Orleans decades ago or, to name the town that Monrovia most resembles today, Augusta, Ga.

At one point the parade passed the Newport Monument, dedicated to the woman who fired a cannon at hostile natives who tried to drive off an expeditionary party of 1818. The monument resembles those built to pioneers in white-ruled Rhodesia and South Africa. But Matilda Newport and the others who established the first Western outpost at Monrovia, were freed slaves, shipped back to Africa from the United States.

Although recent governments have done much to reduce the gulf between Liberia's "indigenous" blacks and the settlers, the national seal continues to show a ship sailing toward a beach beneath the words, "The Love of Liberty Brought Us Here," a motto that has no relevance for the majority of the population.

Ray Bradbury once wrote a story about the American South on the day that all blacks left it. Monrovia is the negative image of that: Augusta without any whites. Broad Street is dominated by the Free Masonic Hall, a Southern ante-bellum mansion with a giant globe atop it. On Sunday morning, a Liberian preacher devotes his sermon to a Reader's Digest article about long-haired youngsters defying the police by shouting obscene words. He ends up by telling Liberian youngsters not to take up bad habits such as growing their hair in an "Afro" style. William Tolbert, the mild-mannered president, answers a reporter's question by saying, "Why, sho' ".

Africa, it has been said, does not exist today. It is an idea, a projection for the future, not a reality that can be described. Certainly that is true politically, and to lesser extents linguistically, culturally, economically and in other ways. There are dozens of Africas. French-speaking Africa, Islamic Africa, educated Africa, coastal Africa, forest Africa and nomadic Africa are just a few of them.

The great divide now is between what is called the elite and the uneducated masses who still live on peasant farms. The elite is perhaps 10 to 15 per cent of the population of the continent, who have been to school, live in towns and hold wage-paying jobs, usually in the bureaucracy.

There is a not surprising schizophrenia at the top of the elite. Trying to make a synthesis between the rules and standards they were taught in village life and the carbon copy Western lifestyles many of them now affect produces a heavy burden. Going back to the village for regular visits is expected, but it can be either an empty or traumatic experience for the Oxford- or Sorbonne-educated diplomat who glides with such ease through the corridors of the United Nations.

It is a harsh judgment, but most of the men at the very top have done Africa a disservice over the past 15 years of independence. The ravings and cruelties of leaders like the Central African Republic's Jean Bedel Bokassa and Uganda's Idi Amin, at times of Guinea's Sekou Toure, and others have damaged not only Africa's image but also its credibility. Few leaders have earned and retained public faith. Two who have are Julius Nyerere of Tanzania, by trying to live up to what he says, and Jomo Kenyatta of Kenya, by not saying anything.

The coming of independence and the opening up of the African personality were supposed to offer the world certain moral and human values. Africa does have that capacity. But the silence that greets continuing atrocities such as the tribal massacres in Burundi last year drowns out all the eloquent words about human rights at the United Nations.

Africa needs to redraw its borders. States will have to be expanded, and economics capable of supporting politics with a voice in world affairs will have to be constructed. And it is perhaps only in a general conference on radical border changes in Africa that the problems of the white-minority ruled south can be worked out. Until these changes are made, too much of the continent will continue to be represented by petty tyrants howling into a vacuum.

COURT DECISION ENHANCES TRUE FREEDOM OF THE PRESS

Mr. HELMS. Mr. President, last month a district court in New York handed down a remarkable decision holding that television analysts and commentators do not have to belong to AFTRA, the broadcasting industry's performers union. This is a landmark decision for freedom of the press and first amendment rights generally. There has been a lot of talk lately about Government intervention creating a climate of opposition to the free play of the press, and "chilling" first amendment rights. I am very happy therefore to report that in this case, the courts are promoting greater freedom of the press and creating a climate for greater objectivity and detached analysis of news events.

The court held that forcing the two plaintiffs to join a union and obey its rules as a condition of appearing on the air was a prior restraint on free speech. This condition indeed is an undoubted example of the much-discussed "chilling effect" upon the free intercourse of ideas. I congratulate the two commentators who willingly undertook the time-consuming court action on behalf of all their fellow journalists, Mr. William F. Buckley, Jr., and Mr. Stanton Evans, both of them distinguished practitioners of their craft. I would also like to point out that the Buckley-Evans lawsuit was supported by the National Right to Work Legal Defense Foundation, which is breaking new ground in enlarging and enhancing freedom in this Nation. I hope that this victory will encourage them, and all who love liberty, to join together in continuing this fine work.

Mr. President, I ask unanimous consent that the article "TV News Analysts Versus the Union" from U.S. News & World Report, February 5, 1973, be printed in the RECORD.

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

TV NEWS ANALYSTS VERSUS THE UNION

Constitutional rights of TV or radio news analysts are violated, a court ruled January 23, if these commentators are forced to join a union.

The decision of Judge Charles L. Brieant, Jr., in a federal district court in New York, was a first-round victory for William F. Buckley, Jr., and M. Stanton Evans. The union involved is the American Federation of Television and Radio Artists (AFTRA).

Pending an appeal, the court said the two TV commentators should continue paying dues to AFTRA.

Judge Brieant held that the "union shop" clause which compelled the two men to join AFTRA as a condition of employment "chilled" their First Amendment rights of free speech.

The union's contracts in the radio and TV industry contain the mandatory-unionism provision, which is effective where not barred by State laws.

The agreements also include a "Code of Fair Practices" which, in November, 1966, extended coverage of the contracts to commentators and analysts.

The judge explained that the ruling does not apply to newspaper commentators. He said anyone with enough money is legally free to start a competing paper, whereas TV and radio frequencies are limited, and franchises are held in the public interest.

Actors, artists and others covered by AFTRA contracts, the court held, are not so intimately associated with the free-speech right that they should be exempt from the "union shop."

Mr. Buckley and Mr. Evans contended that, when they were forced to join the union and obey its rules, it was an unreasonable prior restraint on their freedom of speech.

The Buckley-Evans lawsuit is supported by the National Right to Work Legal Defense Foundation.

WHAT DOES TIME MEAN TO INDIANS?

Mr. ABOUREZK. Mr. President, what do Indian people know of time?

Plenty.

They know only too well that the following statement made by President Nixon in July of 1970 was timeless—it was as accurate then, as it was 100 years ago, as it is today. And I quote the President:

The first Americans—the Indians—are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people ranks at the bottom.

Timeless? Unfortunately, yes. But also timely. Timely in that the Indian people recognized that that statement, and the legislative proposals which accompanied it, marked what appeared on the part of the Federal Government to be a more comprehensive awareness of the suffering of Indian people, as well as a constructive response to alleviating that suffering.

The proposals did not necessarily promise an immediate end to all the suffering of Indian people, but they did indicate that major improvements could be made in the Federal/Indian relationship—and in the plight of the American Indian. Of course, hearings were required to give the Indian people the necessary opportunity to respond to those legislative proposals—to offer opinions on the pros and cons of what was being proposed. Did the legislation need to be tightened up? Changed? Were all the implications of the proposals as conducive to meeting Indian needs as possible? Despite these necessary questions to be clarified, it was obvious that the aim of the legislation was in the right direction as far as Indian people were concerned. For the first time, in a long time, there was new hope.

That was approximately 3 years ago. The 91st Congress which heard that timeless statement and received those timely proposals, did hold some hearings. But it brought no action.

And time passed—Indians waited, suffered, and hoped.

The same proposals were reintroduced during the 92d Congress. Again, more hearings. Again, no final action.

More time; more suffering; less hope.

Yesterday, along with Senator JACKSON, I reintroduced similar proposals for the consideration of the 93d Congress. Senator JACKSON outlined these bills in his statements yesterday, and it is apparent that the 93d Congress now has the legislative opportunity—and the obligation—to undertake and carry out the task the past two Congresses have failed to complete. We must take these and any other positive proposals related to Indian needs and act on them. If the proposals prove good, we must enact them into law. If some prove faulty, we must change them or replace them with something better. If, indeed, after hearing testimony from Indian people, we realize that even good legislation passed into law will not remedy enough of the suffering and injustices endured by Indians, then we must take a hard, close look at what other changes must be made, perhaps by examining the very structure which presently harbors the Federal/Indian trust relationship, along with the administrative breakdown and policies of that structure.

How much can the 93d Congress accomplish? How fast can we act on these proposals—these long overdue changes? The Indian people have suffered enough; they have hoped so many times in vain. Do we ask them to wait again?

Will it take Congress and the administration another 3 years to act? Five years? Ten years?

Perhaps there are those of us who can afford to take that kind of time.

But what does time mean—really mean—to Indians?

STANLEY ROACH, OF GUYMON, OKLA.

Mr. BARTLETT. Mr. President, the entire State of Oklahoma is proud and honored to learn that one of its citizens, Mr. Stanley Roach, has won the top national prize in the Reader's Digest Association-Boy Scouts of America Public Speaking Contest. Mr. Roach is an 18-year-old Explorer Scout from Guymon, Okla.

As a senior at Guymon High School, Stan has been active in football, basketball, and track. He is a member of the National Forensic League and National Honor Society.

After being active in Scouting for over 10 years, he earned his Eagle rank in 1968 as a member of Explorer Post 43, sponsored by the Memorial Hospital. All Oklahoma joins with me in congratulating Stanley on this high achievement. I am sure that Mr. and Mrs. Lewis D. Roach, Stan's parents, are the two proudest Oklahomans of all.

Mr. President, I would also like to take this opportunity to congratulate the entire Boy Scouts of America organization. They have provided this Nation an uncalculable service in developing sound and responsible citizenship in young Americans. Their efforts in the areas of drug abuse and ecology, to name only two, along with citizenship development are very important programs to all in this Nation.

America is a better nation today, because Boy Scouts have been a part of its development and America will be even better tomorrow, because Boy Scouts will continue to be an important part of its young people's lives.

Proficiency in the art of debate is most important—because it is through debate of our differing points of view that we have the opportunity to find the best way and the truth.

THE AMERICAN ECONOMY

Mr. BAYH. Mr. President, the American economy is in trouble.

This is all too apparent to the wage earner who finds the cost of feeding his family going up sharply from week to week.

Or to the homeowner whose property tax bill has climbed beyond all reason.

The reasons behind our economic ills are complex, but their consequences are painfully clear.

Inflation is unabated, wholesale food prices have gone up since the first of the year at an annual rate of 40 percent.

Unemployment persists at about 5 percent of the work force, not counting those who are working at jobs below their skills or those who have lost valuable overtime.

The dollar has gone through its second devaluation in 18 months following the highest foreign trade deficit in our history.

While simplistic solutions to our economic ills can be misleading, it can be said that a good starting place would be to eliminate the waste in the Federal budget. A budget of $268,000,000,000 has got to have a lot of fat in it, and I agree completely with President Nixon that the fat should be cut out. In fact, last year I twice voted for the imposition of a $250 billion spending ceiling. It is rather incongruous for the Federal Government to run up a $100 billion deficit in 4 years and to expect the economy to run smoothly. The Federal Government is the greatest single force in the economy. Budget deficits foster inflation and overspending in Washington is reflected in the increased cost of living at home.

As the first Senator from Indiana in more than a century to serve as a member of the Senate Appropriations Committee, I intend to keep a close tab on all Federal spending programs. By reducing deficit spending we should be able to control inflation and prevent further erosion in the value of the dollar.

While I agree with President Nixon on the need to cut out unnecessary Federal spending, I am seriously concerned about the way he wants to do it.

We all recall our first course in American civics when we were taught that the legislative and executive branches were separate and equal. However, the President has recently canceled many programs funded by Congress, programs he himself had signed into law, and impounded funds for other programs without regard for the will of Congress.

I am alarmed about the constitutional crisis which has been created by the President's unilateral action. The Constitution is quite clear on the responsibility of Congress to raise revenues and appropriate funds, and I am reluctant to tamper with a document and system that has served us so well for almost 200 years.

Frankly, I am not interested in trying to affix blame for past errors. I am much more interested in solutions, and I believe the President and the Congress should work together to find those solutions. The final decision on Federal spending cuts should not reflect the judgments of a single person, but rather should be done in the traditional democratic fashion representing the will of the majority.

For example, I cannot agree with the determination to let senior citizens on medicare pay substantially more in medical costs in order to save a small fraction of the budget. The people confronted with increased medical costs are those on pensions, people whose fixed incomes cannot expand to meet soaring hospital costs.

We could raise the money to pay for decent medicare coverage, to restore a number of valuable farm programs that have been terminated, to keep up necessary Federal assistance to education—an essential ingredient in holding down property taxes—we could do all these things by repealing the asset depreciation range—ADR's—program, a special $3.5 billion tax break given to large corporations by the administration.

When looking at the need, clearly present, to keep Federal spending in check, I was somewhat surprised that the President requested a $4 billion increase in the military budget even as the war in Vietnam was ending. This is the first time in our history that military spending has gone up at the conclusion of a war. I am satisfied that without compromising our national security—something I could never accept—that there must be fat in the $81 billion Pentagon budget request.

What we have is a matter of priorities. For my part, I am concerned with sustaining those programs of most direct benefit to the American people. For example, at the very time that some in the Nixon administration were suggesting we send hundreds of millions, or even billions, in reconstruction aid to North Vietnam, the bureaucrats in the Veterans' Administration sought to save $160 million by cutting veteran disability benefits to amputees and others who made great sacrifices for our country. I cannot favor reconstruction aid to North Vietnam at the expense of rebuilding America.

It is time to start worrying about the American taxpayer and wage earner who, for too long, has been made to bear the costs of questionable programs and the brunt of budget decisions.

During the next several months the Appropriations Committee will be acting on the budget. I will be present for those crucial committee mark-up sessions and I will be working to sustain important domestic programs for the American people, while watching every dollar to cut waste where it exists.

We are a rich country with the means to help those of our citizens who need housing, education, health care, and food. But we will be able to do this only if we stop squandering our resources on programs of dubious merit or obvious waste.

AMNESTY: ISSUE OF NATIONAL IMPORTANCE

Mr. BUCKLEY. Mr. President, amnesty for draft evaders and deserters has become an issue of national importance. At a time when Americans are no longer fighting in Vietnam, when almost 1,300 of our men remain unaccounted for, and when our prisoners of war are coming home, it is both necessary and desirable to have a clear and frank public discussion of this issue. Toward this end, I would like to state my own views on this subject.

The proposal that general amnesty be granted at this time for those who evaded the draft or deserted during the Vietnam war is morally objectionable and historically unprecedented. I oppose general amnesty for draft evaders and deserters in principle and I will oppose any such policy.

No American President has ever granted the kind of general, blanket amnesty now being advocated for draft evaders or deserters. Since 1795 there have been 37 amnesties issued in America. Only 12 of the 37 could be described as applying to deserters, draft evaders or persons in violation of espionage laws. Not one of the amnesties issued for draft evaders has been the general unconditional type. There was no amnesty of any kind pertaining to the Korean war. One expert in the field stated:

> During this century pardon and amnesty have not come quickly for persons guilty of desertion or draft evasion during periods of military hostilities and those receiving amnesty have been select groups representing only a small portion of the total of offenders.

The historical record is clear. I base my opposition, however, not so much on precedent as on the simple claims of justice. Citizenship involves its responsibilities as well as its privileges. Among the former are the duty to serve when called and the duty to obey the law.

The issue of amnesty involves far more than the abstract obligation which some young Americans have chosen to avoid. In determining how they shall be treated, we cannot forget that more than 2 million other young Americans obeyed the law and in time played their necessary role in a war of which many of them disapproved. We cannot forget that over 45,000 Americans lost their lives in that war, almost half of them draftees; or that over 1,200 were killed or missing in action, and have yet to be accounted for; or that more than 500 others have lingered endless weeks, months, and years in captivity. We cannot forget that for each deserter, for each draft evader, another young American had to be conscripted and exposed to the risks of combat.

There is the integrity of the law to be upheld. But there is also the honor to be maintained of all who did serve, who did sacrifice. To grant general amnesty now that the fighting is over would be to reward those who chose to escape their duty at the expense of those who discharged it. More than that, such an unprecedented action on the part of the United States would be seen by many as tacit support for the proposition that all the young men who elected to escape service in the Vietnam war are somehow morally superior to the vast majority of young Americans who understood their responsibilities and shouldered them.

Mr. President, I do not see the issue as one of vindictiveness versus compassion. Rather, I see it as one in which we must

appeal both to history and to our sense of justice in order to determine the proper course to follow. A general amnesty is clearly not the answer. But I have no doubt that if the young men now living abroad will return home, acknowledge their errors, and face the music, they will find our courts and our society as compassionate as any in the world.

WHAT WAR LEAVES BEHIND

Mr. KENNEDY. Mr. President, the most tragic aspect of the Indochina war has been its devastating impact upon the people and societies throughout the region. The cumulative statistics of the human costs of this war—the millions of refugees, the hundreds of thousands of war victims, widows, and orphans—defy understanding.

But nothing so graphically reminds us of the human debris this war has left behind than the faces of the children of Indochina—faces of nearly one million orphans in South Vietnam alone, of millions in refugee camps throughout Indochina, and countless thousands in the wards of hospitals maimed by war. Recently this side of the Vietnam tragedy—the impact of the war on Vietnam's children—was reviewed in an outstanding series of articles by Daniel Southerland, the Saigon correspondent for the Christian Science Monitor.

Mr. Southerland's articles serve to put faces—children's faces—on the abstract statistics we read about the victims of this war and about the growing social crisis confronting the people of South Vietnam. For Mr. Southerland rightly concludes:

Throughout most of the long Vietnam war, its most innocent victims, the children, were given low priority. And now there is a price to pay. South Vietnam has a long way to go in order to care properly for the children who suffered from the war.

As the Congress now begins to consider our Nation's role in a postwar Indochina, let us remember the faces of the children of Vietnam, and remember that we are still involved in their plight. The articles by Mr. Southerland eloquently describe their needs as well as our responsibilties to them. I commend them to the attention of all Senators, for they help tell us what war leaves behind.

I ask unanimous consent that the series of five articles appearing in the Christian Science Monitor on January 30 through February 3, 1973, be printed at this point in the RECORD.

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

[From the Christian Science Monitor, Jan. 30, 1973]

WHAT WAR LEAVES BEHIND

(By Daniel Southerland)

SAIGON.—When you first meet a Vietnamese, his opening questions are likely to deal with children.

"Do you have a family?"

"How many children do you have?"

To the Vietnamese, children are gifts from heaven. The more of them the better. The couple without children is to be pitied indeed.

Through his children, the Vietnamese expects to find immortality—continuity for the family name.

All wars have taken their toll of children. But the Vietnam war has been particularly cruel—a long war, without front lines, where any village could suddenly become a battlefield. A war where modern weapons have often done more damage to the innocent than to the "enemy."

The records of provincial hospitals, which can only tell part of the story, show that several years ago civilian casualties greatly outnumbered those of the Saigon government Army.

Civilian casualties reached peaks following the Communist Tet offensive of 1968 and the spring offensive last year.

But while the hospital records can indicate trends and high points such as these, no one knows what the total casualties have been, much less how many children have been killed. Many never even made it to hospitals.

It is estimated by U.S. experts, however, that more than 700,000 children have lost one or both parents in the war. Thousands of children—no one knows how many—have been maimed.

Of the estimated 7 million Vietnamese who have been refugees at one time or another, at least half have been children. In some refugee camps, as many as 70 percent of the refugees are under 14 years of age.

The war has lasted so long that many children in the rural areas have known nothing but war.

A CHILD TELLS THE STORY

But a single child can tell the story better than statistics.

Take Phan Tri, for instance, a boy who was wounded and is now both a refugee and an orphan. In many ways, everything which could possibly happen to a child in Vietnam has happened to him.

His look is not bitter, but wistful. He rarely smiles.

Now 14 years old, Phan Tri grew up in Quang Ngai, one of the provinces where the Communists have been strongest. It was in Quang Ngai that the infamous My Lai massacre occurred.

The first in a string of tragedies for Phan Tri took place one night in mid-1967. Everyone was asleep. Artillery fire from an American base ripped through the boy's home. It wounded Phan Tri and killed his brother.

Phan Tri recovered from his wounds. But in 1968 trouble came from another quarter. Phan Tri's father was a hamlet chief, working for the government. The Communists arrested him and took him away for several weeks of "political re-education." After that, Phan Tri's father gave up his job as hamlet chief and devoted himself solely to his farming and family. His father, said Phan Tri, was "very afraid of the Communists."

It was early 1969, at a time when Phan Tri's hamlet was considered "pacified," that his father was killed.

Viet Cong snipers were harassing government militiamen near the hamlet. American helicopters came. Phan Tri's father, working in a field, tried to run to the family bunker. He was carrying a basket of lentils. It was raining, and that added to the confusion. A helicopter machine gunner, trying to help the government troops, shot Phan Tri's father.

"Perhaps they killed him because he was wearing black pajamas," said Phan Tri, referring to the black peasant clothing sometimes worn by Viet Cong guerrillas.

In early 1970, American naval gunfire killed Phan Tri's brother-in-law.

In mid-1970 the Viet Cong attacked a government post in the hamlet, hitting civilian homes as well. A rocket-propelled grenade killed Phan Tri's mother.

A few days later, National Liberation Front cadres started arresting people in the hamlet who worked for the government. Phan Tri recalls that they assassinated a policeman and hung a plaque around his neck labeling him a "traitor."

Phan Tri was living with neighbors by this time. They advised him to leave the hamlet and to find his sister, who lived not far away. But his sister was too poor to support him. The boy, now an orphan, ended up at a Buddhist pagoda, where he tended water buffaloes for two years.

Last year he was sent to a Buddhist orphanage in Saigon. He is now in school and expects someday to be drafted into the Army.

Although Phan Tri's hamlet was located only about 15 miles from the site of the My Lai massacre, he said that he had never heard of what the American troops did there. When told about it, he did not seem surprised. In his world, such things were conceivable.

But Phan Tri remembered the American troops he'd seen as being kinder than the South Korean soldiers who passed through his hamlet. The Americans, he said, gave C rations to the children.

Phan Tri said the older people in his hamlet told of how the Koreans had once rounded up a hundred Vietnamese civilians in a neighboring hamlet and machine-gunned them.

Viet Cong troops had been in that hamlet, he said, and the Koreans considered everyone in the area, including women and children, to be "Communists."

Phan Tri was asked if he remembered any songs which the children sang in Quang Ngai.

He said that there was one song about staying close to the family bunker when playing. The bunker, or shelter, was a hole large enough for everyone in the family. Heavy planks and sandbags covered it. Every family in the hamlet had such a shelter.

"THE SHELL IS WHISTLING"

He also remembered a poem about artillery fire which the children knew:

The cannon's firing, father.
The shell is leaving, sister.
The shell is whistling, mother.
Get down in the shelter with your child!

Whom did Phan Tri blame for what happened to his family?

"No one," he said. "It was because of the war."

Why was there a war?

"I don't know," he said.

The boy said that he feels no hatred for what has happened. The Buddhist monks, he said, taught him not to seek vengeance.

But it makes him sad to think of the past.

"Sometimes I wake up thinking, and I can't go back to sleep," he said.

Not all the children in Phan Tri's orphanage have had such a grim past. For some, the war came and went in a flash—just long enough to take one or both parents or to separate the children from their parents.

Unlike Phan Tri, some of the orphans remember Tet lunar new year festivities. Some recall playing games in the moonlight, songs about the birds and the spring, and tales their grandfathers told.

Some remember enough to want to return to the countryside in peacetime to look for lost relatives. But for some, like Phan Tri, there will be no going back. They are children of the cities now.

WHEN HOMES WERE FLATTENED

(By Daniel Southerland)

DA NANG, VIETNAM.—What do you want to be when you grow up?

Hoa, age 11, has no answer to this question.

This four-foot-tall, 60-pound shoeshine boy lives for today, not for the future.

Besides, what do you mean grow up? Young barefoot though he may be, Hoa is already earning a good part of his family's income. In many ways, he's already grown up.

Hoa was born in Quang Tin Province in a hamlet where his father worked as both a blacksmith and a farmer. He had been in school only a few months when his father was killed by an artillery shell. Hoa said that

the shell came from a military base. He's not sure whether the base was American or South Vietnamese. But he recalled that the shell "made a big hole" in the field where his father was working.

After the loss of his father, Hoa and his mother, two brothers, and three sisters spent a lot of time in the shelter which the family had built for protection against bombs and shells.

That was in 1968, a year of heavy fighting. The Viet Cong occupied Hoa's hamlet. He often saw helicopters and fighter-bombers. Every time the Americans or government troops launched an operation near the hamlet, several people were killed, the boy said. So the family decided to leave the ancestral home and move to the city of Da Nang, where Hoa's mother hoped to find work.

Now, four years later, Hoa's family is just getting by. His mother sells manioc and potatoes in the marketplace. His two brothers peddle lottery tickets. His eldest sister watches over the smallest ones. None of the children goes to school.

Although it is estimated that at least one out of three South Vietnamese has been a refugee at one time or another, no one really knows how many refugees there are like Hoa and his family. They fled the war and came to the cities. They never entered a refugee camp, never received any U.S. assistance.

Some tens of thousands of these refugees found jobs at U.S. military bases and with U.S. civilian agencies and construction companies. But with the American troops leaving, many now are out of work.

Hoa and the other shoeshine boys are feeling the pinch, they used to have lots of American boots to shine. Two years ago, Hoa was sometimes able to make 500 piasters (nearly $2 at the then official exchange rate) in a day. This is much more than Hoa's mother, or many other adult Vietnamese, have ever made.

Hoa now makes at the most 300 piasters (65 cents) a day. Prices are much higher, and the piaster is worth a lot less.

Hoa said that he goes to sleep feeling hungry two or three times a week now.

But Hoa is more fortunate in some ways than many other refugee children. Although his home is a crowded, corrugated tin shack, it's better than the barracks at some of the refugee camps where 60 to 70 people are jammed together in a space where there used to be 10 American GIs.

Hoa's family doesn't have to suffer the indignity of depending on allocations of rice from the government. The boy still makes enough to spend part of his earnings on the movies.

He and his friends go at least once a week. They prefer the sword-fighting epics produced in Hong Kong which are so popular here.

Hoa is better fed than some of the country's Montagnard children, who have come in from the jungles and mountains nearly starving.

He is more fortunate than the children who wait outside Da Nang restaurants, begging for leftovers. He is better off than the boys who pimp and pick pockets, and the runaway children who sleep in the marketplaces and outside the movie theaters. The kids who pick over Da Nang's many garbage dumps, scrounging for bits of glass and aluminum, earn much less than Hoa does.

Hoa is more fortunate than some of the orphans in Da Nang who were so young when they were picked up from the battlefields that they don't even know what village they came from. At least Hoa knows that. And he still has his mother.

Hoa declared proudly that he has never stolen, and that half of his earnings go to his mother. He claimed that he has never been forced to pay off a policeman to stay in business, as some children have. He has avoided the police sweeps of past years when hundreds of beggars and street boys were arrested. In some ways, he has been fortunate, indeed.

But Hoa is missing one thing which is important to the Vietnamese. That is formal education. Hoa may be wise in the ways of the streets. But the war forced him out of school only shortly after he'd started.

Hoa claimed to be able to read and write—a little. But when handed a pen so that he could write down his name, he handed it to a friend, who painstakingly scrawled a few words. Hoa seemed slightly embarrassed about not being able to demonstrate much skill in writing.

Despite the war, the Vietnamese will do anything to get their children into school. At a refugee camp near Da Nang, a Roman Catholic priest who organized a primary school there reported daily scenes of tearful parents trying to squeeze one more child into the already crowded school.

"Can't you find a place for my little boy?" asked one mother, at a time when 70 to 80 children were already jammed into some classes. "Please just find a little corner for him. . . . He can sit on the ground."

The quality of teaching is often poor, and few among the many children who start off in primary school ever go on to secondary schools. But for a country at war, it's amazing how many children get a few years of schooling.

"One of the things the people push for first is a school—even before trying to get improvements in their own dwellings," said an American official assisting refugees.

But for many of the refugees, such as Hoa and his brothers and sisters, who never got the benefits of aid programs, there is no time for schooling. Hoa is a workingman.

Although no one knows exactly how many such "unofficial" refugees there are, it is known that they far outnumber the 700,000 now in camps and the estimated 300,000 in "resettlement" centers. Refugees such as Hoa and his family who have never been officially recognized as refugees are the ones who have caused Saigon to become what some housing experts describe as the most crowded city in the world.

The Saigon government tried to discourage the continued overcrowding of Saigon by refusing officially to recognize refugees who went there to get away from the war. But the policy didn't work.

South Vietnam is an agricultural country, and 80 percent of its people used to live on farms. But with several years of direct American involvement in the war and the heavy fighting it brought, at least half of the people now are jammed into the country's cities and towns.

The economic consequences of this are plain to see in the city slums. But what is difficult for foreigners to see—especially the highly mobile Americans—is the spiritual anguish of the refugees. The center of their entire universe had been their hamlets and villages, their land, and their ancestral graves. For the refugees, the cities are spiritual wastelands.

The Vietnamese novelist Duyen Anh has described the city of Saigon as the "desert of youth."

Da Nang, Hoa's adopted city, used to be a sleepy seaport of some 150,000 people. It was nearly eight years ago, in early 1965, that the first American combat troops landed here.

The Communist hold on many areas of the countryside near Da Nang was strong. The fighting was fierce. The refugees streamed into the city. Its population now is nearly half a million.

Last year's North Vietnamese offensive sent hundreds of thousands of panic-stricken "new" refugees into Da Nang. Some 400,000 of them are now living in camps around the city.

With the American withdrawals, and all these people fighting for fewer and fewer jobs, Da Nang has the country's most severe unemployment problem.

The only solution will be true peace in the countryside, and the return of many of the refugees to their farms. Many of their former homes are now little more than blackened shells. Hard work, however, can bring the farms back to life. But before returning home, many of the refugees will wait and see whether there will be real peace in the post-cease-fire period, or just another struggle.

Hoa and several of his friends from the same village in Quang Tin Province said that they wanted to return to the countryside when there is real security there.

The people in the refugee camps and many in the resettlement centers want to go home, too. And so do hundreds of thousands of "unofficial" refugees.

But some of the young people who have been in the cities for several years will hesitate to return. The land of their ancestors has less of a grip on them that it does on their elders.

What if Hoa and his family cannot go back? What if the post-cease-fire period does not mean real peace?

What if Hoa's income continues to decline? Will he be forced to steal?

It was difficult to talk about all this.

To get him to talk at all, it was necessary to bribe him with a sandwich and double payment of a shoeshine—to make up for his lost time.

As the reporter's questioning went on, Hoa and two friends who were with him became fidgety. They didn't see any point to questions about the future. They lived for today.

So Hoa and his friends headed off, clutching their shoeshine kits.

"Let's get going," said Hoa. "We're losing money sitting around here."

When Parents Were Killed

(By Daniel Southerland)

Da Nang, Vietnam.—When the last American combat troops left Da Nang, few Vietnamese paid much attention.

After all, the ground fighting had long since been completely turned over to South Vietnamese troops. The pullout of the last American units did little to change the security situation.

But for local orphanage directors, it was a day they'd been dreading.

For six years, not just here but throughout South Vietnam, American servicemen had contributed heavily to the country's orphanages. They gave money, food, clothing, and construction materials. In some cases, they erected buildings and helped with repairs.

For some GIs this was probably the only fruitful relationship they had with any Vietnamese, and they took it too eagerly.

A few orphanages got more support from American soldiers than anyone else.

Some Vietnamese took advantage of GI generosity and deliberately set up orphanages near U.S. installations. At one point, orders had to be issued to some American units instructing them to give assistance only to "legitimate" orphanages.

Private groups and international agencies are supporting nearly all the orphanages. The U.S. Food for Peace program is providing most with commodities such as milk, cooking oil, and bulgur wheat.

But the American troops withdrawals from Vietnam still meant a substantial loss in assistance.

The Saigon government increased its aid to many of the orphanages to help make up for the loss. But the government aid has been nominal—the equivalent of about $2 per child per month.

For many of the orphanages, the loss of steady support from the American soldiers has been only the latest of many problems. Some orphanages used to have trouble staying out of the war.

The An Hoa Orphanage in Da Nang is an example. Its children came under fire twice.

A few years ago, the orphanage was located just outside a district town to the south of Da Nang. In 1970, armed men attacked the orphanage and stole a sizable sum of money. One monk and 12 of the children were killed.

The government blamed the Viet Cong for the raid. But the monks who run the orphanage suspect that it was carried out by government soldiers dressed as Viet Cong.

In early 1971, the Viet Cong attacked the district town. When the attack was over, the orphanage director, who had narrowly escaped being killed in the earlier raid, decided to move the ophanage to Da Nang.

Many of the childen at the An Hoa Orphanage are said to have lost both parents in bombing, artillery, and rocket attacks.

But many of the children in other orphanages—some experts say more than half of the children—still have a surviving parent. The parent may be temporarily unable to care for the child, but may hope to get the child back at some point.

It is estimated that more than 700,000 children have lost one or both parents in the war. Of these, some 400,000 are receiving government benefits and are eligible for government-sponsored schooling because their fathers were killed fighting in the South Vietnamese Army. The other 300,000 are not eligible for such benefits.

But contrary to popular belief, many, if not most, of these children are being cared for by surviving family members.

U.S. aid officials believe that some 150,000 of the children are "severely disadvantaged." This can mean that the child is physically handicapped. In most cases, however, it means that the widow caring for a child is so poor that she is having trouble providing properly for the child.

About 20,000 children have found their way to South Vietnam's 133 officially recognized orphanages. An estimated 5,000 are staying in other orphanages.

The orphanages range in quality from virtual hovels to well-run establishments. Some, such as the An Hoa Orphanage in Da Nang, are just barely getting by financially.

The monks at the An Hoa Orphanage are trying to make up for the loss in aid from American soldiers by collecting more contributions from the Buddhist faithful in the Da Nang area. But they are having to compete with other groups which are trying to assist the many refugees in the area.

A few orphanages have simply amounted to profitmaking ventures. But some of these are being driven out of business by the withdrawal of U.S. troops.

About 75 percent of the orphanages are run by Roman Catholic sisters. The Buddhists are less experienced in social-welfare work. And they have been less adept at obtaining, or sometimes less eager to obtain help from foreign organizations.

Some of the orphanages caring for infants wage a daily struggle merely to keep their charges alive. Many of the babies arrive in such poor physical condition that the struggle is truly desperate.

Quite a few of the infants abandoned to orphanages were born prematurely.

Although no accurate statistics are available, social workers estimate that in some orphanages as many as 70 percent of the new arrivals die. Shocking though this mortality rate may seem, some social workers say that it marks an improvement. A few years ago, it was common to hear of an infant mortality rate of 90 percent.

Some of the infants suffer from ailments brought on by malnutrition and a lack of individual attention.

For some of the children, a little loving care can make all the difference.

World Vision, a Protestant organization, is helping some 50 children who are suffering from severe malnutrition and depression.

One child who came to the World Vision Babies Home in Saigon was so undernourished that she looked at age 4 as though she was less than a year old. The child weighed only nine pounds. She was afraid of people.

But after a month of getting individual attention and good food, the child began to break into smiles. She is now sitting up for the first time, and is gaining weight.

Another Protestant group, the Vietnam Christian Service, greatly reduced the number of children being abandoned at a Saigon maternity hospital. The group's case workers counseled poor mothers to seek support rather than abandon their children.

But there are no easy solutions to the problems of the orphanges.

Although Americans often tend to think in terms of adoptions of Vietnamese orphans as a solution, only a small percentage of the children in orphanages are likely to be adopted.

The number being adopted is increasing, but it is still limited. Many of the children in the orphanages here still have relatives who are unwilling to release them for adoption.

Most of the Roman Catholic orphanges will release a child only to Catholic families. And many of the Buddhist orphanages are reluctant to give up their children to foreigners because they want them to remain Buddhists.

Many orphanage directors are simply suspicious of foreigners attempting to adopt by proxy, from thousands of miles away. And many have such small staffs that they do not have the time to write letters and check on prospective parents.

Some of the smallest children are in such poor physical condition that they would not be eligible for adoption.

Social workers say that their task is to improve the conditions in the already existing orphanages and not to create new orphanages.

The emphasis, they say, must be on getting children out of the orphanages and returning them to their families in cases where they have known living relatives.

This is a difficult task. Several voluntary agencies here have failed in efforts to arrange the return of children to their families—even when the parents wanted them back. Orphanage directors often feel possessive about the children. Why, they ask, should they return a child to the mother who abandoned it?

When Fathers Were American

(By Daniel Southerland)

Phuoc Vinh Ninh, Vietnam.—When Le Thi Nga's father learned that she was having a child by an American soldier, he grabbed a butcher knife and threatened to kill her. The girl's mother screamed so loudly that neighbors came and snatched the knife away.

When the child was born, according to Miss Nga, "little children and adults ran out and surrounded me, acting as if the child were a freak."

Her father at first demanded that Miss Nga leave home. But he later reluctantly agreed to allow his daughter to stay in an empty pigpen behind his house.

"The pigpen was humid and stank and didn't have a bed," Miss Nga recalled.

"At this time there were many people who thought that I should give little Thong away in order to escape him and the shame and sorrow he brought to me," the young mother said.

"But I was determined to raise little Thong and bear my misery and shame."

That was four years ago. Miss Nga did not abandon little Thong as so many of her neighbors advised her to do. He is now a strong, energetic child. He smiles a lot. His grandfather, who was once angry enough to want to kill the child's mother, has gradually taken a liking to the boy. Thong now is part of the family.

But Thong's troubles aren't over. The family is poor. When the U.S. 25th Infantry Division's base near here closed down, the boy's grandfather lost his job there as a watchman, and his grandmother lost her job as a laundress.

Miss Nga also lost her job at a 25th Division refreshment stand. She went off to the coastal city of Nha Trang, which is the only place where she could find work to earn money to support herself and her son.

Thong's father, a helicopter mechanic with the 25th Division, left Vietnam long ago, and no one knows where he is. No help can be expected from him.

When the time comes to send the boy to school, another problem may arise. Thong's grandfather said that the family does not want to send him to the local elementary school because the other children would torment him. Thong stands out immediately among the other children in the family. His hair is curly, and his skin is chocolate brown.

When children on their way home from school pass Thong's house, they shout: "The black American! The black American!"

Thong's grandfather said that he wished his daughter had fallen in love with a white soldier instead of a black one. He said there would be no trouble involved in sending a white Amerasian child to the local school. But he said that he might have to send Thong to Saigon, 25 miles away, for schooling.

Thong is much more fortunate than some of the children left behind by the American Army. His mother has not abandoned him. And thanks to American sponsors, his family receives 3,200 piasters (about $7) a month from the Pearl Buck Foundation. That may seem like a small amount, but it's of great help to a poor family.

Everyone, from Vietnamese farmers to social workers, seems to agree that the children of black GIs in Vietnam face special problems.

By no means all of these so-called Afro-Asian children are being abandoned. Many are being taken care of by their mothers or by foster parents. But they are much more likely to be abandoned to orphanages than are the children of white soldiers.

Many Vietnamese believe that blacks are inferior. White children, on the other hand, are often considered beautiful, and are sometimes sought after.

"The black children are a big problem," said Thich Nhat Thien, head of a Buddhist social-welfare center in Saigon.

"But white children are very easy to care for because Vietnamese women are happy to have them," he said.

No one really knows how many American children there are in Vietnam. Surveys have only been taken in orphanages registered with the Saigon government—and they are incomplete.

"There are tens of thousands of them," said one social worker. "That's all you can say."

The International Rescue Committee in Saigon did its own survey some time ago and came up with an estimate of 20,000 Amerasian children.

It's believed that as many as 1,000 such children are in orphanages. This would mean that about 4 percent of the children in orphanages are Amerasians. It appears that about half of these abandoned children had black fathers.

Some of these abandoned children are infirm. There is a greater tendency for a mother to keep a healthy child than a sickly one.

The Saigon government prefers not to admit, publicly at least, that the Amerasian children present any special problems. Officials insist that the Vietnamese do not discriminate against them. Child-welfare services should be strengthened for all Viet-

namese children and not for any special group, they say.

The government is strongly opposed to mass adoptions of such children. Government officials say they fear that if large numbers of children were adopted and sent abroad, the Communists would say that Saigon is unable to provide for the country's children.

But the government is encouraging a limited number of adoptions. It is also allowing private agencies to take a special interest in the Afro-Asian children, as long as they agree to help other children as well.

The Pearl Buck Foundation has been given official recognition in Vietnam and now is assisting some 400 children, many of them Afro-Asians. The foundation is particularly interested in supporting some children in boarding schools and getting others out of orphanages and back to their mothers. It also finances medical care.

Another agency, the International Social Service (ISS), is showing increasing interest in Afro-Asian children. ISS provides counseling for mothers of Amerasian children, helps them find jobs, and aids couples overseas who want to adopt such children.

But social workers say that the solution for most of the children does not lie in adoption. One reason is that many of the children now are past the age when many potential parents would be interested in adopting them. Solutions must be found in Vietnam the social workers say.

Fortunately, these children are not expected to be rejected en masse by the Vietnamese as many of the Amerasian children in Korea were. The example of little Thong's rise from a pigpen to full acceptance by his grandfather offers some hope for the future.

Thong has avoided the dangers of an orphanage, where he might well have been left physically and mentally retarded. The next test will be providing him with enough education so that he can cope with the hazards of the future.

American officials in Saigon say they have plans to devote aid funds to helping such disadvantaged children get a primary-school education. Child welfare will be given a higher priority in future Vietnam aid programs than it has been in the past, they say.

It is difficult to predict what the long-range future of the Amerasian children will be. Although many of them are not expected to face great difficulties in the pre-school years, the going could get rougher once they enter schools.

Much may depend, too, on how the Vietnam peace settlement works out and what happens to America's image here. A rise in anti-American feeling could mean trouble for the Amerasian children.

But for the moment, most social workers say that aid efforts should be kept within the framework of assistance for all the disadvantaged children of Vietnam.

"We should think of the children as a whole," says J. Carroll Morris, director of the Saigon office of the International Rescue Committee.

"If we give a lot of special help to the children of American soldiers, it could create a lot of ill feeling," he said.

"It's not that big a problem compared with the problems of all the children in Vietnam."

[From the Christian Science Monitor, Feb. 3, 1973]

WHEN PEACE IS HARD TO FIND

(By Daniel Southerland)

SAIGON.—Peace. That is what the children of Vietnam need most.

But even if the "lasting peace" desired by so many here develops out of the newly signed agreement, the problems of many of South Vietnam's orphans and refugee children will not be easily solved.

The cease-fire may well bring with it new economic problems, and these in turn may force more mothers to abandon their children. Juvenile delinquency, which grew into a significant problem with the crowding of refugees into the cities, will not simply disappear in peacetime.

Throughout most of the long Vietnam war, its most innocent victims, the children, were given low priority. And now there is a price to pay. South Vietnam has a long way to go in order to care properly for the children who suffered from the war.

One of the main problems is that social welfare is a relatively new concept here.

At one time, the family was everything in Vietnam. The family was so strong and wide-reaching that it could take care of its own. No one saw any great need for social welfare.

Of course, family ties had been gradually loosening in Vietnam for several decades, just as they have in many countries throughout the world. But the truly radical change came with the war. It forced millions of family-oriented, rural Vietnamese to flee to the cities and towns. The result, as the experts say, was "social deterioration."

In the face of all this, the main South Vietnamese organization charged with coordinating welfare efforts has been the Saigon government's social-welfare ministry, supported and advised by the U.S. Agency for International Development (USAID). The ministry has had to work with a weak staff and a small budget.

Even if the budget had been larger, it would have been difficult for the ministry to use it effectively, given the limitations of its staff. Both in the government and outside of it there has been a distressing lack of trained social workers. The first class at the national training school for social workers in Saigon was graduated only a year and a half ago.

Coordination among the government and private agencies dealing with child-welfare programs often has been lacking.

With each upsurge in the fighting, USAID and the government became almost totally involved in emergency-relief programs for refugees. They put long-range development plans on the back burner. A proposed child-welfare program for 1972, for instance, was postponed because of last spring's North Vietnamese offensive and the pressing needs of those fleeing the fighting.

Nevertheless, in recent years, the welfare of the children of Vietnam has been the subject of increasing high-level interest in the United States. Sen. Edward M. Kennedy (D) of Massachusetts has focused relentlessly on the plight of these children.

LEGAL ACTION UNPREDICTABLE

In late 1971, three U.S. senators introduced a bill which would have earmarked at least $5 million for child-welfare programs in Vietnam. The bill was linked with foreign-aid legislation which failed to pass the Senate.

A similar bill has been introduced in the new Congress by Rep. Robert W. Kastenmeier (D) of Wisconsin. It is too early to predict the outcome of these efforts. But they have at least served to focus attention on the needs of Vietnam's children.

Thanks to these actions and press publicity, USAID recently has been giving child welfare a higher priority.

Most of those who have been the maimed, homeless, and orphaned children of Vietnam, and who have witnessed the devastating effects of American fire-power here, are convinced that the United States has a responsibility to give increased and long-range assistance to the children of Vietnam.

It is obvious that a considerable number of Americans—and Europeans—are deeply concerned about the fate of these children in general, and of the orphans in particular.

Letters from couples wanting to adopt Vietnamese orphans have been piling up in Saigon. They come to the American consulate, to a Protestant organization called World Vision, to the offices of the International Social Service (ISS), and to an Australian, Miss Rosemary Taylor.

The person who has done the most liaison work between adopting parents and Vietnamese orphanages is Miss Taylor, a hard-driving woman who runs three halfway houses in Saigon for adopted children or children in the process of being adopted.

Miss Taylor is said to receive 50 letters for every child that she can find available for adoption.

A single report on orphans and adoptions by an American television network brought 500 new requests for adoptions to the World Vision office in Saigon. But World Vision handles only a small number of adoptions.

The ISS has had considerable experience in arranging adoptions all over the world. But it, too, has been handling only a limited number of adoptions here.

And despite the great demand, the number of Vietnamese children being adopted is likely to remain limited for some time to come.

It is often reported that adoptions are held up because of Saigon government red tape. But this is misleading. The government actually has eased passport procedures for children being adopted by American couples, and they now can leave Vietnam within two or three months of their release by an orphanage.

ADOPTABLE CHILDREN HARD TO FIND

The real problem comes in finding a "releasable" child in an orphanage. There obviously are thousands of children in orphanages who could profit from being adopted by the proper families. But orphanage directors and surviving relatives often are reluctant to release a child to a foreign couple whom they have never seen.

The Roman Catholic sisters running the majority of the orphanages often insist that their children go only to Catholic families. Buddhist orphanage directors usually want their children to remain Buddhists.

The situation could change. With the loss of the support they used to get from American soldiers, a number of orphanages have been having a rough time lately. If the economic squeeze gets tighter, they might become more amenable to giving up children for adoptions.

Immediately after the Korean war no one ever imagined that thousands of Korean orphans would be adopted and sent abroad. But they were. And the number of Korean orphans being adopted by foreigners is still high.

An American organization called the Holt International Children's Fund, which arranged most of the adoptions in Korea, is giving serious consideration to starting child-welfare programs in South Vietnam, which would include adoptions.

The Saigon government's easing of passport restrictions was one of the reasons for a sharp increase in the number of Vietnamese orphans going to the United States for adoption last year. In 1971 the number was 86. Last year it rose to 397.

The number of adoptions may increase again this year. But the demand probably will continue to surpass by far the number of children available.

Many of the social workers in South Vietnam are hoping that the overwhelming interest in adoptions eventually will be channeled into other forms of support—for all of the disadvantaged children.

One way of supporting children who have lost a parent in the war is to contribute to the Foster Parents' Plan. This is a highly reputable U.S. organization which is currently supporting some 5,300 children in Vietnam. Many of the mothers of these children are war widows. Some are former prostitutes who had children by American soldiers.

Under this program, the foster parent contributes $15 a month for at least one year. This provides the foster child with new

clothing, medical care, counseling, $8 a month in cash, and other assistance. The foster parent receives a photograph and case history of the child, progress reports, and monthly letters from the child or its mother.

The Foster Parents' Plan already is the largest family-support agency in South Vietnam, and plans to expand its program substantially.

Another organization which is planning a significant expansion of its operations here is the Cooperative for American Relief Everywhere (CARE). If the cease-fire is effective, CARE plans to invest $3 million to $5 million annually in resettlement and rehabilitation aid for refugees, medical care, and a new nutritional program to supplement primary-school lunches.

Two U.S. organizations working on the physical rehabilitation of child war victims are the American Friends Service Committee and the World Rehabilitation Fund.

A number of religious organizations are helping not only Vietnamese children but also the children of Montagnard tribesmen in the central highlands. The Montagnard children undoubtedly are the most neglected of all.

Malnutrition has taken a heavy toll among them.

The Montagnard children coming out of the jungles after the upsurge of fighting last year were in such bad shape that the Catholic Relief Service (CRS) and the International Rescue Committee (IRC) set up special emergency nutritional programs to help them.

The IRC, among other things, has been training workers for day-care centers. It is hoped that the development of new day-care centers will prevent some mothers from abandoning children.

The United Nations Childrens Fund (UNICEF) also takes a great interest in day-care centers and is advising the Saigon government in this field.

In the end though, foreign organizations and governments can only do so much to help. Too much foreign aid—particularly of the hand-out variety—can only have a debilitating effect on the Vietnamese. They are a capable and intelligent people, and most of the work and ideas which go into child welfare here will have to come from them.

At the moment most private Vietnamese agencies in the child-welfare field are still in the infant stage. But they are growing, and they are attempting to attain greater coordination in their efforts.

The Vietnamese Red Cross, with support from Geneva, is establishing services to reunite families separated during the war. There are many children who were separated from their parents during periods of heavy fighting and then placed in institutions. Some of them now may have a chance of locating their parents.

One of the brightest spots in the picture is the attitude of the Vietnamese children themselves. Those who have worked with these children usually find the experience worthwhile.

One such person is Dick Hughes, an American who founded a project to aid the homeless street children of South Vietnam.

"I have never seen any of the kids bear a grudge or seek revenge," Mr. Hughes noted in a diary which he kept during his first year in Vietnam. "For them life is too quick to waste that way.

"It's somewhat humiliating to realize how much they have to teach me," wrote Mr. Hughes.

In attempting to heal the wounds of the war, those who are aiding the children of Vietnam also may learn from them.

WHAT'S THE REAL STORY OF OEO'S ACHIEVEMENTS?

Mr. HELMS. Mr. President, President Nixon's intention to shut down Federal Agencies has generated a lot of misinfunding of the OEO's Community Action formed debate about the value of these programs and their place in the overall structure of national policy.

I have said on earlier occasions that I agree that these programs have had their chance in each community to prove their worth to local leaders. Since 1964, more than $2.8 billion has been poured into these progrmas with few concrete results to show in advancing economic opportunity for the poor. Undoubtedly, there are exceptions in certain localities. Yet, any community action program that has demonstrated a fine record should be able to convince State, local, and private sources to continue funding. After all, these groups presumably have assembled a nucleus of talented people; they have been working together on team projects. If they have had tangible results, they should have the know-how and the experience to argue persuasively with local leaders.

In reality, however, the vast majority of these community action projects have been merely a conduit to fund the salaries of the local organizers, creating unseemly divisions among various factions in the poor neighborhoods scrambling for the salaries. These projects suffered from lack of accountability, both in financial terms and in accomplishment.

This situation was highlighted in a recent study done by the OEO itself, entitled "Observations Regarding 'Utilization Test Data Based on 591 CAA's.'" This study came out of OEO's own Program Evaluation Office, and is based upon actual data from within the OEO system.

The basic concept of the Community Action programs was to mobilize local resources to help the poor. We find out from this study, that for every dollar the Federal Government put into Community Action Agencies, the programs "mobilized" an additional 80 cents. The reason for this poor efficiency is apparently overstaffing. Frequently, as high as 85 percent of the local agency budgets went for staff salaries and other administrative expenses. Assured of Federal support, few Community Action Agencies bothered to scour the bushes for local money.

As far as tangible results are concerned, a recent report claimed that the Community Action Agencies had influenced 1,743 institutions to adopt new priorities and 1,593 employers to change their hiring policies, OEO's own evaluation study points out that:

This scale of activity is miniscule: nearly 600 CAA's . . . each influencing three organizations to change policy in a span of four years, and 2.5 employers to change hiring policies in a span of four years is hardly praiseworthy.

Three are approximately 7 million businesses and organizations in this country.

Mr. President, no one is arguing that the social problems of this Nation be ignored. OEO itself holds up as a model various private programs, mobilizing community resources, which were highly successful in the fields of employment, housing, and other problems of the poor—without even needing Federal money.

It is plain that the federally funded Community Action Agencies have failed to provide the poor with workable examples of true community action. Some people seem to regard the OEO programs as a sop to the poor, a symbol of national interest. Yet their effect upon the improvement of the lot of the poor has been negligible.

As the evaluation report says:

No one suggests that the needs be overlooked. Rather, in this era of tighter budgetary control, it is essential to find the best ways to tackle problems rather than to rationalize OEO's mission as a pacification one, merely showing the poor that society cares.

Mr. President, I ask unanimous consent that, despite its considerable length, the entire evaluation report by Morgan J. Doughton, Acting Associate Director for Program Evaluation, OEO, be printed in the RECORD at the conclusion of my remarks. It is worthy of the thoughtful attention of every citizen.

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

OBSERVATIONS REGARDING "UTILIZATION TEST DATA BASED ON 591 CAA'S"

(By Morgan J. Doughton)

SUMMARY

Clearly, the Administration's policy of encouraging and challenging local responsibility, initiative, and decision-making has been succeeding where it has been *aggressively* followed. While recent years have witnessed noticeable movement toward local responsibility in anti-poverty matters, much remains to be done. Community Action Agencies (CAAs) overall have generated only 80 cents for each OEO Federal dollar provided a distressingly low "return" ($1.3 billion of other resources augmenting $1.6 billion of OEO funding). Assured of OEO support almost regardless of level of performance, most CAA's have been irresponsible in seeking additional revenues.

However, money has not been the problem as much as management. Recent major increases in Federal allocations, largely for social purposes (in Federal grants-in-aid alone, from $20.3 billion in 1969 to $43.5 billion in 1973) have helped local communities. A sum of $1.3 billion over four years, "mobilization" of 80 cents for each OEO dollar of funding, is indeed very weak.

The compilation of such data, raises many questions about the study methodology, data significance, and the community role of the CAAs themselves. It emphasizes the very looseness of the study. It does *not* provide the basic standards needed for reliable research.

A. Problems with Study Method

1. There is no high, rigorous standard for the operative term, "mobilized." Most of the dollars "mobilized" would have come to the community anyway.

2. Conditioned responses: How reliable is a self-study when a funding source asks its clients (the CAAs) to show degree of compliance with policy?

3. Extremes of interpretation in the collection of data vary from one agency to another.

B. Problems with the Conclusions

1. Who really "mobilizes" government spending (four-fifths of the $1.3 billion reported came from some level of government)?

2. How many intermediaries are needed? Even the $1.3 billion represents less-than 1 percent proportion of the nation's social-purposes sending. If the remainder can be applied in communities without CAA intermediacy, can we not leave it to the local officials to make appropriate decisions.

3. Agency and staff systems pre-empt human and dollar recourses. Even the $1.3 billion reported as mobilized was largely (75 percent) in cash, and in local programs it is common to find 85 percent of this in turn going for staff salaries and other administrative expenses.

4. What is a dynamic rate of mobilization? Not 80c for each seed dollar, as in the UTS report, but $10 to $20 per seed dollar.

C. Problems with The Basic CAA Model

1. Staff mentality dominates, rather than stimulate, the development of roles, responsibilities, and challenges, thus limiting people's participation.

2. Dependence on staff systems means dependence on funding and the creation of battles *among* the poor for funding.

3. Staff system arrangements and central hierarchies stifle innovation.

D. Purported Institutional Change

The report that CAAs have, in toto over several years, influenced 1,743 institutions to adopt new priorities and 1,593 employers to change their policies and hire the poor appears irrelevant. First, the degree of impact the CAAs had is unknown. Second, this scale of activity is miniscule: nearly 600 CAAs (those tabulated) each influencing 3 organizations to change policy in a span of four years and 2.5 employers to change hiring policies in a span of four years, is hardly praiseworthy.

A. PROBLEMS WITH STUDY METHOD

The Utilization Test Study sought to accumulate information that would shed light on the degree to which CAAs have "mobilized" other-than-OEO resources for local anti-poverty initiatives, and prompted institutional change.

1. Lack of rigorous standard for term, "mobilized"

Of the $1.3 billion reported as "mobilized" over four years or so (almost none is reported as mobilized before 1969), $1.135 billion or 87% was obtained through tax dollars.

(In millions)

Federal agencies other than OEO	$550
State, county and local government	490
Programs and services from such public institutions as hospitals, schools, legal aid	95
Total	1,135
Nongovernment (business, civic, church, foundations, etc.)	165
Total	1,300

Much of this $1,300 million came in the form of grants to communities for specific local programs ranging from training, health, community development to education.

"Mobilization" implies initiative, even responsibility. Yet one can seriously question the degree to which CAAs rather than the electoral governmental process itself "mobilized" the $1,135 million governmental portion above; doubtless the CAAs were involved, but it can be inferred that without their involvement the funds still would have reached the communities.

Although the CAAs performed a useful role in either preparing a grant application or encouraging someone else to, one cannot claim that the CAA "mobilized" the funds or that the funds only came to the community because the CAA "obtained" them. After all, the dollars largely had been appropriated, allocated, and apportioned without the CAA involvement; all the CAA involvement did was help one city win over another, one poor group benefit by having better proposal matters than another. But is this really a mobilization of new money?

2. Conditioned responses

In this case, however, a self-survey is of dubious accuracy and usefulness.

CAAs were being asked to report the degree to which they had been actively pursuing a policy strongly emphasized over the past 2–4 years for the development of community impact and localization of resources. Thus, the study developed conditioned and biased responses to justify CAAs programs.

Take the example of Plainfield, N.J., doubtless an active CAA. The survey asked for "resources mobilized" each year since 1965. Plainfield's reply came back showing—

1965	0
1966	0
1967	0
1968	0
1969	$98,898
1970	569,703
1971	868,066
1972 (plus $325,000 Federal but non-OEO moneys)	1,885,439

Obviously the early years' reporting suffers from the fact that memories fail and turnover occurs . . . bringing with it the serious depletion of files and records at every level.

One wonders whether the Plainfield CAP has in fact extended its mobilization that rapidly, in 1969–1972, after apparently doing little of it in the pre-Nixon years, or whether this curve of mobilization merely reflects the bureaucratic process of feeding the hierarchy the numbers it seemingly wants to hear.

It would be different if such a study had been made each year, without such annual studies, many of the replies to this one have the appearance of signifying retroactive agreement with policies currently being emphasized.

The above example does suggest that a policy which signals what will earn high marks will draw a flurry of effort to identify "related" activities and sources . . . while actual operations proceed unchanged.

3. Extremes of interpretation and data

A third major weakness in the study is the CAA's inconsistent data standards. If a community donates the use of a building for $1 rent, (as in Plainfield), should it be listed at its *value* or its potential sale price? In Rochester, the CAP reports a "mobilization of resources" of $500,000 *per year* based on the for-sale value of a building it was given free use of 5–6 years ago.

The variety of reported actions encompasses extremes in interpretation of cash amounts and in-kind services. The Plainfield CAA reports a wide variety of voluntary actions (volunteers manning a hot line, volunteers providing a karate class, etc., etc.) The Paterson, New Jersey CAA, on the other hand, achieves its total of "resources mobilized" by reporting that it is responsible for federally-funded programs as New Careers ($405,000/yr.), Headstart ($308,000 this past year), and day care ($167,000 in 1971 but since discontinued). Clearly, the extremes of interpretation placed on the study by various CAAs weaken the value of aggregate data based on their replies.

B. PROBLEMS WITH THE CONCLUSIONS

Problems with the UTS study technique represent only one aspect of the weakness in CAA efforts. It is a highly questionable conclusion whether "mobilization" of program resources in a sum approaching $1.3 billion represents a major significant accomplishment.

1. Who mobilizes governmental spending?

Over a billion dollars of this $1.3 billion total "mobilized" is governmental funding at various levels . . .to provide programs of training, career motivation, education, and so forth.

Is it the CAAs who mobilize these funds, or is it the nation's elected officials at all levels?

2. How many intermediaries are needed?

The $1.3 billion reported as having been mobilized represents under one percent of what the nation devoted to all efforts (public and private) in behalf of the poor during the 1969–1972 interval. The other 99%-plus was applied through other arrangements apparently not dependent upon being "mobilized" by the CCAs.

It suggests that local officials can best assess the mission and scope of their own programs and thus determine the degree to which it will continue its funding locally in the future. Typically, St. Clair County, Illinois has over 400 social agencies competing for resources and clients. The structure at county and local levels should assess the effort of support desired with regard to the major proportion needed.

CAAs have used very little innovation in attracting funds such as foundation monies. The 591 CAAs received only $165,000,000 in private support, in the years studies. This represents a mere .3% of total U.S. private philanthropic dollars disbursed over those same years.

Quite clearly, foundations and other philanthropic entities have found more creative and results-oriented programs and people outside the CAA structure.

3. Agency and staff systems pre-empting resources

There is little dynamism in "mobilization" efforts whose main product seems to lie in increased funding for increased staffs and services, since "services" are not the answer to poverty.

The poor need meaningful roles, responsibilities, and challenges through which they learn how to cope, gain self-confidence and self-esteem. It is the only approach powerful enough. In a weak community change only comes from outside sponsors; in a strong community people are *doing* for themselves.

For these reasons, there is little dynamism in "mobilization" efforts whose main value seems to lie in securing funding for increased "programs" and increased staffs. The UTS survey suggests that much of CAA "mobilization of resources" falls into the latter category: $1.3 billion was mobilized over several years, but of that 75% or so was in cash . . . and the record is quite clear that anti-poverty cash goes not to the poor, but to the people employed to assist the poor.

People escape poverty to the degree they have the capacity to cope and the skills, drive and confidence to achieve. This never takes place very effectively, for large numbers when the scale of the effort is dependent primarily on progress for the poor will be achieved when the approaches employed work through them, instead of upon them, and accord them meaningful roles and responsibilities instead of assuming them to be helpless and inert.

Such a conviction, translated into program implementation makes it very clear that a "mobilization of resources" ratio of 80¢ for each "seed dollar" is totally inadequate. Our nation's poor need to be more involved in the decision-making and dollar-generating process.

4. What is a dynamic rate of "mobilization"?

Even if the UTS data are fully accepted therefore, as indicative of CAAs' mobilization of $1.3 billion, the result is far too inadequate. Because of their basic structure based on overstaffing, the CAAs are ill-equipped to provide the "mobilization of resources" which produces not just the 80¢ per seed dollar but $10 to $20 or more seed dollar by mobilizing the commitments and energies of the people themselves.

The following illustrate the type of people-based, high-yield, multipliers toward which all community "mobilization" should aim:

Housing.—In 1959, in Indianapolis, some 320 families in one poor neighborhood began working together in spare hours, contributing labor that became "sweat equity" in new homes each family would own. Expert advice was contributed by architects, contractors, and craft unions. Foundations and businessmen provided a substantial revolving fund behind the mortgages; the banks agreed to accept the mortgages with the "sweat equity" as the down-payment. Beginning with $50,000 this project triggered well over $3,000,000 in sweat, financing, and other outputs. That's a $60/$1 multiplier, far better than the 80¢/$1 the CAAs report.

Employment.—Also from Indianapolis . . . In the mid 1960's, the city's business community underwrote a modest three-person staff to coordinate volunteers from industry each of whom, in turn, would intensively counsel one person seeking a job. For several years this initiative successfully placed 90% of the thousands of people seeking help through it . . . representing perhaps $1,000,000 annually in volunteered time and contributed resources. The cost to businessmen was about $60,000 annually, the Multiplier was $15/$1. The contrast to the 80¢/$1 Multiplier is staggering.

Resource Mobilization.—In 1969, the U.S. Jaycees received two foundation grants totalling $350,000 to take a hand in mobilizing community resources through their local chapters, to assist and involve the disadvantaged. That modest seed money triggered an "Operation Opportunity" initiative that soon was generating annually some $25,000,000 in dollar expenditures alone in local and state projects. For over four years, that would be a multiplier of about 300 to one!

Unfortunately an 80¢/$1 multiplier is pitifully small. For communities staggering under defeatism and apathy, isolation and separation, it suggests that they need far better models for community involvement.

Media and Congressional criticism of the Administration's decision to cease funding CAAs from OEO monies have a tendency to say that it is deplorable to cut off aid to the poor while "there are still needs unmet"; this is not the point.

No one suggests that the needs be overlooked. Rather, in this era of tighter budgetary control, it is essential to find the *best* ways to tackle problems rather than to rationalize OEO's mission as a pacification one, merely showing the poor that society cares.

This is the significance of the emphasis on people helping themselves. It does not imply that people *fend* for themselves (i.e., make do with the skills, savvy, and resources they have). Rather, it means that we need a new family of designs, new basic models based upon the best in community experiences, and conveyed in ways which excite peoples' adaptation of them to be relevant in their own lives.

C. PROBLEMS WITH THE BASIC MODEL

The CAA has serious weaknesses: in its over-dependence on excessive staffing; in the fact that staff costs create internal conflicts among the poor for monies; appalling lack of perception regarding what it takes to move a community in a positive, meaningful direction (as distinct from what it takes to service its pathologies).

D. PURPORTED INSTITUTIONAL CHANGE

The CAAs in 7–8 years had effective impact upon 1,743 other institutions to "adopt new priorities", upon 1,595 entities (businesses, organizations, etc.) to change their policies and "hire the low income", and so forth.

If that's all, the poor themselves should rise up in anger and fire the CAAs as their agent. Such numbers represent truly terrible performance, even as a side activity.

One yardstick: in our society, there are at least 7,000,000 businesses and organizations; this study reports impact on only a ratio of one in 3,000 during the last 7–8 years.

Of greater importance is not in how *many* institutions were "changed", but in how *much*. The UTS data also fail to establish whether the change was just a part of current trends (e.g. the 591 CAAs are reported as influencing 1,743 institutions to adopt "new priorities").

CONCLUSION

The basic observation about this study is that it demonstrates that the CAAs have in no way proved to be dynamic engines for change in their communities, mobilizing and marshalling ever-increasing available resources.

Rather, the study suggests that the CAAs have become yet another level of over-staffed bureaucracy engaged in the destructive gain of competitive grantsmanship.

It now properly rests with the states and cities to decide how to best utilize available funds on the local level where the problems exist.

TIME FOR CHANGE IN OUR RELATIONS WITH CUBA

Mr. KENNEDY. Mr. President, I want to bring to the attention of my colleagues an editorial which appeared in the Sunday edition of the Washington Evening Star and the Washington Daily News stating that the time has come for a change in our relations with the Republic of Cuba.

Since 1969, I have been urging this action on the administration. And since 1969, there has been precious little movement in that direction.

The only encouraging action has been the hijacking agreement reached only weeks ago. Yet, there is still a repetition from the administration of its view that the general conditions prompting our policy toward Cuba have not changed.

The Star editorial convincingly contradicts that assessment. It states:

The existing policy, it now seems to us, has outlived the realities. Communist Cuba is not friendly, but it does cooperate with the United States on a number of fronts already: Postal and phone service exist; the airlift of exiles has been resumed; weather and commercial aviation information is exchanged; United States airlines fly across Cuba using an approved air lane; Cuban athletes have appeared on American soil for the Caribbean olympics in Puerto Rico.

Also, the editorial notes that many other Latin nations have either formally moved to end the boycott of Cuba or have indicated a willingness to do so. It is the United States which is the major opponent of that transition away from the hostility of past events.

Surely now that we are establishing liaison offices in Peking, we can move toward a normalization of relations with Cuba.

I believe that the Star editorial is an excellent assessment of the changes that have occurred in the world and in the hemisphere, changes that make an end to the isolation of Cuba in our national interests.

Mr. President, I ask unanimous consent that the editorial that appeared in the Washington Star on February 25, 1973, be printed in the RECORD.

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

UNITED STATES-CUBAN TIES: TIME FOR A CHANGE

The time has now come for President Nixon to abandon some of the fixations and fictions about Cuba that obsess the administration and begin serious consideration of a new policy leading toward restoration of political and economic relations with the Communist island nation.

Let us review the bidding: Nixon already has made his peace with the Marxist giants, Russia and China. The State Department now has negotiated an agreement with Fidel Castro that hopefully will terminate Cuba's role as a haven for U.S. skyjackers. It has always been apparent that Cuba has never been isolated by the American policy and the sealing-off resolutions of the Organization of American States.

This leaves only the question of the extent to which Castro's Cuba supports revolution and represents a threat to the other nations of the Americas. And it has long been evident that the Havana regime was never very effective at the business of exporting subversion and is now giving little more than lip service to the aspirations of native revolutionaries who once were trained and financed by the Cubans.

As to the presence of Russian military forces in Cuba, the best information is that there are less than 5,000 technicians there. The submarine base at Cienfuegos has never been used by Soviet nuclear submarines, and it really makes no difference: A nuclear-powered submarine does not need a base. The three Russian subs stationed off the East Coast of the U.S. (compared to 14 or so U.S. subs in the North Atlantic approaches to Russia) are serviced by tenders.

Nixon's last public utterance on Cuba was made in a Star-News interview on November 9 when he said, "There will be no change, no change whatever, in our policy toward Cuba unless and until—and I do not anticipate this will happen—Castro changes his policy toward Latin America and the United States."

Well, perhaps the accord on hijackers is a major change such as the President sought in Cuban policy. In point of fact, Castro's denunciations and fiery words mean very little to the United States and Latin America so long as he is unable and unwilling to ship out guerrilla forces and agents to try to overthrow OAS governments.

The United States gets at least as severe verbal treatment from other Latin governments with which we do maintain relations—Chile and Panama come to mind—as from Fidel Castro.

The existing policy, it now seems to us, has outlived the realities. Communist Cuba is not friendly, but it does cooperate with the United States on a number of fronts already: Postal and phone service exist; the airlift of exiles has been resumed; weather and commercial aviation information is exchanged; United States airlines fly across Cuba using an approved air lane; Cuban athletes have appeared on American soil for the Caribbean olympics in Puerto Rico.

Furthermore, the other Latin nations are beginning to waver and move toward rapprochement with Havana. Mexico never broke

relations. Chile and Peru have resumed them. Some of the new OAS members in the Caribbean were not subject to the OAS resolution consigning Cuba to pariah status. And others, such as Venezuela, Ecuador and perhaps Panama, seem ready unilaterally to resume relations with Cuba.

There cannot be any advantage for the United States in remaining aloof when all our European allies have never ceased trading with Cuba. A nation as powerful as the United States can lose little by having normal relations with a country of whose leaders it does not approve. Of course, it takes two to tango; Cuba's Castro would have to be willing to accept a return to normal relations. But the ease with which the Swiss diplomats did the legwork between Washington and Havana to produce the hijack agreement is an indicator that the two neighbors could go a few steps beyond toward restoration of the relations that were severed in 1961.

For President Nixon, the Cuban question no doubt has personal as well as policy facets, Mr. Nixon, indeed, is one of the few U.S. government officials who has ever met Castro face-to-face and he did not find the flamboyant prime minister particularly attractive. But that was back in 1959 when Castro was in the first flush of his seizure of control in Cuba, with his star in the ascendancy, and Mr. Nixon's eminence as vice president under Dwight D. Eisenhower was on the wane.

Today it is Mr. Nixon who is sitting on top of the world while Castro has become a backwater politician, no longer the mover and shaker of world events as he once was. It is not necessary that Mr. Nixon or Castro admire one another in order for the U.S. to accept the fact that it is anachronistic to pretend the 8 million people of Cuba exist in a vacuum.

The Cuban question also may raise personal problems for Mr. Nixon in other ways. For one thing, the President unquestionably feels an empathy with the Cuban exiles and even a sense of debt to them because of the Bay of Pigs fiasco. But while that abortive invasion was conceived by the Eisenhower-Nixon team, it was launched by the Kennedy administration. And Senator Edward M. Kennedy, the sole surviving Kennedy brother, has long since urged that U.S. policy toward Cuba be re-explored and reassessed. If a Kennedy can risk the wrath of the Castro-hating exiles, it should be at least as possible for the President.

Inevitably, with the Asian war at an end, Mr. Nixon will be turning his attention more and more to the Third World of Latin America and Africa. It is unfortunate that he has not had the time before this to become more interested and involved with the Latin. Theirs is an area about which the President is not overly informed, and his one sharp recollection is that he was nearly killed by a riotous mob in Venezuela in 1956.

But all Latins are not alike, and monumental changes have taken place. So it is with Cuba. Fidel Castro and Cuba today are not the same as they were 12 years ago. The world is now made up of different equations, and Cuba is one of them.

There no doubt would be a host of problems to solve, such as the expropriated U.S. properties, the Russian military presence, the U.S. base at Guantanamo Bay, the sale of Cuban sugar to the U.S. and the problem of the 300,000 anti-Castro exiles living in the United States. But the missile crisis and the Bay of Pigs are ancient history now. We believe President Nixon and his advisors should now turn their full attention to Cuba. The nation that can accommodate itself to a peace agreement with North Vietnam surely can do the same with the shabby dictatorship of Castro. He is, after all, far from the only dictator in Latin America. He may not even be the most dangerous dictator there.

THE 55TH ANNIVERSARY OF ESTONIAN INDEPENDENCE

Mr. BEALL. Mr. President, February 24 marked the 55th anniversary of the Declaration of Independence of the Republic of Estonia. This occasion was honored in appropriate fashion by Estonians throughout the free world. Unfortunately, it was not celebrated in Estonia.

Since 1940, Estonia has lived under the dictatorial hand of the Soviet Union. Forcibly incorporated into the U.S.S.R. during World War II, Estonians have steadfastly refused to surrender their dream of freedom. We in this Nation must not forget them.

I call upon all Americans to remember the plight of the enslaved people of Estonia, and join me in the fervent hope that liberty will soon come to that land.

PROPAGANDA OF ATROCITY

Mr. BUCKLEY. Mr. President, I recently came across an article in the London Times which places in proper perspective the hysteria which accompanied our resumption of bombing over North Vietnam last December. In a sense, this is now ancient history. The article, however, is instructive; and I ask unanimous consent that it be printed in the RECORD.

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

THE PROPAGANDA OF ATROCITY

(By Robert Conquest)

Arthur Koestler describes in his autobiography how Willi Muenzenberg, the Comintern's propaganda genius, criticized his work in putting the Communist line on the Spanish War as "too weak, too objective." What they wanted, Muenzenberg explained was stories of the enemy burning their prisoners alive, running them over with tanks, and so on.

The Muenzenberg principle, much in use of late, is to present a specific allegation in such a way as to make the blood boil and so to preempt or inhibit judgment. The loser, in terms of western opinion, is not the state that commits the most atrocities so much as the one whose enemies have the best propaganda machine. All the same, any particular allegation of violence or injustice may be true or untrue; and if true it may be typical or exceptional. It is no good our being passive customers of the most efficient atrocity-pusher; we have to make a certain effort—above all, to avoid the double standard in this field of which Solzhenitsyn complains in his Nobel Speech.

One paradoxical reason our views may become distorted is that in general the more easily a malpractice can be reported on, the less repressive the regime. This is even true within the Communist block. The fact that a fair amount of information is now available on the sufferings of the opposition in the USSR, while this is not so of North Korea or North Vietnam, and was equally not so of Stalin's Russia, really does indicate that the present Soviet regime is less repressive than those.

The Colonel's regime in Greece is typical of those most often in the atrocity news columns. It is clearly an oppressive one in a general sense. We may all hope for a fairly rapid return to democracy (though not to the alleged "democracy" of those much touted émigré critics who really stand for another, and on the record far more unpleasant, dictatorship). Allegations of killing, as against brutality, in Greece are few. Every liberal would agree that Yugoslavia is not only far less oppressive than Greece, but already was so 10 years ago. It was only by a turn in the power struggle in that country that we learnt a few years ago that at the beginning of the sixties Rankovich, then Yugoslav Minister of the Interior, was having people shot by the score and the dozen throughout the towns and villages of the Kosmet. Nor is Yugoslavia an outstandingly horrible example. We should conclude that Greece, though tyrannical, does not really rate very high on the scale.

Part of the difficulty (though not always impossibility) of establishing the facts of individual allegations of police brutality is that they are often provided by devoted adherents of millenarian groups dedicated *in principle* to the idea that political advantage to their side is the highest moral criterion, taking automatic precedence over truth and such things. The same applies to the propaganda of war. An official representative of the Vietnamese Communists speaking in Stockholm (where else?) a few years ago charged that children were "gunned down in their thousands, beheaded, buried alive, quartered and thrown into the flames" by the Americans (*The Times*, October 4, 1966). One would have thought that such things had discredited Hanoi-sponsored "evidence" entirely. At any rate the latter may be true, or untrue, or partly true, but in itself can carry no weight. (Nor should much weight attach to the reports of friendly journalists if we are to judge by the extravagant falsehoods accepted by their Moscow predecessors in Stalin's time.)

Over the past weeks there has been much talk about "indiscriminate bombing", "terror bombing", even "Hiroshima-type" raids. We are now told by the North Vietnamese that there were 1,300 (or 1,400) killed in the attacks on Hanoi— which is scarcely likely to be an underestimate. Now it is certainly possible to argue against the raids as they actually took place. But to imply that an air force dropping bombs with the power of, or "twice the power of", that of Hiroshima, and with the intention of killing and terrorizing civilians, could somehow only cause a minute proportion of the Hiroshima casualties is plainly nonsense.

Almost everyone supports or has supported armed struggles in which civilians may be or are killed. Admirers of the IRA, the Arab terrorists and the Vietcong, indeed, must support or condone the killing of civilians on purpose. In any case, such stuff comes particularly ill from those who openly advocate Communist victory in Vietnam, such as Mr. Anthony Lewis and the Swedes.

The Swedes! Their Prime Minister, Mr. Olof Palme, compared the bombing to "Guernica, Oradour, Babi Yar, Katyn, Lidice, Sharpeville and Treblinka". (Hue? No, not Hue.) In fact, with the exception of Guernica (at any rate the mythic Guernica), none of those affords any parallel at all to the recent bombings. The whole passage is the merest ranting and canting—which might, indeed, be Swedish surnames. Anyhow, one does not recall that the Swedish Social-democrats have much to be proud of. They did not, I think, protest against Oradour and so on at the time—a time when they were the only neutral which allowed German troops to pass through their territory. It is true that they have no blood on their own hands, apart from that of the Balts so abjectly handed over to Russia after the war. . . .

Their egregious Gunnar Myrdal (a member of that 1945 Government) now serves happily on a Committee on United States "war crimes" together with the Soviet judge Lev Smirnov, so rightly criticized by PHS the other day for his infamous conduct of the Sinyavsky case. In an article in the *Scientific American* last year, Myrdal actually asked himself why it was that Swedish foreign aid went out on higher moral principles than that of other countries. The official in charge

of that aid has since exlained that Sweden passes it by preference to countries where "the people" conduct the distribution, such as Cuba and North Vietnam. Oh, I see—a social-democratic definition of popular rule is one where social-democrats have all long since been executed, and a complete Leninist authoritarianism prevails.

The anti-American agitator Tom Hayden, has complained (in the *Evening Standard*) that the British, unlike the Swedes, have not shown much enthusiasm for the new line in atrocity propaganda. This seems to be true, in spite of the semblance of uproar largely created in practice by a handful of journalists and one or two politicians in difficulties seeking an issue.

No doubt this increase in skepticism is in part due to two experiences of last year—first, the plain evidence that the south was being invaded by the communists, and did not wish to accept them; second, the propaganda about the bombings of the dykes, with its obvious spuriousness (recalling to older readers the notorious germ warfare falsehoods of the Korean War). It was putting a strain, too, in anyone's capacity for credulous malice to ask them to believe that President Nixon is simply hooked on bombing for bombing's sake, or acting out of pettish resentment.

It should be possible for adults to take a line, pro or con, without descending to this sort of thing. As so often, it is George Orwell who sets his countrymen an example. Though himself a supporter of the Spanish republican cause to the extent of fighting and being wounded in its battles, he nevertheless wrote that for him the most "frightening" thing about that war as not the violences on the spot, but the immediate retreat of the Western left into what he called "the mental slum" of atrocity storymongering. Different views on Vietnam (as on Spain) are natural enough. What is not tolerable is to represent the facts as other than they are in order to provoke a mindless stampede along with those Gadarene Swedes, Olof Canting and Gunnar Ranting.

The author is an historian and journalist.

THE TASK FORCE FOR THE NUCLEAR TEST BAN

Mr. KENNEDY. Mr. President, 1 week ago I introduced on behalf of myself and Senators MATHIAS, HART, HUMPHREY, MUSKIE, CASE, ABOUREZK, BAYH, BROOKE, BURDICK, CHURCH, CLARK, CRANSTON, FULBRIGHT, GRAVEL, HASKELL, HATFIELD, HATHAWAY, HUGHES, INOUYE, JAVITS, MAGNUSON, MCGOVERN, MONDALE, MOSS, NELSON, PELL, PROXMIRE, RIBICOFF, STEVENSON, TUNNEY, WILLIAMS, and BIDEN Senate Resolution 67 calling on the President to promote negotiations for a comprehensive test ban treaty.

Today, I am pleased to inform my colleagues about the work of the task force for the nuclear test ban. Since its formulation in April of 1971, this group has been making a determined effort to promote a halt of all nuclear weapons testing. The task force has benefited from the very able leadership of Mrs. Josephine Pomerance, a longtime leader in the field of arms control and disarmament, and Dr. Betty Goetz Lall of the New York State School of Industrial Labor Relations of Cornell University.

The task force for the nuclear test ban has involved a group of prominent scientists and arms control experts who have been at the forefront of efforts to curb nuclear testing. This group will be seeking a broad spectrum of citizen support by working with leading national groups through the Coalition on National Priorities and Military Policy chaired by the Honorable Joseph S. Clark, a distinguished former colleague and an outspoken advocate of a nuclear test ban.

I am grateful to the task force for the nuclear test band for its excellent work and for the dedication and competence of its outstanding members.

Mr. President, I ask unanimous consent that a list of its members and articles written by James J. Wadsworth, Mrs. Pomerance and Herbert Scoville, Jr., members of the task force, be printed in the RECORD.

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

TASK FORCE FOR THE NUCLEAR TEST BAN

Honorary Co-Chairmen: The Honorable Benjamin V. Cohen, The Honorable James J. Wadesworth.

Co-Chairmen: Dr. Betty Goetz Lall, N.Y. State School of Industrial Labor Relations, Cornell University.

Mrs. Jo Pomerance, Co-Chairman, Committee on Disarmament and Peacekeeping, Conference of U.N. Representatives, UNA-USA.

Treasurer: Dr. Herman Will, Jr., Associate General Secretary, Board of Christian Social Concerns of the United Methodist Church.

Counsel: Mr. John Silard, Esq.

Consultant: Robert Pickett.

Members: Archibald Alexander, President, Arms Control Association. Mrs. J. Berenson, Board of Directors, UNA-USA. Mr. William J. Butler, U.N. Representative of the International Commission of Jurists. Hon. Joseph S. Clark, Chairman, Coalition on National Priorities and Military Policy. Norman Cousins, Editor, World Review. Dr. Bernard Feld, Massachusetts Institute of Technology. Hon. Seymour M. Finger, Former Senior Advisor, U.S. Mission to the U.N.

Mr. Oscar de Lima, Vice Chairman, UNA-USA. Dr. Franklin A. Long, Director of the Program on Science, Technology and Society, Cornell University. Mr. Allard Lowenstein, National Chairman, Americans for Democratic Action. Rev. Pat McDermott, Director, Center for the Study of Power and Peace. Mrs. Rose Okin, Chairman, Peace, American Jewish Congress. Mrs. Mildred Persinger, World YWCA Council.

Hon. Adrian Fisher, Dean, Georgetown University Law School.

Hedda Hendrix, Public Relations Consultant.

Rabbi Richard G. Hirsh, Union of American Hebrew Congregations.

Dr. Marvin Kalkstein, State University of New York, at Stony Brook.

Dr. Arthur Larson, Director, Rule of Law Research Center, Duke University.

Mrs. Carolyn Tumarkin, Women United for the U.N.

Mr. Victor G. Reuther, formerly Director of International Affairs Department, UAW.

Dr. Leonard Rodberg, Federation of American Scientists.

Mrs. Marjorie Schell, SANE.

Dr. Herbert Scoville, Jr., Federation of American Scientists.

Mr. C. Maxwell Stanley, Chairman, Stanley Consultants, Inc.

Mr. Jerry Wurf, President, American Federation of State, County and Municipal Employees, AFL-CIO.

[From the Washington Post, Feb. 4, 1973]

AFTER SALT, A TOTAL TEST BAN?

(By Herbert Scoville, Jr.)

The writer is a former assistant director of the U.S. Arms Control and Disarmament Agency and deputy director of the Central Intelligence Agency.

The accomplishments of SALT I have produced a totally new climate in which a comprehensive nuclear test ban—one covering underground as well as atmospheric explosions—becomes a negotiable arms control measure after nearly 10 years of drifting in the doldrums. Not since 1962, when Nikita Khrushchev made his offer of three on-site inspections to verify such a ban, have opportunities for agreement been so good.

This improved outlook, if we take advantage of it, is particularly timely since it comes just as steps are needed to prevent further spread of nuclear weapons to additional countries. That the patience of the non-nuclear-weapons countries is beginning to wear thin is shown by the overwhelming support, despite U.S. opposition, for a United Nations resolution in favor of a halt to all nuclear testing by August, 1973, the tenth anniversary of the limited test ban treaty. In addition, there is strong Senate support, led by Sens. Philip Hart, Edward Kennedy, Charles Mathias and Clifford Case, for a resolution urging the President to make a renewed effort to negotiate a comprehensive test ban and, in the interim, to suspend all testing immediately as long as the Russians reciprocate.

The limitations on strategic arms agreed to in Moscow, particularly the ABM treaty, have greatly reduced the desires for further nuclear weapons testing which have in the past been the major obstacle to a comprehensive test ban. With only 200 ABM interceptor missiles allowed each side, it is almost impossible to justify further improvements in the nuclear warheads for this purpose. The United States, and almost certainly the Russians as well, have nuclear weapons developed for such interceptors, and no improvements in warhead design can possibly overcome the complete ineffectiveness of the small ABM systems permitted by the treaty.

STRATEGIC WARHEADS

The effects of the ABM treaty also apply to the requirements for warheads for offensive weapons. Without any effective ABM to penetrate, the need for new warheads largely disappears. In addition, there is no further need for testing to develop special warheads to withstand high-altitude nuclear explosions, since the allowed ABMs can be overwhelmed by a small fraction of the existing strategic forces.

Only for a first-strike force able to destroy the enemy's missiles in their silos is there any need to design new offensive warheads. However, the stated U.S. policy has been to forego a "hard target" MIRV which might provoke Soviet concerns that we were seeking a first-strike capability, thus upsetting the present strategic balance. Even for such a MIRV, an improved warhead with five times the yield would be less important than potential improvements in accuracy.

Nor does the United States any longer need a "hard target" MIRV to provide the flexibility to attack key military targets instead of cities after a limited Soviet attack; this can now be achieved without further advances in weapon design since, as a result of the ABM treaty, the retaliatory attack no longer has to cope with large ABM defenses and can afford to direct several warheads at a single target.

A complete test ban would, on the other hand, increase U.S. confidence that the Soviet Union was not improving the yields and accuracy of its warheads in order to develop a first-strike MIRV system able to destroy a large fraction of our Minutemen force.

Another familiar justification for nuclear weapons testing has been the need to assure the continued reliability of already developed and stockpiled weapons. Although nuclear tests have never been carried out solely to check the proper functioning of a stockpiled

weapon, it has been argued that the ability to test is necessary in case deterioration is found by other means and corrective action is required. This is not necessary, however, since it would always be possible to replace a warhead which had deteriorated with one of proven design. Furthermore, if mutual deterrence is the fundamental element in our strategic policy, as spelled out by the ABM treaty, then any unknown decrease in reliability on both sides can only improve deterrence. High reliability is only necessary for a nation contemplating a first strike. No aggressor could rely on the uncertain reliability of another nation's weapons as the means of surviving a retaliatory attack.

Thus, as a result of the Moscow agreements, a strong case can be made that no further nuclear testing of strategic weapons is required. Yet, during the past 10 years since the limited test ban treaty, more than two-thirds of the U.S. tests have been related to strategic weapons systems, and indeed the highest priority tests have fallen in this category. The Moscow agreements have thus undercut the major rationale for continud nuclear testing. Even before SALT I, Drs. Carl Walske and John Foster of the Defense Department testified that they favored a comprehensive test ban provided it could be adequately verified. This Pentagon position, which is the U.S. position at the Geneva disarmament talks, is even further reinforced by the Moscow agreements.

SIGNALS AND SATELLITES

The benefits of SALT I, however, are not limited to the weapons development part of the problem alone; the ABM treaty also creates a mechanism by which the verification difficulties, for years the ostensible stumbling block to a test ban, can also be solved.

Since 1963, the United Stats has insisted that on-site inspections were required for adequate policing against secret underground tests, while the Soviet Union has consistently claimed that these inspections were unnecessary. The verification provisions of the ABM treaty afford a means of bridging this gap. In this, and in the interim agreement on offensive weapons, both nations agree that national technical means of verification will be used; that neither nation will interfere with such means; and, finally, that neither will use deliberate concealment to impede verification. In addition, a standing consultative commission is set up to consider questions concerning compliance with the obligations of the agreement. Similar provisions, but multi-national in scope, attached to a comprehensive test ban treaty, might satisfactorily reconcile the U.S. and the Soviet points of view.

The primary problem in verifying a ban on underground tests has been the difficulty in telling apart the seismic signals from small earthquakes and explosions. Now, with greatly improved seismic methods and sophisticated computer processing, it is possible to classify almost any detectable seismic event as an earthquake or an explosion.

For those few small events which are detected seismically but not identified, the United States has in the past sought the reassurance of on-site inspections despite Pentagon testimony that the value of such on-site inspections is marginal at best. Today's U.S. verification techniques, however, are superior to our earlier capabilities, even combined with the on-site inspections we were seeking.

Observation satellites are one agreed method capable of providing increased assurance. A photographic satellite scanning an area in which an unidentified seismic event was detected could obtain information useful for evaluating whether the seismic signals originated from a secret nuclear test. Most of the natural earthquake areas within the Soviet Union are remote from human activity, so that a large fraction of these unidentified events could be clearly classified as natural in origin when evidence of man-made disturbances was absent. Whenever a satellite obtained evidence of mining or drilling operations in the area where the seismic signals originated, a satisfactory explanation could be demanded through an international commission on the SALT I model. If not satisfied, the United States could resume testing or take whatever other action it thought necessary.

EVASION TECHNIQUES

Some experts have worried that an underground test ban could be violated by use of sophisticated evasion techniques, such as a detonation in a large cavity. But theoretical studies show that a very large chamber, 300 feet in diameter and several thousand feet underground, would be required to muffle the seismic signal of a 5-to-10-kiloton explosion sufficiently to make it undetectable. The use of such concealment techniques for even so small a test would involve a mammoth construction operation which would be easily visible by observation satellites.

Other exotic evasion techniques have been proposed: a nuclear explosion could be conducted in the immediate aftermath of a large earthquake, or a series of nuclear explosions could be timed to give additive seismic signals that more nearly resemble an earthquake than an explosion. Both of these techniques are vulnerable to detection by sophisticated seismic measuring and data analysis systems. However, even if these techniques successfully hid the signals, there would be a considerable probability that the operations required to carry them out would be noticed by observation satellites and challenged through the mechanism of the consultative commission.

Finally, the use of nuclear explosives for peaceful purposes is now generally recognized, at least in this country, to have few economic advantages and many environmental and safety problems. This program, nicknamed Plowshare, has always been a roadblock to a ban on nuclear tests, since it could provide an ideal cover for disguised weapons testing. In fact, the greatest enthusiasts for Plowshare have been the most ardent nuclear weapons developers.

Now the proposed nuclear excavation of the sea-level Panama Canal has been dropped, and the use of nuclear explosives for the release of natural gas is the only project being given serious study in the United States. Tests even for this purpose are in trouble with environmentalists and significant gas recovery would require thousands of nuclear explosions. The Atomic Energy Commission budget for Plowshare has just been cut almost in half and no tests are planned for the next fiscal year. Considerable interest in peaceful nuclear explosions has, unfortunately, been stimulated by U.S. propaganda in other countries, particularly Russia, India and Brazil, and could interfere with negotiations for a comprehensive test ban if they are unduly delayed.

The time has now come for the United States to take a new initiative in negotiating a comprehensive test ban treaty. It would be an important next step after the Moscow agreements to place some overall ceiling on qualitative improvements in strategic nuclear warheads.

[From the Sunday Star and Daily News, Dec. 10, 1972]

IS PLOWSHARE WORTH THE PRICE?

(By James J. Wadsworth and Jo Pomerance)

The SALT arms control agreement is a step in the direction of a more secure world. But the arms race is not over.

Indeed, while President Nixon has characterized the SALT agreements as signifying a "new era of mutually agreed restraint," he at the same time ordered full speed ahead on new strategic weapons systems. It becomes all the more important, therefore, that the United States and the Soviet Union press forward on negotiations on a comprehensive test ban—the measure which, above all, would signify that the superpowers are serious about halting the arms race.

One of the arguments used by opponents of a comprehensive test ban agreement among the nuclear powers is that it would eliminate the testing of nuclear devices for peaceful purposes.

This opposition is based on the scientifically valid point that these tests could not be permitted since they might be used for weapons development to circumvent a test ban agreement. It is contended that a total test ban would, therefore, force the termination of the highly touted U.S. Plowshare Program.

But the fact is that the once promised boon to man of peaceful nuclear explosions may be a dangerous and perhaps worthless activity.

There have been two types of industrial applications of peaceful nuclear explosions.

One is for large-scale excavation projects, such as forming new harbors, the construction of canals and the creation of passes through mountain ranges for railroad and highway routes.

The second is designed to fracture large volumes of rock underground for the purpose of recovering natural resources, particularly natural gas and oil from shale deposits.

Other underground applications are for the creation of underground storage facilities for fuels and waste disposal and the possible stimulation of geothermal heat sources for electric power production.

After several years of experience it is doubtful that any of these applications has proved to be practical.

The United States has halted development of devices for excavation. There have been no tests since 1970. In that same year a government commission concluded that a peaceful explosion for creating a new canal across the Isthmus of Panama was neither technically feasible nor politically acceptable. The tests conducted through 1970 showed that while radioactive emissions from these tests had been reduced, fallout was still a problem.

Fallout presents not only environmental and safety hazards but a political risk as well. The Limited Test Ban Treaty of 1963 prohibits any nuclear blast that causes radioactive debris to drift beyond the territorial limits of the nation conducting the explosions. This is apparently a condition that cannot be guaranteed with the excavation type of peaceful explosion. Other excavation projects once considered and now cancelled include a harbor excavation at Cape Keraudren, Australia, and plans to blast a railroad pass through mountainous terrain in the U.S.

The Plowshare device for the recovery of oil, gas and other natural resources has also been unproductive. The list of projects proposed and later cancelled is long. These include Project Sloop—a plan to recover copper ore; Projects Bronco and Utah—both designed for oil shale recovery, and Projects Wagon Wheel and WASP—for natural gas stimulation.

Of all these plans and programs promoted over the years only a gas stimulation program in the Rocky Mountains is now funded by the Atomic Energy Commission.

There are three problems associated with the concept of natural gas recovery by nuclear explosion—economic, technical and environmental. The program can be economically viable only if the price of natural gas increases considerably over the present market. To reduce the radiation received by consumers, the gas from the nuclear-stimulated well must be diluted with gas from other sources at least tenfold before being shipped,

a requirement that many experts consider impractical.

The full program for gas recovery calls for the detonation of 4,000 nuclear devices of 1000 kilotons each in 1,000 wells over a 20-year period. The regions where the explosions are to take place—Colorado, Utah, New Mexico, Wyoming and Arizona—contain areas of high natural rock stress. It has not been established that these nuclear blasts won't cause earthquakes.

Peaceful explosions can also cause the proliferation of nuclear weapons capability. Several near-nuclear powers, such as India, Israel, Japan and even less technically sophisticated nations such as Brazil, are understandably interested in whatever benefits may be produced by the peaceful uses of nuclear energy.

But any nation could conceivably test nuclear weapons under the guise of peaceful-uses programs requiring nuclear explosions. And who can be sure that any nation might not attempt to develop nuclear weapons to meet a real or imagined threat to its security or to increase its international prestige and power.

The evidence is persuasive that the Plowshare programs may be more trouble than they are worth. The excavation program has been halted without achieving technically suitable devices for application. Nor have ways been found to overcome the safety, political and international problems.

On balance, the entire program is simply not promising enough to impede the completion of a total nuclear test ban. No provision for continued Plowshare device development should be contained in a test ban agreement since the chances of weapons application are too high and the potential benefits of these devices as peaceful explosions are low.

Until the benefits of peaceful nuclear explosion are conclusively established, the nuclear powers should declare a moratorium on these explosions as part of a comprehensive ban on all tests. A careful evaluation could be conducted by an international authority, perhaps the International Atomic Agency, to determine under what conditions peaceful explosions could be conducted in the future, if at all.

Now that the American people have given President Nixon the "four more years" he wanted, he should move forward to negotiate a ban on all nuclear tests.

The name of the Plowshare program was, of course, inspired by a Biblical passage from Isaiah, "They shall beat their swords into plowshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more." The true spirit of that ancient admonition can best be realized by not allowing our modern-day Plowshare to stand in the way of the pursuit of peace.

Mr. Wadsworth was the chief U.S. negotiator at the Geneva disarmament conferences in the late 1950s and early 60's. Mrs. Pomerance is a consultant to the chairman of the Senate Foreign Relations subcommittee on arms control and international organization.

[From the New York Times, Aug. 29, 1971]

THE PENTAGON BLOCKS ARMS PACT

(By James J. Wadsworth and Jo Pomerance)

A ban on worldwide nuclear testing by the Soviets and the United States is essential to a halt in the arms race among the superpowers. Nevertheless, testimony before the Senate subcommittee on arms control has revealed that forces within the Pentagon are still blocking any serious attempts to reach this agreement with the Soviets.

The Pentagon now contends that underground testing is necessary to assure "reliability of U.S. nuclear weapons," M. Carl Walske, assistant to the Secretary of Defense, has referred to "confidence testing" by the U.S. as necessary to prevent a destabilizing situation with the Soviet Union.

This testimony is a rare example of candor by the Pentagon. In the past the anti-test-ban spokesmen have based their strategy on the need for on-site inspections. They have now shifted the focus to weapons reliability, which could delay a test-ban agreement indefinitely.

Officials of the A.E.C. and the Pentagon who believe we must continue underground testing are undoubtedly sincere in their belief. But their tactics in stalemating negotiations over the last fifteen years have included distorting scientific evidence, deliberately antagonizing the Russians and misintepreting their negotiating position.

President Eisenhower, who became convinced that a test-ban agreement was necessary and feasible, initiated discussions at the Geneva conference of experts in 1958.

The on-site inspection issue was blown up out of proportion by both sides. The Russians were convinced that detection could be accomplished without inspection because they had a detection system upon which they were willing to rely. It now appears, as some members of the U.S. negotiating team suspected at the time but were never told, that the West had just as effective a system.

The motives of the test-ban opponents were founded on their desire to be totally free to resume new weapons development.

One tactic employed was to fuzz up the facts in regard to detection. The first U.S. underground test in 1957, it was reported, could be detected at a maximum distance of only 250 miles. Since the evidence presented was so patently inaccurate, outraged scientists took their case to the Senate Foreign Relations Committee. As a result, in March 1958 the A.E.C. revised the figure to 2,320 miles.

Later in August 1958 the conference of experts at Geneva, including both the Western and the Soviet delegations, had completed an optimistic technical report. The A.E.C. suddenly produced extraneous and misleading new data on high-altitude tests, "decoupling," and the "big hole" theory.

In March 1960, it appeared once more that the talks to devise an effective detection system had been successfully concluded.

As the date for the proposed Paris summit conference in May 1960 approached, President Eisenhower was hopeful that a test ban would be concluded. Two weeks before the summit, an American U–2 plane flying over Russian territory was shot down by Soviet rockets. In the resulting tumult of mutual suspicions an recriminations, the treaty was postponed again.

The Limited Test Ban Treaty finally concluded by President Kennedy in 1963 omitted a ban on underground tests because, it was said, agreement could not be reached with the Soviet Union on the number of on-site inspections.

This issue was widely recognized as a smoke screen created by the Pentagon and A.E.C. Continuation of an aggressive underground test program was for them, they made clear, a prerequisite. And, again, they prevailed.

The question of environmental hazards associated with nuclear testing has also been treated with a minimum of candor. In 1968, the President's assistant for science and technology appointed an independent panel of experts to review the potential dangers to the environment caused by underground tests. These experts concluded that the possibility of severe earthquakes and tidal waves was much greater than had been estimated.

The A.E.C. did not release the report until a year later.

This fifteen-year history of supression of the facts by Government officials is another frightening example of how Pentagon policies can defy the objectives of our Presidents, mislead the public and continue an arms race that could ultimately end in world disaster.

The White House has reaffirmed its support of a comprehensive test ban while the Defense Department declares the tests must continue.

James J. Wadsworth was U.S. representative for disarmament and chief of the United States delegation to the conference on the nuclear test ban treaty (1958–60). Mrs. Jo Pomerance, co-chairman of the task force for the nuclear test ban, was special adviser to the U.S. Mission to the United Nations in 1961–62.

ANTIWAR DEMONSTRATORS PROLONGED VIETNAM WAR

Mr. HELMS. Mr. President, today's New York Times carries an interview with Col. Robinson Risner, a returning POW. Colonel Risner states flatly that the antiwar demonstrators in the United States prolonged the Vietnam war and the release of American prisoners for from 1 to 2 years. The colonel says:

I feel beyond any doubt that those people kept us in prison an extra year or two—not just the people demonstrating, but the people who were downing or bad-mouthing our Government and our policies.

Colonel Risner went on to say:

There is no doubt in my mind that the Communists took great comfort and heart from the people who demonstrated and bad-mouthed our Government.

It was very evident to all of us that the Communists' spirit or morale went up and down along with the amount of demonstrations, protests and antiwar movement back in the States.

Mr. President, Colonel Risner's statements are eloquent and speak for themselves. Further comment on my part would be superfluous, but they ought to be engraven on the indestructible tablets of our memory.

Mr. President, I ask unanimous consent that the article, "POW Hails Nixon, Scores War Foes," from today's New York Times be printed in the RECORD.

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

POW HAILS NIXON, SCORES WAR FOES

OKLAHOMA CITY, February 26.—Antiwar demonstrators in the United States prolonged the Vietnam war and the release of American prisoners for from one to two years, a senior Air Force P.O.W. who was among the first to be released said here tonight.

"I feel beyond any doubt that those people kept us in prison an extra year or two," said Col Robinson Risner, "not just the people demonstrating, but the people who were downing or bad-mouthing our Government and our policies."

Colonel Risner, who spent seven an one-half years in a P.O.W. camp in Hanoi, said that, despite a constant flow of propaganda about antiwar demonstrations back home, American fliers had never lost faith in their country.

ANGER AND DISMAY

He said that he and his fellow prisoners felt only anger and dismay at the protesters and draft-dodgers and were willing to stay imprisoned years longer if necessary to gain peace with honor.

Colonel Risner, who has not been completely debriefed and cannot discuss his imprisonment, granted an interview on the antiwar movement only to make clear his feelings that the movement provided momentum to the Communists.

Colonel Risner was one of many captives to

whom statements condemning United States war policies were attributed by the North Vietnamese.

Asked about these statements Feb. 15 at a news conference at Clark Air Base in the Philippines, where he had been flown after his release, Colonel Risner avoided saying flatly whether he had made them, but said:

"Sir, in all sincerity I would like to say that I think we should consider the source of those statements. By this I mean the source from which they came—in other words they were made from the prison in North Vietnam.

He denied that he had ever * * * policies.

INFORMED BY CAPTORS

The 48-year-old fighter ace said tonight that the pilots had been kept well-informed by their captors on anything bad about the United States.

"Anything that was against our Government, our policy or our way of life came to light immediately," he said. "We heard the Voice of Vietnam twice a day—Radio Hanoi. Anything derogatory to our Government or our Government's policy was broadcast."

But he said that the fliers had never trusted the Communists or believed their propaganda.

"We know that the most effective use of propaganda is to put an element of truth in it to build upon," Colonel Risner said. "We don't trust them. We don't believe them. We never have. So anything they told us, we would file away, if it was useful information, with the idea that we would check on it when we got home."

He said that he personally was "very angry" with the demonstrators.

"I have said that I was fighting for the freedom of the right of people to dissent, and I was, but it did not keep me from being angry or resentful because I feel beyond any doubt that those people kept us in prison an extra year or two.

"COMFORT" TO COMMUNISTS

"There is no doubt in my mind that the Communists took great comfort and heart from the people who demonstrated and badmouthed our Government.

"It was very evident to all of us that the Communists' spirit or morale went up and down along with the amount of demonstrations, protests and antiwar movement back in the States," Colonel Risner said.

"We were extremely surprised, when we heard that Senator McGovern had won the Democratic nomination and we could not believe that he could ever win the Presidential election.

"Our motto of our organization was 'Return With Honor.' We did not feel that we could carry that out if Senator McGovern had been elected President."

"I could not see stopping aid to the countries that I knew needed aid," Colonel Risner said. I could not see abandoning our friends and allies. Nor could I see the Vietnamese ever keeping their promises to a person who would come and beg for the prisoners.

"That's when he lost us—when Senator McGovern said, 'If necessary, I will come to Hanoi and beg for the prisoners,' because we know the Vietnamese would only have taken advantage of him and I think we would still be in prison."

Colonel Risner said that President Nixon's policies—including stepped-up bombing and the B–52 raids against Hanoi-Haiphong area last Christmas had proved effective.

"On the 18th of December—I think that was the first night of the B–52 raids—there was never such joy seen in our camp before," Colonel Risner said.

"We knew they were B–52's and that President Nixon was keeping his word and that the Communists were getting the message.

NATIONAL GOALS AND PRIORITIES AND THE ENGINEERING PROFESSION

Mr. JAVITS. Mr. President, yesterday evening I had the pleasure of delivering the keynote address to the Joint Engineering Legislative Forum in connection with the occasion of National Engineers Week. The Joint Engineering Legislative Forum represents a major breakthrough in developing coordinated effort on behalf of some 10 engineering societies whose membership totals nearly a half million engineers. The forum is the first such national conference involving lawmakers and the organized engineering profession.

With the advent of ecology, consumerism, concern for public safety, private pension reform, and so forth, a redirection in our Nation's priorities has resulted in new and proposed legislation which will initially affect the engineering profession. The engineering societies under the umbrella of the Joint Engineering Legislative Forum are endeavoring to provide substantial assistance to the Congress and the administration in solving some of the Nation's major pressing social and economic problems.

In pursuit of that objective, the Joint Engineering Societies have addressed an open letter to the President and the Members of the 93d Congress pledging their cooperation and talents in helping to devise national policies in science and technology for the greater and more rational utilization of our Nation's resources. The letter represents a most enlightened and constructive effort on the part of the engineering profession and is evidence of their public spiritedness and a sense of citizenship.

I find it very instructive to learn from the engineering profession of their complete agreement with the desirability of establishing, in their words:

Nationally formulated series of goals and objectives for men, methods, and materials to maintain proper balance between supply and demand and to insure that all of our national priorities are being adequately met.

The indispensability of establishing national goals and priorities in a systematic, long-range fashion, has, of course, been recognized by the Senate in connection with S. 5, the Full Opportunity and National Goals and Priorities Act, now pending before the Senate Labor and Public Welfare Committee. This bill has had wide bipartisan cosponsorship during the last three Congresses, and title II of the bill, which I authored more than 4 years ago, establishes a congressional staff office of goals and priority analysis which will enable the Congress to operate effectively with the executive branch as a coequal in policymaking and with adequate resources. These provisions were passed twice by the Senate.

In view of the current debate with the executive branch over the administration's efforts to reorder our national priorities through the impoundment of funds and the liquidation of agencies like the antipoverty agencies, and because of the growing recognition within the Congress of the need to reform the Congress' own budget procedures so that there may be effective coordination of expenditures within the overall governmental program, the need to enact S. 5 into law becomes more evident with every passing day.

I commend the Joint Engineering Societies for their willingness to devote their very substantial talents and expertise to the Government. I ask unanimous consent that the text of the open letter of the Joint Engineering Societies be reprinted in the RECORD at this point along with the text of my remarks before the Joint Engineering Societies Legislative Forum.

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

OPEN LETTERS TO THE PRESIDENT AND THE MEMBERS OF THE 93D CONGRESS ON THE OCCASION OF NATIONAL ENGINEERS WEEK

FEBRUARY 23, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As the United States ushers in a new era of peace, the nation's scientists and engineers salute you and bring you greetings and reaffirm our pledge of full support on the occasion of National Engineers Week.

In addition to pledging our support, we invite your attention to a pressing national need upon which the continued health and prosperity of our country depends—the need to develop a planned, sustained, and farsighted policy for use of the nation's science and engineering resources.

Simultaneously, we offer our earnest cooperation and talents in helping to devise such a policy and in providing for its rational execution. Such a national policy in science should encompass the following goals:

1. The establishment of national programs to deal with such pressing problems as future sources of energy; providing safe, clean, efficient, economical transportation for all; improved and more economical methods of communication; delivery of adequate health care; protection of individuals and the nation from attack; and controlled use of our national and natural resources with proper regard for environmental effects and economic impact.

2. Effective mobilization of our scientific and engineering manpower. Improvement of technical training at the vocational and secondary school levels in order to insure opportunities to every segment of our population. Avoiding either an over abundance of technically trained manpower or, just as seriously, a severe shortage leading to crisis situations in the future. The nation must curb the gigantic pendulum swings of "feast or famine" which have so characterized our lack of policy for efficient use of our vast technological resources in the recent past.

3. Careful management and husbanding of all of our vital natural resources—of materials, energy and manpower—so that future generations of men can share the benefits of our technological progress.

We look upon the relationship of the government and the scientific and engineering community as a mutually beneficial partnership whereby both the general public and the members of the technological community share a common interdependence for progress and benefit.

This partnership in the past has enabled our nation to be the technological leader of the world in giving to all mankind such developments as atomic energy, the transistor, manned exploration of the moon, the computer, television and Telstar, synthetic fibres, new methods of construction of homes, offices, factories, schools, churches, roads,

bridges, and tunnels, the cardiac pacemaker and other life saving devices.

We have developed laboratories and research centers in our great universities, independent research laboratories, industrial complexes, and government centers, all working in partnership to provide new technologies, products and jobs.

We have also established one of the finest educational systems, from grade school through graduate school, to produce trained minds, in science, engineering, basic and applied research, and management in order to conquer ignorance and turn our many discoveries to the service of man.

But this entire complex will be of no avail unless there is a nationally formulated series of goals and objectives for men, methods, and materials to maintain proper balance between supply and demand and to insure that all of our national priorities are being adequately met.

Our societies offer their sevices to our nation for this task. We are confident that we can work with our President and the Congress in forging the plowshares for a century of peace from the swords we have now put aside.

HOLT ASHLEY,
President, AIAA.
JOHN E. RISSNE,
President, ASCE.
HAROLD CHESTNUT,
President, IEEE.
C. WEAVER,
President, AIChE.
RICHARD C. FOLSOM,
President, ASME.
JAMES F. SHINKS, Jr.,
President NSPE.

DOMESTIC PRIORITIES AND PENSION REFORM

(Speech by Senator JACOB K. JAVITS)

AN OVERVIEW OF THE IMPOUNDMENT ISSUE

We are now in the midst of a grave domestic and constitutional crisis. I refer to the Administration's unilateral efforts to reorder our domestic priorities through the impoundment of funds and the "liquidation" of agencies like the anti-poverty agency by the Executive Branch. This crisis covers every aspect of legislation pending in the Congress or which may be proposed; and no intelligent discussion of measures to solve some of our more pressing domestic problems can proceed without taking account of this ongoing and fundamental struggle between the Congress and the Administration.

This conflict is of vital concern to every American, and certainly to those in the scientific and professional communities who exercise leadership with respect to the utilization of our resources, the advancement of our technology and the economic, cultural, social and military applications of our research and technology.

Just to state one example of interest to scientists and engineers, the program of the National Science Foundation for ficsal year 1973 reflects a cutback of $62.4 million from the amount appropriated for NSF programs. NSF science and education improvement activities in fiscal 1973 are being funded at a level of $47 million versus the planned $77.8 million. Funds for graduate student support and institutional science programs totaling $15 million are deferred altogether from the planned fiscal year 1973 programs; and another $11 million has been deferred from some computing and science information activities as well as a number of research equipment and facility items. And so it goes.

No responsibility source that I know has suggested that either the Congress or the Administration proposes to do other than to hold the level of government spending to the 1972 $250 billion and the 1974 $268 billion ceilings. There are sufficient and adequate studies that show a broadening gap between future expenditures and revenue even if few new domestic programs are initiated, and the Administration, quite properly in my judgment, has characterized the dilemma as one of higher taxes or more inflation in the absence of spending limits. But the real question is of allocation of expenditure.

Despite appearances to the contrary, the issue between the Congress and the President is not whether spending should be curbed, but on what and by whom.

The question is whether the Congress is to be treated as a co-equal partner in the establishment of national priorities or whether the President by deciding to spend or not to spend pursuant to an appropriation or to operate or not to operate an agency or function may decide the Nation's priorities acting alone.

There may well be a number of domestic programs which can and should be trimmed or phased out altogether, and there may be some which should be expanded, but the decision should be by law as the Constitution provides. There is also ample recognition of the need to reform the Congress' own procedures so that there may be effective coordination of expenditures within the overall government program.

But the important point is that the Administration has not concurred with the Congress over the reordering of these priorities; it has, instead, attempted to confront the Congress with a challenge: to accept the budget decisions—or fight for its standing as a coordinate branch.

This approach, in my judgment, is a tragic error regardless of the constitutionality of the impoundment policy (which is highly dubious), and regardless of whether the Administration succeeds in making its budget cuts stick.

By failing to concur with the Congress over these budget cuts, the Administration has placed the Congress in an adversary position and sought to tilt the balance between the two branches of government.

This concurrence can be obtained with the Congress by seeking rescissions of appropriations and by reorganization plans as to agencies or functions to be discarded.

Even those in Congress who might agree with many of the budget decisions made by the Administration are confronted with the disquieting possibility that if they accede to this budget blitzkrieg, their future capacity to represent the needs of their constituencies in connection with the arrangement of domestic priorities is diminished greatly, perhaps irrevocably.

It seems to me that the limitations of the Administration's approach should have been recognized well in advance. After all, what really sank President Roosevelt's court-packing plan in the 1930's—disagreeable as it may have been on the merits—was his attempt to ram that extraordinary proposal down the throats of the Congress and the people.

In the short run, it may seem to the Administration, and, indeed, to many members of Congress, that it is appealing in the interests of decisiveness to reorder priorities through the impoundment of funds. But a longer range viewpoint would indicate a course completely to the contrary. Indeed, the entire sad history of the Vietnam war indicates persuasively what happens when the Congress abdicates its proper Constitutional role or curtails the scope of its responsibilities. Representative democracy cannot function properly under our system of government unless the three branches of government are given co-equal weight and respect within their appropriate spheres; and we cannot expect to bridge many of the deep divisions in our society unless we maintain this principle intact.

PENSION LEGISLATION

There are a number of vital pieces of legislation pending in the 93rd Congress which command a priority status. Among these, to name a few, are: the consumer protection agency, no-fault insurance, trade legislation, minimum wage, national health insurance; and, of course, private pension and welfare plan reform.

I know that the Engineering Societies are especially concerned and interested in pension reform legislation. The Senate Labor Subcommittee, in its hearings of February 15 and 16, heard the testimony of the Societies in support of S. 4, the Williams-Javits pension reform bill, and I can assure you that we will give sympathetic consideration to the excellent recommendations made by NSPE and similar professional groups in connection with the legislation.

As you know, the Williams-Javits bill is an omnibus reform measure which addresses itself to the lack of employee security in private plans. Briefly, the bill provides for the following:

(1) mandatory vesting to commence with a 30 percent nonforfeitable right to accrued pension benefits at the end of 8 years of service, increasing by 10 percent each year thereafter so that 100 percent vesting is achieved at the end of 15 years of service; workers age 45 or older are given vested benefit credit for service prior to enactment of the law.

(2) mandatory funding for pension plans so that unfunded benefit liabilities are amortized within 30 years.

(3) a mandatory program of plan termination insurance to protect workers against loss of pension benefits in the event the plan is prematurely cancelled prior to full funding of all benefit obligations.

(4) establishment of a voluntary program to facilitate the portability of vested pension credits.

(5) establishment of federal fiduciary standards and added public disclosure requirements to safeguard pension funds against mishandling.

(6) provision for judicial remedies to enforce the foregoing standards.

It is to be realized that while, as in the case of most workers a substantial number of professional engineers and scientists would benefit from the vesting provision of the Williams-Javits bill, the bill has been designed to deal with the pension problems encountered by the "average" employee and there are many professional scientists and engineers whose rate of job changes, particularly in aerospace and defense related industries, is so rapid that the vesting schedule in the bill is not sufficient for their needs. This forum, the engineering community in general, as well as other professional societies, are to be commended for recognizing and accepting the limitations imposed in trying to enact omnibus reform legislation. Quite clearly, if we attempt to legislate a form of drastic vesting protection, we would not, as a practical matter, be likely to enact reform legislation at all.

There are, however, supplementary initiatives that can and should be considered and sought by the professional groups. Some of these, such as greater protection for engineers and scientists working on government contracts, as well as accelerated study of improved methods to secure more adequate vesting for professionals, have already been endorsed by your organization. As you may know, I have been instrumental in amending S. 32, the National Science Policy and Priorities Act, to direct the appropriate revision of procurement regulations for more adequate pension protection. In addition, the Administration's proposal in the 92nd Congress to provide tax incentives for individual retirement savings plans, is an essential component to assist professional engineers to obtain more adequate coverage and protection. All these initiatives would have an important effect on providing a greater degree of retirement security to engineers and scientists.

But I hope that the engineering and scientific community will not rely exclusively on government action to attain its objectives,

and that you will not sit around passively, waiting for something good to happen. Rather, I would hope and expect that you would mobilize your professional membership and exert the bargaining power that you have—which, after all, is based upon some of the finest brains in the world—to influence employers and others to provide the mechanisms that are necessary to assure the adequate retirement security of your members. I certainly would be pleased to assist in any appropriate way in helping to remove those obstacles which may presently exist in law that might frustrate the attainment of these goals, and I am sure that many Senators feel the same way.

There is a great momentum building behind the enactment of pension reform legislation and I believe that it is unquestionably true that in the 93rd Congress private pension legislation has come of age and commands the highest priority in the Congress. The enactment of the Williams-Javits bill will be a landmark achievement and a major breakthrough toward strengthening the private plans and eliminating many of the very serious injustices that have been found to exist and which jeopardize the continuing healthy existence of these programs. Once this breakthrough is achieved, we can build on it in a deliberate and intelligent fashion so that ultimately all workers can live out their retirement years with dignity, independence, and adequate income security. In pursuit of this objective, it is encouraging and valuable to have the strong support of the professional groups, such as NSPE, and with your help, we will succeed in putting comprehensive pension reform legislation on the U.S. statute books in the 93rd Congress.

MANAGED WATER RESOURCE PLANNING

Mr. HRUSKA. Mr. President, some time ago I had occasion to discuss the far-reaching proposals made by the National Water Commission in its draft report. That report calls for radical and sweeping changes in the Nation's water resource program virtually wiping out continued water resource development. The impact of such changes would be highly damaging to the economic and social well-being of much of the West.

At that time I was also privileged to offer the remarks of Mr. Dan S. Jones, Jr., president of the Nebraska Water Resources Association and a leading authority on natural resource allocation. He too was greatly concerned with the magnitude of change urged by the draft proposals. In recognizing that Nebraska's economy depends in large measure upon successful, well-planned water management, it was felt the loss of this tool would be a crippling blow.

Formal hearings for the draft report were held in Phoenix last month. Among those offering testimony was Mr. Cyril P. Shaughnessy, a representative of the Twin Loups Reclamation District in Nebraska. Mr. Shaughnessy is a friend of long standing as well as an experienced observer of the rural Nebraska scene—one who has seen the benefits that can result from controlled water resource allocation. It is with extreme pride that I offer his views to this Chamber.

In urging the continuation of programs offering water resource development assistance, Mr. Shaughnessy makes some important, first hand observations. He speaks of the many contributions made by the Sargent and Farwell Units, projects already in operation in central Nebraska. The economy of the whole area has stabilized as it has grown and prospered.

Mr. President, Mr. Shaughnessy offers evidence, concrete evidence of the importance of these projects. These are not theoretical assumptions, as those in the Water Commission report appear to be, but what has actually come about in actual field operations in my home State of Nebraska. These projects have left an indelible landmark. They provide a positive example of the achievements which can be attained by properly managed water resource planning.

Mr. President, I ask unanimous consent that the text of Mr. Shaughnessy's remarks be printed in the RECORD.

There being on objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY CYRIL P. SHAUGHNESSY

Thank you, Mr. Chairman, and members of your Commission. My name is Cyril P. Shaughnessy. I am from St. Paul, Nebraska. I represent the District sponsoring the North Loup Division, namely, the Twin Loups Reclamation District and the Twin Loups Irrigation District, and the Cedar Rapids Division sponsored by the Cedar Valley Reclamation District.

With me at the table here today are Mr. Henry G. Lange, President of the Twin Loups Reclamation District, whose home is in Ord, Nebraska.

The proposed report of the National Water Commission is a massive document that contains dozens of assumptions and conclusions concerning past, present, and future uses and values of water development.

In addition to these assumptions, there are generalizations that from a national viewpoint may contain sufficient facts to attract attention, but from a local or regional standpoint will not and cannot withstand close scrutiny.

My comments are based on a belief that our nation has become great and strong and prosperous because the local or regional areas were great and strong and prosperous.

As a native Nebraskan and as an attorney in a small rural community, I have witnessed firsthand the good things that have happened in our area due primarily to the irigation development. Not only have the farm owners and tenants both participated in the sharing of the benefits, but our local towns and cities depend on the income derived from the business of supplying the needs of the irrigator and from processing and added production from the irrigated land.

The proposed report states that the development of water resources has a greatly diminishing impact on the economic development of a region. While there may be some truth to this in areas that have progressed from an agricultural setting to an urbanized area, it is certainly not true in a large area of the West, including the State of Nebraska. I would state categorically that development of water resources has been the greatest single factor in bringing social and economic stability to our local area.

We believe it is a recognized fact that there are many regions or areas of the United States and that these regions are developing at different rates and at different times.

In the 1950's and early 1960's, the Bureau of Reclamation developed the Sargent and Farwell Units in Central Nebraska. These Units are principally irrigation developments but have recreational values that far outstrip the original estimates. The production from the land irrigated by these units has contributed so greatly to the stability of the economy that we can now say we have a prosperous year-in and year-out agricultural economy.

Evidence of such stability of the economy is forceably demonstrated by a comparison of bank assets. We have two national banks in St. Paul. St. Paul is the trade center for a great number of the people residing in the Farwell Unit. These two banks had assets of just over seven million dollars in 1967. Today these assets are over sixteen million dollars. This is an increase of 110% in five years, all of which is a direct result of the prosperity brought to this community by irrigated agriculture.

Further proof of the value of the Farwell Unit to the entire community is available from a review of tax assessors' records.

The Sargent and the Farwell Units are operated by the Loup Basin Reclamation District, a district similar to the reclamation districts I presently represent. It is interesting to note that the values of the Loup Basin Reclamation District in Howard County, Nebraska has increased from $8,805,820.00 in 1968 to $15,261,145.00 in 1972, a gain of nearly $6,500,000.00 in values.

The valuation for the City of St. Paul, Nebraska in 1965 was $2,680,845.00. In 1972, it was $3,999,330.00. It can be noted that there has been an increase of valuation in excess of $1,318,000.00 in seven years, and that St. Paul has a population of only two thousand people. It is also an interesting observation in a further review of the tax assessors' records that in the Warsaw Precinct, a precinct in the midst of the Farwell Project, that livestock assessments have increased by 275 percent in the last 10 years. A precinct adjacent to the Warsaw Precinct, but which has little irrigated land shows an increase in livestock by only 28 percent in the same 10 year period.

This partnership whereby the Federal Government financed the resource development and the local participants repay a portion of the investment is a solid method of creating and retaining a strong economic block in a rural area.

In addition to the direct repayment by local persons, there are largely known but unmeasured amounts of tax revenue accruing to both the State and Federal Treasuries. These monies continue and increase each year as the farm operators and businessmen and their employees reap the benefits of the projects and continue to approach the family income of other Americans.

We in this area are hopeful of obtaining assistance to develop the North Loup and Cedar Rapids Divisions. These two projects are quite similar to those already built and would have beneficial effects on two more local regions. The benefits that are presently occurring in the form of an established prosperous agricultural economy could be extended to four more counties in Central Nebraska by development of these two projects.

It appears to us to be good business to utilize the resources at hand to help not only the local people but the Nation as well. With good fertile soil, unused water flowing nearby, and experienced farmers already living in the area, it appears to be proper to all concerned to try to keep these people where they are and could contribute most. There is no doubt that we can accomplish this through development of our water resources.

To purposely force these people to move to other areas through withholding of financial assistance where they would probably become less productive or even deterrents to someone else just doesn't appear to be good planning.

While we agree that looking at all facets of water resource development is a worthwhile effort, we do not agree that all of the findings are correct.

We believe a much more productive effort would be to study the value produced by water resource development compared to

benefits to our citizens from other Federal expenditures. In this type of study, we are confident that water resource development would become a guiding light for other Federal projects.

We do not have the facilities to make sophisticated studies, but we are able to recognize progress in our local area. Our conclusion to this statement would be an unqualified vote to continue to improve rural America by continuing the program of water resource development assistance.

This concludes my statement. Mr. Henry Lange and I are available to answer questions to the best of our abilities.

RELATIONSHIP BETWEEN THE GOVERNMENT AND THE PRESS

Mr. SCHWEIKER. Mr. President, as a supporter of strong legislation to protect the confidential information and sources of the media, I would like to commend to my colleague's attention a thorough and thoughtful statement on this subject by the Senator from Illinois, Mr. PERCY.

Senator PERCY testified this morning before the Constitutional Rights Subcommittee of the Senate Judiciary Committee. He emphasized his strong concern over the independence of the press, and the serious dangers over the "chilling effect on the free flow of information in this Nation," that subpenas and other attempts to require revelation of confidential news sources and information could cause.

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

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

TESTIMONY OF SENATOR CHARLES H. PERCY

(Before the Constitutional Rights Subcommittee, Washington, D.C., Feb. 27, 1973)

Mr. Chairman, I want to thank you for the opportunity to appear here today and express my thoughts on the important issue of the relationship between the government and the press.

It is a complex and delicate matter, but I feel confident that given the expertise of the Chairman and the members of this subcommittee, it can be resolved successfully.

First let me say that I am neither a sponsor nor a cosponsor of any legislation on this issue. Thus, I am not here to advocate one bill over another. I am here because as citizens, we all live under the protections of the Constitution, and especially the First Amendment's protection of freedom of the press. Because of the importance of the issue now before this subcommittee, I feel that it is the particular responsibility of those of us in government who hold public office to speak out. To be silent in this debate, to refuse to express our thoughts on these matters, would be a disservice to the public which we serve and to the Constitution which we have sworn to uphold.

A few weeks ago, during the Congressional recess, I had the opportunity to visit several Southeast Asian countries in which all news media are controlled by the government. Anyone from the United States who has visited a country without a free press very quickly senses the sterility of life and the suppression of virtually all public dialogue. It was disheartening and it made me all the more appreciative of the free and diverse media we have in this country.

In our country, when the government puts on its best face, the press is there to scratch away the make-up so that society can see things as they are. There is no other American institution that can fulfill that function. Of course, the press can scratch without regard for what is right and appropriate so that it distorts and disfigures even the unvarnished reality of things, but that is a danger we must tolerate. What would be intolerable would be for the press to become an arm of the state rather than an adversary.

The value of our press lies in its independence and I believe that the increasing number of subpoenas issued to members of the press endanger that independence.

It does so because it tends to make the press part of the investigatory apparatus of government. A government prosecutor who is unwilling or unable to find out what he needs to know to do his job, and who seeks easy information by forcing a newsman to disclose it, is making the press march to government music.

It is clear to me that once the public begins to regard the newspaper reporter with his notebook or the radio reporter with his tape recorder or the TV cameraman as a potential government agent—however unwilling—then the public will cease to accept and cooperate with the press.

Last June, as you well know Mr. Chairman, the Supreme Court ruled in *Branzburg* v. *Hayes* that the First Amendment does not give reporters the right to refuse to appear before grand juries. As a consequence, newsmen who are subpoenaed must either testify or be willing to go to jail for contempt. This is not the type of protection of the freedom of the press that I feel that the Founding Fathers had in mind.

Fortunately, the Court also invited the Congress to enact shield legislation that would protect newsmen from subpoenas, and that is why we are here today.

The first question which we must address is whether there is a need for any Congressional action at all on this matter. It seems to me—and evidently most of the witnesses who have appeared before this subcommittee agree—that the initiative indeed rests with Congress. If Congress does not act, then nothing will be done.

I am aware of the fact that the Attorney General has issued guidelines which reflect a policy on the part of the Justice Department not to issue subpoenas to newsmen unless it is absolutely necessary. But, governmental guidelines are not the type of protection which make newsmen or their sources feel secure. In fact, I have a feeling that governmental guidelines such as those issued by the Justice Department would have made our Founding Fathers a bit uneasy. After all, our whole system of government is based on a healthy skepticism of governmental promises. If the Founding Fathers had trusted the government they created to the degree that we are now being asked to trust the government, then we would have had little need for the Bill of Rights. The plain fact is that those guidelines could be repealed tomorrow morning, or by the next Attorney General, for any one of several inadequate reasons.

Even with guidelines, subpoenas have been issued, newsmen have been asked to disclose their sources or produce unpublished information, and newsmen have gone to jail rather than yield to these demands. This has occurred in state courts as well as federal courts; at the urging of the government and at the urging of defendants. We are talking about a very real problem which has already had a "chilling effect" on the free flow of information in this nation and it could get worse.

We should keep in mind that the action which the Congress is being urged to take is not radical at all. In fact, the protection which the legislation we are discussing would provide in no more than what many scholars thought the First Amendment already provided, until the Supreme Court told us otherwise.

The second question I want to discuss concerns whom we are to protect. Certainly we agree that professional newsmen should be given this privilege. Reporters for daily newspapers are unquestionably "newsmen." But what about the reporter for the underground newspaper or the college newspaper? What about the pamphleteer who works out of a one-room shop and turns out two pages of printed copy that he hawks on the street corner? Are they to be considered newsmen? Are they performing a function which the Founding Fathers wanted to protect? Or do we want to limit this protection to the elite of the press, those who have lunch at the National Press Club?

I note that some of the bills before this subcommittee limit the protection to those newsmen who seem to have achieved success in their profession, those whose principal vocation is the news business.

If we were to accept a definition of this nature, we would necessarily have to exclude all of those part-time journalists who decided they needed to bring something to the attention of the public only occasionally. We would have to make value judgments as to whom we thought was worthy enough to have this privilege. The government would then be placed in a position of deciding whom it wanted to protect, and conversely, whom it wanted to leave unprotected. After much consideration, I do not favor such limitations, because they tend to protect only one elite group of reporters, one which is very hard to precisely define and is much to limited in scope.

Benjamin Franklin, Thomas Paine and a host of others who are a treasured part of our national heritage did not have their first job with the 18th Century equivalent of *the New York Times* or NBC. Yet they are the type of people we would exclude if we were to define "newsman" too narrowly. If requirements of time-spent or money-earned are established by legislation, aren't we really saying to aspiring reporters that *first* you have to show us that people are going to accept what you write, that you are good enough to make a living from your reporting, and then—and only then—will we give you this privilege?

Should we exclude from protection the law professor who writes only one article a year for a limited audience? Is not what he has to say at least as important and worthy of protection as what appears daily in the gossip columns?

Mr. Chairman, it seems to me that we have to consider what is at the heart of the First Amendment. The reason we want to keep the press free is to enable the public to get as much information as possible from sources other than the heavily staffed and well funded public relations departments of government agencies and bureaus or a group of journalists who are accepted by the establishment. To my way of thinking, the First Amendment also should protect those who tend to get under the skin of the government, who make the government nervous, and it is precisely those people that a bill with limitations on the definition of "newsman" would exclude from protection.

For these reasons I suggest that this subcommittee adopt language which extends the protection to any person who collects information for the purpose of disseminating it to the public. As an essential part of this approach, the legislation should state the Congressional intent very specifically. It is ideas, information, and the dissemination of both that we want to protect. Anyone who is disseminating either of these to the public should have the benefit of a testimonial privilege. In those marginal cases in which someone might claim the privilege but would not fall within our intent, a court could

make a decision on an ad hoc basis. In this way, we would be keeping the protection as broad as our intent, without sacrificing some who might not fit under any strict definition.

The next question which must be addressed is whether or not the privilege should be absolute or qualified. I like the distinction made by Senator Weicker between investigative bodies and courts because it helps to focus our discussion. I don't believe that grand juries or congressional committees should be able to subpoena newsmen on the off-chance that they may know something about a particular crime. The term "fishing expedition" has become a cliche because investigative bodies have used this procedure so often. In my opinion, it is investigative bodies who are most likely to abuse their powers at the expense of others. I have concluded that, to insure the greatest protection to the greatest number, an absolute privilege should be given to newsmen with regard to any investigative board, agency or committee.

The more difficult question is whether to allow this privilege to remain absolute before a court. I do not say this is more difficult because a government prosecutor might be hampered in his investigation. Assuming that he has a competent staff of attorneys and investigators, he should have no serious problems. The question of an absolute privilege before a criminal court concerns me principally because of the potential problems it could mean for the accused individual in a criminal case. It raises the possibility, however remote, that a man who is innocent might not be able to compel favorable testimony from a newsman which might be essential to proving his innocence.

It is in cases such as this that two very important and two very basic rights come into conflict. The First Amendment guarantees a free press. The Sixth Amendment guarantees the right of an accused "to have compulsory process for obtaining witnesses in his favor." Does the gravity and the importance of the First Amendment's protection completely negate the Sixth Amendment's protection in those cases where they conflict?

Mr. Chairman, I have struggled with this question, as I know you and the other members of the subcommittee have. Whereas you have indicated your preference for a qualified privilege, I must respectfully disagree. It does not seem to me to be practically possible to draft any legislation which provides adequately for qualifications and which, at the same time, does not set itself up for potential abuse. The difference between a qualification and a loophole is, I would suggest, very small and very vulnerable.

For example, I think that Senator Cranston made a good point when he noted that forcing reporters to testify in cases where there exists an "imminent danger of threat to human life" could result in forced testimony by a reporter investigating diseased meat, or defective automobiles or almost any other product safety issue that could be construed to involve a threat to human life.

I think the danger of such loopholes developing also applies to libel cases, as Senator Mondale and Brit Hume have argued convincingly.

Indeed, it is not mere idle speculation that leads us to worry about qualifications becoming loopholes, for we have some actual experience in the matter. Profesor Benno C. Schmidt, Jr. of Columbia Law School has testified before a House subcommittee that in the 19 states that have shield laws "judges have proved zealously adept at finding loopholes which allow reporters to be held in contempt."

What we seem to fear are situations in which a reporter's notes or out-takes may be the only evidence which can prove an individual did or did not commit a crime. But this argument seems to presume that in such a case, the reporter would refuse to come forward with the necessary evidence. This is an assumption I cannot accept.

It is also an assumption unwarranted by actual experience, for, in the states that have shield laws, there is no reported instance of which I am aware in which a miscarriage of justice resulted from a reporter having crucial information which he refused to provide voluntarily.

By giving newsmen a testimonial privilege, we do not imply that their civic and moral obligations have ceased, any more than we do when we grant such privileges to attorneys, doctors or priests. If a case should arise in which the only hope of the defendant's not being convicted of a serious crime lies in making a reporter divulge his source or unused information—a situation which itself is highly improbable—I cannot believe that a reporter would refuse to cooperate with the defendant. Yet this type of extreme case is the type that seems to have us most worried, even though, as far as I know, no one has ever shown us that this has, in fact, ever happened.

Another question which I want to deal with just briefly is that of whether both sources and unpublished information, notes and outtakes, should fall within the protection of the privilege which I have suggested. I don't see any good reason for not treating both sources and unused information in the same fashion. In the absence of protection for unpublished or unbroadcast information, government officials would be free to peruse reporter's unpublished notes or unused tape recordings and film-material, actions which might jeopardize the sources themselves. And it would inevitably lead to our condoning the unfortunate present practice of government's second-guessing the choice of material used in stories or broadcasts. Thus I favor protecting both sources and unpublished or unbroadcast information.

Mr. Chairman, the final point I wish to discuss is the question of whether or not we should pass a preemptive law—one that would apply to states as well as to the federal government. Again, I know that certain issues of federalism are understandably raised in the minds of many people on this matter. In my mind this is put to rest by the fact that we are trying to buttress the protection afforded by the First Amendment. That is a right that applies regardless of political boundaries. And from a practical standpoint, news flows with commerce across state lines. The right of the public to be fully informed should not hinge on whether a particular state legislature has enacted appropriate legislation. This is a right which must be protected by the Congress.

It seems to me that it would be very detrimental to the day-to-day functioning of a free press to tell a reporter who lives in an area in which he frequently crosses state lines that the way he gathers his news depends upon the state in which he happens to be working. For instance, consider a situation in which a reporter for the New York Times, himself a resident of Connecticut, was covering a story about a government agency located in Washington. Assume that he interviewed an employee of that agency who happened to be a resident of Virginia, and that the interview itself took place in Maryland. And, finally, assume that the laws of New York, Connecticut, Washington, Maryland, Virginia and the federal government differed in regard to the protection accorded newsmen and their sources. Now ask this question: Would our attempts here to safeguard the right of the public to know be of any practical value if all we had done was complicate the situation? Do we want our newsmen to carry with them copies of the applicable state statutes as they go about their business? Is it fair to require potential sources to be aware of the different laws on this matter, depending on whether they tell their story on the east or the west bank of the Potomac River?

Mr. Chairman, very simply, if the privilege does not apply everywhere in this country, then it cannot apply effectively anywhere. There is no doubt in my mind but that the law we enact should be preemptive.

Mr. Chairman, the issue of newsmen's privilege is a very difficult one which is fraught with many fine distinctions. I have considered these issues at some length. I feel that it is my responsibility to share with this subcommittee some of my thoughts on this admittedly difficult question and to outline the type of bill that I think this Congress needs to pass. If my time this morning has helped just to deepen the debate which is now taking place over this issue, then I think that my time has been well spent.

The threats to a free and vigorous press are very real. Having seen the effects of an intimidated and government controlled press at first hand recently, I feel a special sense of urgency in testifying on this matter this morning. For I have no doubt but that this country needs an active, probing, enquiring, inquisitive press that never waivers or hesitates because of implicit or explicit government intimidation. That is why Congress must act decisively to give reporters the legal protection that will allow them to operate as freely as possible.

Thank you.

COMMODITY TRADE: SOME UNANSWERED QUESTIONS

Mr. CLARK. Mr. President, like the stock market, the commodity market has an enormous impact on the economy of this country. The contracts in commodity futures, bought and sold every day at 20 commodity exchanges across the country, have a direct impact on the cost of wheat, corn, soybeans, eggs and other commodities on the supermarket shelf. The market has a definite effect on the price of our food—what the farmer receives for his product and what the consumer pays for it at the other end of the process.

Without the commodity exchanges, the prices of our most basic foods would fluctuate wildly, dropping at harvest and soaring during shortages. The commodity trade is essential to the orderly marketing of food. But since the exchanges came into being more than 100 years ago, they have been open to much criticism—because of the potential for fraud and deception and conflict of interest, because of individuals who have attempted to "fix" the market for their own greed.

In 1903, Frank Norris wrote a book about the commodity trade, called The Pit. One passage, in particular, sums up the importance of the commodity exchange and explains how the process itself can sometimes work against the public interest. The setting is Chicago, the board of trade on La Salle Street—Cressler, a grain dealer, is talking about speculation:

"They call it buying and selling down there in La Salle Street. But it is simply betting. Betting on the condition of the market weeks, even months, in advance. You bet wheat goes up. I bet it goes down. Those fellows in the Pit don't own the wheat; never even see it. Wouldn't know what to do with it if they had it.

They don't care in the least about the grain. But there are thousands upon thousands of farmers out here in Iowa and Kansas

or Dakota who do, and hundreds of thousands or poor devils in Europe who care even more than the farmer. I mean the fellows who raise the grain, and the other fellows who eat it. It's life or death for either of them. And right between these two comes the Chicago speculator, who raises or lowers the price out of all reason, for the benefit of his pocket. You see Laura, here is what I mean." Cressler had suddenly become very earnest. Absorbed, interested, Laura listened intently. "Here is what I mean," pursued Cressler. "It's like this: If we send the price of wheat down too far, the farmer suffers, the fellow who raises it; if we send it up too far, the poor man in Europe suffers, the fellow who eats it. And food to the peasant on the continent is bread—not meat or potatoes, as it is with us. The only way to do so that neither the American farmer not the European peasant suffers, is to keep wheat at an average, legitimate value. The moment you inflate or depress that, somebody suffers right away. And that is just what these gamblers are doing all the time, booming it up or booming it down. Think of it, the food of hundreds and hundreds of thousands of people just at the mercy of a few men down there on the Board of Trade. They make the price. They say just how much the peasant shall pay for his loaf of bread. If he can't pay the price he simply starves. And as for the farmer, why it's ludicrous. If I build a house and offer it for sale, I put my own price on it, and if the price offered don't suit me I don't sell. But if I go out here in Iowa and raise a crop of wheat, I've got to sell it, whether I want to or not, at the figure named by some fellows in Chicago. And to make themselves rich, they make me sell it at a price that bankrupts me."

To regulate trading practices, to insure that there is no fraud, to make certain that no one "corners" the market at the expense of the farmer or the consumer, Congress established the Commodity Exchange Authority in 1936. In relation to the commodity exchanges, the CEA might seem analogous to the Securities and Exchange Commission and its relation to the stock market. But it is not. The CEA has neither the authority nor the vigilance of the SEC, and the trading practices on the commodity exchanges can sometimes reflect this lack of regulation.

The CEA apparently prefers to leave the regulation to the boards of trade themselves, made up of members of the commodity exchanges who are supposed to discipline their own colleagues. The result of that self-discipline can leave much to be desired. It is as if one person were suspect, policeman, and judge in a single judicial proceeding.

In 1965, after a number of questions were raised about the CEA's effectiveness, the General Accounting Office did a thorough study of the Agency. It found that much could be done to improve the Agency and, in turn, the commodity trade itself. There is evidence now that those GAO recommendations have not been followed. I have asked the Comptroller General to make another study to find out if the CEA is doing its job of regulating commodity trade and, if not, what can be done to correct it.

This is not merely a "farm" problem. The trade in commodity futures is a $200 billion a year business which affects each of us. I think it deserves the attention of my colleagues, and I ask unanimous consent to insert in the RECORD an excellent series of articles on the CEA and the commodity trade which have appeared in the Des Moines Register. I also have attached a copy of my letter to the Comptroller General and articles on the same subject from the Washington Post and the Wall Street Journal:

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

[From the Des Moines Register, Feb. 18, 1973]

LAX COMMODITY REGULATION—FEW CONTROLS FOR PUBLIC IN FUTURES MART—RIGGED MARKET CAN HURT CONSUMER—I

(By Clark Mollenhoff, James Risser, and George Anthan)

WASHINGTON, D.C.—The $200-billion-a-year commodity futures market is booming along with virtually no controls to protect millions of small traders and the consuming public, which eventually buys the foodstuffs traded there.

The U.S. Commodity Exchange Authority (CEA)—the federal agency charged by law with responsibility for regulating the market—has, in part, turned this task over to the professional traders themselves, who operate in a club-like atmosphere at the various exchanges.

There are strong indications rigged markets in wheat, eggs and meats have cost the public, the small commodity-traders and farmers millions of dollars.

For example, commodities industry officials themselves agree that a recent suspected manipulation of the egg futures market artificially boosted the price of eggs on supermarket shelves.

At the same time, there is little evidence that those responsible for market manipulations and other serious abuses have received much more than a slap on the wrist.

Seven years ago, following a major commodities scandal, the General Accounting Office (GAO) conducted a thorough study of the CEA's regulatory activities and termed them "inadequate."

The prestigious congressional watchdog agency issued a set of strongly worded recommendations to the CEA—moves designed to insure that the public, from the casual trader trying to make a few dollars purchasing commodity futures to the housewife doing her weekly grocery shopping, is adequately protected.

REGISTER PROBE

Now, a Des Moines Register investigation shows that the CEA, a U.S. Department of Agriculture agency, has paid little or no attention to the recommendations of the GAO auditors.

In fact, the level of CEA regulation of the market has declined during the seven years, even as the volume of commodity trading has soared to record levels.

As a result, the operation of these markets is open to serious abuse, including price manipulations and other collusive and deceptive practices by those who specialize in buying and selling at the commodity exchanges.

The CEA itself acknowledges that "if trading on commodity exchanges is not conducted according to equitable rules constantly enforced, unfair practices may distort or depress farm prices, open the way to price manipulations and make it possible for avaricious dealers to 'corner' certain markets and exploit them to their profit."

The frantic excitement of the floor trading at the 20 commodity exchanges in Chicago, Ill., Kansas City, Mo., New York, N.Y., and other cities is a sharp contrast to the serene atmosphere in the office here of Alex C. Caldwell, the CEA administrator, who contends somewhat complacently that the small traders and the public are being adequately safeguarded.

On the one hand, Caldwell frankly admits a lack of manpower to police the rapidly expanding commodity markets that have become, in a sense, the biggest legal gambling game in the nation—and probably in the world.

NO REQUESTS

At the same time, the quiet administrator admits he has refused to ask Congress for more resources to meet the criticisms leveled in the GAO's indictment of his agency.

The 57-year-old Caldwell has held his job since 1960 and has, over the years, had the authority to act against frauds and to advise Congress of the inadequacies of his personnel and of the regulatory law itself.

TYPICAL REPORT

But his report to Congress last year was typical. While admitting to the House Agriculture Appropriations Subcommitee that the CEA workload, customer complaints and evidence of serious violations were rapidly increasing and were "a matter of concern," he asked Congress for no help. In fact, he noted that with 175 authorized employes scattered across the country he was operating with 22 fewer authorized employes than two years earlier.

While Caldwell speaks of his confidence that he and his CEA staff are doing the best they can to regulate the commodity futures market, some veterans of many years in active trading at commodity exchanges contend the CEA concentrates largely on minor offenders who lack influence and whose transgressions are relatively easy to detect.

And some honest-minded commodities insiders who have questioned the way the CEA and the government-sanctioned industry-policing system operate have found themselves subject to reprisals by their colleagues in "star chamber" proceedings. There they are barred from being represented by a lawyer or subpoenaing witnesses or documents they believe necessary to prove their case.

These are the major elements in a long-standing situation which has, for the most part, escaped public attention because of the close ties between the regulators and the regulated, and because of the exceedingly complicated nature of commodity futures.

Only recently have a few victims begun to strike back by filing lawsuits demanding repayment of money they have lost in alleged price-manipulation schemes.

Others have attempted to break the monopoly that exchange members hold over fees they receive from the public for buying and selling futures contracts.

The CEA dates back to 1936, when Congress passed the Commodity Exchange Act in an effort to strengthen government regulation over future trading on agricultural products.

FUTURES TRADING

Futures trading involves the sale and purchase of contracts to deliver farm products at some time in the future. Without such trading, prices for farm products could be expected to drop disastrously at harvest times when supplies are great, and rise to astronomical levels when harvest stocks are depleted and supplies are short.

Trading begins when a farmer offers his product for sale, with delivery to come at some future date. He wants to receive the highest price possible. At the other end is the consumer who wants to pay the lowest price possible.

TRADED OFTEN

Contracts to purchase the farmer's product are entered into not just once. They are traded back and forth many times at the commodity exchanges by speculators who constantly appraise the going prices for the farmer's goods and other market influences. When a speculator believes the price of, say, wheat will rise, he buys contracts to receive delivery of wheat in some future month. If the price does, in fact, rise, he can later sell his futures contract at a handsome profit.

On the other hand, if the speculator be-

lieves the price of wheat will fall, he will try to sell contracts to deliver future wheat at today's prices.

Ninety-nine times out of a 100, statistics show, the buyer of a futures contract does not receive, nor does the seller deliver, the actual commodity. Most of the transactions are paper ones in which much money—but little produce—is involved. Much of the buying and selling is the result of traders "speculating," or entering into "hedging" contracts to protect their positions on other contracts, or engaging in "spreading" or "straddling" contracts, or a variety of other transactions whose terminology bewilders those not initiated into the complex fraternity of the big commodity traders.

Despite the complex nature of the commodities markets, a rapidly increasing number of small investors are, as one industry analyst put it, "stumbling pell-mell into this thing."

In 1967, for example, there were 9 million "contracts" traded at the nation's 20 commodity exchanges. By 1972 this had nearly doubled to a total of 17.8 million trades. And the number is increasing at about 20 per cent a year.

Commodities traded on the exchanges include corn, wheat, soybeans, cotton, shell eggs, cattle, pork bellies (uncured bacon) and a host of other products.

Hundreds of millions of dollars in futures contracts are entered into each day in the noisy trading pits on the floors of the Chicago Board of Trade, the Chicago Mercantile Exchange, the Kansas City Board of Trade and elsewhere.

Floor traders and brokers shout back and forth in a frantic effort to execute buy and sell orders from their customers, or even to pick up a quick profit for themselves.

EXCHANGE PROBLEMS

Problems can arise at the exchanges when a big trader, or a group of traders, attempts to artificially affect the price of a commodity by buying large quantities in an attempt to drive prices up, or by large-scale selling to drive prices down. It is in such circumstances that an effort to achieve a "corner" or "squeeze" on the market may develop—practices which are illegal and which may or may not be detected by the CEA.

The close ties between the CEA, representing the public, and the commodity markets, representing the brokers and traders, was illustrated recently in Kansas City.

The CEA learned of allegations that a group of prominent grain traders on the Kansas City Board of Trade had rigged the wheat futures market there in an attempt to drive up the government's wheat export subsidy at the time of last year's huge and unprecedented wheat sales to the Soviet Union.

Such an action, if successful, could result in substantial benefits to large grain exporting firms which receive the subsidies.

Caldwell acknowledged the CEA turned the information on alleged rigging over to the Kansas City Board of Trade. It reported, after an inquiry, that there was "no basis for complaint."

The board and its investigating committees are made up of the commodity traders. Because the case could involve influential members of the board of trade, Caldwell agreed the CEA's action, in effect, may have amounted to a request that possible wrongdoers investigate themselves.

He emphasized, however, that the CEA is continuing its own investigation in the case.

MAJOR PROBLEMS

CEA administrator Caldwell's first major problem in policing the burgeoning industry came in 1964 with the exposure of Tino Deangelis's spectacular scheme to corner the soybean oil and cottonseed oil marekts.

Deangelis also had obtained millions of dollars in loans, using non-existent stocks of salad oils as collateral.

A Senate investigating committee that probed the case concluded the schemes had been made possible in part by a reluctance of the CEA to fully investigate the trade practices of Deangelis and others engaged in salad oil futures trading.

Even now, Caldwell contends the CEA could not have prevented the $150 million Deangelis swindle that affected more than 50 of the most respected banks, brokerage houses and trading companies in the U.S.

But the Register has learned the Agriculture Department's inspector general later issued a report criticizing CEA's handling of the case. The report has never been made public and Caldwell refused a request for a copy. Neither would he talk about its contents.

Inspector General Nathaniel Kossack said he would not produce a copy of the report because the Agriculture Department takes the position his reports are internal advisories to agency heads and exempt from mandatory disclosure under the Freedom of Information Act. But he said there is legally nothing to prevent Caldwell from releasing or discussing the report.

It was the Deangelis case that prompted the inevstigation by the GAO. In July, 1965, the inevstigators blasted the CEA for not doing an adequate job of ferreting out abuses in futures trading which then totaled $60 billion a year.

Today, the volume of trading is more than three times what it was in 1965.

But by any standard of relative measurement, the CEA actually has fallen behind in the seven years since the GAO recommended tougher enforcement. And while there have been some meager additions to the CEA staff in the intervening years, the agency has been virtually submerged by the growth of the industry it regulates and by the added responsibilities Congress has given it.

In 1971, for example, the CEA had to process some 676,000 reports filed by trading companies—nearly 3,000 each market day.

Because the CEA has done little to correct its faults since the GAO issued its report, the findings of the GAO study are important in assessing CEA activities today.

STILL NO PROBE

The GAO found that CEA was not making a sufficient number of over-all investigations of the major regulated commodities—a study of the sale of soybean oil futures, for example, to uncover abusive trading practices. At that time, the CEA had never investigated the soybean, soybean oil and soybean meal futures which then had a total annual traded volume of $26.5 billion.

There still has not been an overall investigation to see if soybean trading is being operated honestly, because, Caldwell says, "It would tie up our whole staff for a year."

The GAO reported, also, that in rare cases where the CEA did an over-all market investigation, it generally found abusive trading practices such as cheating of customers, filing of false reports and false transactions by traders.

In these cases, complaints usually were issued. However, the CEA then failed to perform follow-up investigations to determine whether the abuses had been corrected, the report said.

The GAO decided to conduct its own market investigation at one major exchange and during a three-month period turned up 47 cases of "questionable trading practices" in the sale of wheat and flaxseed futures.

Informed of these findings, the CEA investigated and found fictitious and non-competitive sales to have occurred. A commission merchant firm was put on probation and two of its officials were denied trading privileges at the exchange for 20 and 30 days.

Caldwell then as now, insisted his agency could not conduct comprehensive market probes with the manpower it had. But the GAO firmly rejected this argument, stating that the regulatory agency "can not limit its responsibility to properly police trade practices on contract markets merely because additional manpower and funds may have to be requested and obtained for this purpose."

Caldwell pleaded in 1965 that he could not do a useful trade-practice investigation unless he could take the time to study the thousands of trading transactions involving a particular commodity for an entire week.

Again the GAO disagreed, noting that a CEA study of only part of the transactions during a single day's trading in wheat futures had turned up violations that resulted in filing of complaints against 11 persons.

LIMITED STUDIES

Now, Caldwell says the CEA has decided to abandon the over-all trade-practice investigations in favor of some limited probes of trading by individual firms. Even one market-wide investigation, said Caldwell, would "overwhelm" his agency in the current era of high-volume commodity trading.

The GAO also reported in 1965 that the CEA did not review, on a periodic basis, the records of the commodity exchanges and thus had no way of knowing whether the exchanges were enforcing their own rules designed to prevent illegal and unethical practices by exchange members.

This "failure" by the CEA to inspect records and check on the adequacy of punishment of violators by the exchanges, said the GAO, "reduced the effectiveness of CEA's administration and enforcement of the provisions of the (Commodity Exchange) Act."

Caldwell, in two interviews, expressed little concern about the exchanges' handling of these matters, saying he is "all for self-policing" by the exchanges.

One of the most serious shortcomings of the CEA, according to the congressional agency, was its failure to evaluate the effect on futures prices of "floor trading," where a trader on a commodity exchange is permitted to buy and sell not only for his customers, but for himself.

"SPECIAL ADVANTAGES"

The GAO pointed out that professional floor traders, because of their special knowledge and constant presence in the exchange, "enjoy special advantages" over the rest of the trading public. The agency said this opens the door for such abuses as the floor trader obtaining more favorable deals for himself than for his customers.

Thus, said the GAO, the CEA should investigate floor trading to see whether the practice should be curtailed as the Securities and Exchange Commission has done with regard to brokers at the regulated stock exchanges.

CEA chief Caldwell admits "floor trading" could result in serious conflicts of interest, where the trader might substitute his own unprofitable trades for a customer's profitable ones. He also admits the CEA has done little to regulate this activity.

But Caldwell said he considers any such investigation "low priority." He has consistently refused to ask Congress for funds to carry out such studies.

DISPUTES CALDWELL

Caldwell's lack of concern about the problem was disputed by a Chicago lawyer who for 20 years was a trader on the floor of the Chicago Mercantile Exchange. He said of the floor traders:

"If a fellow handles a customer's orders—say you wanted me to buy some (hog) bellies for you—I should not be allowed to trade for myself. All sorts of things can happen. You lay yourself open to all sorts of hanky-panky."

And William Phelan, who heads the Mercantile Exchange's 15-member investigations

staff, acknowledged: "There's an unbelievable temptation, if the trader sees that his own account shows a loss and the customer's account shows a profit."

THE JOB THEY PERFORM

WASHINGTON, D.C.—The nation's commodity exchanges—where future crops of grain are traded, where young cattle and hogs still on the farm are bought and sold, and where fortunes can be won or lost in an instant—are a complex outgrowth of the need to provide a place for the orderly marketing of agricultural products.

Until the development of the commodities markets in the mid-1800s, trading in grains, particularly, was chaotic, as corn, wheat and oats would pour into Chicago, Ill., at harvest time. This created a glut, resulting in low prices for farmers and the dumping of bargeloads of grain into Lake Michigan.

At other times of year, the situation was the opposite. Grain stocks were depleted, and demand drove prices skyhigh.

Today, the main business at the 20 commodity exchanges in the U.S. is the trading of "commodity futures"—contracts for the sale and purchase of future farm products. Selling crops and livestock in advance, at definite prices, helps stabilize prices and provides a more even flow of products to market.

Commodity exchanges often go by the name of "Board of Trade" or "Mercantile Exchange." They are located in Chicago, Kansas City, Mo., New York, N.Y., Minneapolis, Minn., and a number of other key shipping and port cities.

The futures trading is conducted in trading "pits" on the floors of the exchanges, by commodity brokers and floor traders who have purchased a membership at the exchange. They buy and sell commodity futures contracts for their customers, ranging from giant grain companies down to the ordinary smalltime investor, or for themselves. When acting for customers, they are paid commissions for their services.

The exchanges operate under a two-part system of regulation—the federal Commodity Exchange Act passed by Congress in 1936, and the exchanges' own rules and regulations.

The Commodity Exchange Act, an outgrowth of the earlier Grain Future Act of 1922, is administered by the Commodity Exchange Authority, an agency of the U.S. Department of Agriculture. The CEA has headquarters in Washington, D.C., and regional offices at major exchange cities. Alex C. Caldwell has been administrator of CEA for the past 13 years.

Purpose of the Commodity Exchange Act, said Congress at the time of its passage, "is to insure fair practice and honest dealing on the commodity exchanges and to provide a measure of control over those forms of speculative activity which too often demoralize the markets to the injury of producers and consumers and the exchanges themselves."

A prime responsibility of the CEA is to enforce the act and to guard against price manipulation and other illegal market activities in which a trader or group of traders tries to unlawfully "corner" or "squeeze" the market in a particular commodity and thereby influence the price in their favor.

The line between such lawful trading practices as "hedging," "spreading," and "straddling" and unlawful manipulation is not always a distinct one. It poses problems for government regulators and the courts.

The CEA also has responsibility under the act for designating exchanges as lawful contract markets where futures trading may be carried on, for registering commodity brokerage firms and floor traders, for setting minimum financial requirements for the trading houses, for protecting customers' funds through surprise audits and other means, and for dealing with violators through negotiation, administrative complaint or criminal prosecution. Penalties may include cease-and-desist orders, temporary or permanent loss of trading privileges, fines or prison sentences.

The volume of futures trading regulated by the CEA has grown steadily. Fifteen million or more futures contracts are expected to be transacted this year with a total value of $200 billion—triple the figure of just seven years ago.

In the same period of time, the size of the CEA staff has remained esssentially the same, with the exception of the addition of a few employes when Congress gave the agency more responsibilities in 1968.

The General Accounting Office, which found in 1965 that the CEA was doing an inadequate job of regulation, recommended that Caldwell seek more funds and personnel—an unusual recommendation from the cost-conscious congressional watchdog agency.

The CEA operates on an annual budget of $2.9 million, and has about 170 employes. It must audit the activities of some 275 registered brokerage firms and about 1,300 floor brokers.

TEN-CENT RISE IN EGGS TIED TO "RIGGING"—FUTURES MARKET INCIDENT TOLD—II

(By George Anthan and James Risser)

CHICAGO, ILL.—An alleged price rigging of the egg futures market in Chicago in 1970 continued undetected for nearly a year and boosted the supermarket price of eggs by as much as 10 cents a dozen, The Register has learned.

In another price manipulation case—this one involving a giant grain company's unlawful control of the wheat market in 1963—the firm got off without any penalty other than a meaningless probation period.

MANIPULATION POTENTIAL

The two incidents illustrate the enormous potential for manipulation and other frauds in the nation's commodity markets, and the fact that the U.S. Commodity Exchange Authority (CEA) often moves slowly and timidly against violators.

The federal law governing the commodity markets, as well as the publications of the CEA, stress that future trading is particularly "susceptible to speculation, manipulation and control."

Attempts by individuals or a group of conspirators to artifically raise or depress the price of foodstuffs traded on the exchanges will, if allowed to go unchecked, be "detrimental to the producer (farmer) or the consumer and the persons handling commodities," the law warns.

Yet a former high official of the Chicago Mercantile Exchange estimates privately that for every price manipulation case prosecuted by the CEA, eight or nine other price riggings go undiscovered.

When the CEA does move in, it does so slowly. A Chicago lawyer familiar with the inside workings of the commodity markets said, "A regulatory agency like the CEA should be able to move with lightning speed. But they drag the cases out and then impose relatively meaningless punishment."

DEFEND REGULATION

CEA and trading industry officials defended the level of government regulation in interviews with The Register, but they could provide no firm assurance that most price manipulations are detected.

The General Accounting Office (GAO) more than seven years ago sharply criticized the CEA for lack of adequate regulation, saying in a 1965 report that the number of investigations conducted by the agency was "not sufficient to disclose and discourage abusive trading practices." The GAO, noting the growing size of the commodity markets, recommended a major step-up in regulatory activity, not necessarily to detect and stop every attempted manipulation but to provide at least a higher level of deterrence.

Ironically, the number of market manipulations alleged by the CEA has declined during a period of time in which commodity-futures trading has quadrupled in volume.

In the 1950s, the CEA filed 14 complaints charging traders with price-rigging. But in the 1960s, under the new leadership of CEA Administrator Alex C. Caldwell, only six such cases were filed.

The former mercantile exchange official who contends price-riggings are not caught said the CEA office in Chicago "has only two or three people who really understand what's going on and what's involved in commodity trading. The CEA staff is good on bookkeeping things, like the proper segregation of customers funds from the funds of the brokerage houses, but they are deficient on stopping manipulation."

CRUCIAL OPERATION

The Chicago operation of the CEA is particularly crucial because 80 per cent of all commodity futures trading takes place at the Chicago Board of Trade and the Chicago Mercantile Exchange.

It was in Chicago that the egg and wheat manipulation cases arose.

In May 1970, a group of people who had invested in the commodity market filed suit in U.S. District Court in Chicago against the mercantile exchange, charging they had lost money because of a manipulation of the March, 1970, egg futures market.

They alleged that a group of unknown conspirators had forced them to sell, at artificially depressed prices, contracts they held for the purchase of eggs. The exchange officials, in an effort to stop the suspected manipulation, actually contributed to the plaintiff's losses by giving advance notice to officials of big brokerage houses who served on the exchange's business conduct committee, the complaint alleged.

The lawsuit asks for damages of $2 million, claiming that is the actual loss suffered by the plaintiffs and others who were hurt by the scheme.

In October, 1970, another civil suit was filed by a different group of egg producers and commodity traders, alleging a price manipulation of the September, 1970, egg futures market.

The second case charged the plaintiffs had lost $835,000 because Tyson Foods, Inc., of Springdale, Ark., and other defendants—including some major brokerage houses—took part in an illegal plan to maintain "a false fraudulent and inflated price in egg futures."

BOUGHT CONTRACTS

The defendants bought up hundreds of contracts in egg futures (a contract equals 22,500 dozen) and drove the wholesale price of eggs up to a season's high of 48 cents a dozen, forcing the plaintiffs to pay artificially high prices in order to fulfill their own contracts to sell eggs, the suit charged.

Despite the warning signals raised by the two private lawsuits, it was two years later—October, 1972—before the CEA filed a complaint against Tyson Foods and others, charging them with manipulation of the 1970 egg futures market.

The allegations of that government complaint are substantially the same as in the second civil suit filed two years before.

Private lawyers involved in the cases said CEA investigators did not find out about the case on their own, but got most of their information from the filing of the private suits.

CEA administrator Caldwell says, however, that his Chicago staff was into the case as early as September, 1970, checking on complaints of an egg market "squeeze," through its "regular surveillance process." But CEA referred the situation to officials of the Chicago Mercantile Exchange and took no further action for two years.

This was fruitless, according to the al-

legations of the first civil suit, because exchange officials charged with * * * were connected with firms trading in egg futures.

"COMPLEX FIELD"

As for the two-year delay in the filing of the CEA complaint, Caldwell said "This is a complex field. It takes a long time to get the evidence for prosecution." The case is still pending.

Veteran observers of the commodities markets acknowledge the alleged egg price manipulations may have cost consumers and farmers millions of dollars.

Harry Fortes, the lawyer who filed the civil suit against Tyson Foods, says the manipulation had an impact on the retail price of eggs because it lasted for some time. It also hurt egg farmers, he says: "The guy in the country with eggs says, 'Heck, futures are up to 47 cents. I'm not going to sell for less.' Then later, the price collapses, eggs are dumped, and the producer gets hurt."

William Phelan, who heads the Department of Audits and Investigations at the 500-member Chicago Mercantile Exchange, said in an interview at his Chicago office that the alleged egg manipulation was hard to detect because "there was a consort of interests involved, and it's a very difficult thing to police."

It is tricky to keep track of the trading positions of all traders and to discover if a group of related traders is putting together a manipulation effort, he said.

"SIGNIFICANT EFFECT"

"These people did it for a year running," said Phelan. "It definitely had an effect on the price of eggs—a significant effect."

The impact on the retail cost of eggs was to raise the price by as much as 10 cents a dozen, he estimated.

A former exchange official said the CEA could guard against such manipulations better by hiring more people and by keeping a more direct day-to-day watch on trading.

"It's partly a matter of just being there and observing what's going on," he said. "The CEA should have a man on the floor to watch the trading, to listen to rumors. There are always people that are hurt and will spill their guts."

"A SLAP ON WRIST" FOR CARGILL, INC.—III

(By Clark Mollenhoff and George Anthan)

WASHINGTON, D.C.—Cargill, Inc., one of the nation's largest grain companies, has emerged from a major wheat-price manipulation case with what federal officials themselves concede was "only a slap on the wrist."

A U.S. Circuit Court of Appeals has ruled that Cargill was guilty of an illegal "squeeze" of the 1963 wheat-futures market in Chicago, Ill., causing prices to rise to artificial levels.

But the U.S. Commodity Exchange Authority (CEA), after a delay of 7½ years, finally imposed its penalty—a two-year probation for the company and some top officers.

Cargill thus continued to enjoy trading privileges at the nation's commodities exchanges.

CEA Director Alex C. Caldwell admitted to The Register that the probation given to Cargill was, "in effect, no sanction."

Caldwell said he recommended the company be barred for 90 days from trading in commodities, but he said the former CEA judicial officer who levied the penalty against Cargill "wasn't a tough sanctions man."

Caldwell's judgment is disputed, however, by the now-retired judicial officer, Thomas Flavin, who hinted that the U.S. Agriculture Department has an unofficial policy of going easy on large grain traders who violate the commodities law.

Flavin said he was not overtly pressured, and added, "I made the decision on the Cargill case by myself."

But he said he imposed the light penalty "with the knowledge that no secretary of agriculture has ever penalized a big trader by barring him from trading."

ALTERNATIVE TO FINE

Flavin continued, "To do otherwise would have put them (Cargill) out of business because if they had been barred from trading, it would have been worse than a $5-million fine."

Caldwell describes the Cargill situation as one of the most important market manipulation cases brought by his agency.

But the case, which began in 1963, also is cited by CEA critics as an example of slow regulatory action, as well as weak punishment.

It started when the CEA filed a formal complaint in June, 1964, charging the big grain firm with a massive manipulation of the May, 1963, wheat-futures market on the Chicago Board of Trade.

CEA records show that hearings on the agency's complaint were concluded in November, 1966, and that it was almost four years later before the CEA judicial officer's ruling was handed down. Then, there was delay after delay as the company appealed to the courts.

It was December, 1971, before the U.S. Court of Appeals finally ruled that Cargill's control of wheat-futures contracts representing two million bushels, only 15 minutes before trading in May, 1963 wheat futures closed, constituted a market manipulation.

This was because, the court said, Cargill at this point controlled just about all the available grain. Therefore, traders and speculators who earlier had agreed to deliver grain at a certain time were faced with having to pay artificially high prices in order to meet their obligations.

ARTIFICIAL PRICE

The court held that Cargill "exacted an artificially high price" from those who had agreed to fulfill the firm's futures contracts.

Also, the court ruled that the "squeeze was intentionally brought by and exploited by" Cargill.

Such manipulation interferes with "basic supply and demand factors" which should govern the grain markets, said the court.

Such an action, the court continued, "prevents the futures market from performing its basic economic function and hence diminishes its utility to those members of the trade and general public who rely on its basic purposes."

When a buyer of futures contracts succeeds in manipulating the market, he can force holders of sale contracts to fulfill their obligations "at a price which he dictates, which of course is as high as he can prudently make it," said the decision.

Cargill's plea that it was simply exercising good business judgment was rejected by the court which said, "Cargill was no novice in futures trading and knew of market conditions which could cause a squeeze."

CLAIMS CARGILL HAD INFORMATION

The company, said the court, "possessed a very valuable piece of information unknown to the trade at large, namely that it owned practically all the wheat available for delivery. . . . Cargill knew exactly what was going on."

Despite the court's judgment of the severity of the situation, Cargill was given no punishment by the CEA other than the two-year probation.

This light penalty was levied by former CEA judicial officer Flavin and affirmed by the court, "because of the undue protraction of the proceedings, not due to any fault of" Cargill.

Flavin had found that the offense deserved punishment of Cargill and four of its top officers by denying the firm and the officers trading privileges on all federally-regulated commodity exchanges for three months.

But Flavin then suspended the punishment and put the firm and the officers on probation for two years, saying that if the law was violated again during that time, the punishment might be re-imposed.

"I'm not sure we had a legal right to suspend the penalty," Flavin has told The Register.

However, referring to the CEA's traditional stance on sanctions, Flavin added, "We did it (suspended penalties) all the time." He said it was the only practical way for the CEA to find a violator guilty and still not "virtually put him out of business."

NO CHANGE

Flavin explained that although there may be no legal right to suspend the penalties for big traders, "It is apparent that these companies won't come into court and challenge it by saying, 'You've been too soft on me. You should have put me out of business.'"

Caldwell says Flavin's successor, Donald Campbell, is expected to take a tougher stand on penalties for violators in the future.

Caldwell also took issue with the court's statement about delays in the Cargill case not being the company's fault.

"There was every legal maneuver possible for Cargill to drag it out," he said.

Flavin said some of the delay in the Cargill case was because the Department of Agriculture did not appeal a precedent-setting "bad decision" in the 5th U.S. Circuit Court of Appeals involving Volkart Brothers, a big cotton trader.

Flavin said there were two ways the Agriculture Department could have dealt with the adverse ruling in the Volkart case—appeal it to the U.S. Supreme Court where he said it most likely would have been reversed, or issue a statement deploring the circuit court decision and announcing that the department would not be bound by it. But the department did neither.

"Everyone agreed it was a bad decision, but the cotton industry didn't want it appealed, and they managed to put together the political power to keep the solicitor general from appealing it and to keep the secretary of agriculture from making a statement that it was bad law and that we shouldn't be bound by it," Flavin said.

WANTED TO APPEAL COTTON RULING

He continued, "I wanted it appealed, but as long as it wasn't appealed, Cargill had some basis for contending that what they had done was not a violation of the law because it wasn't anything that the Volkart Brothers hadn't done. That was also one of the mitigating circumstances in the Cargill case."

Flavin emphasized, "There wasn't any hanky-panky on the Cargill case. I was just buried under work with this and several other big cases, and in the middle of it they took my executive assistant away from me and made him a hearing examiner, and it was a year before I got him replaced."

The U.S. Supreme Court, in refusing last spring to review the circuit's ruling in the Cargill case, in effect overturned the Volkart Brothers ruling and imposed a more strict standard against price manipulation attempts.

One of the Cargill officers put on probation was Walter B. Saunders, a vice-president, who testified before a congressional committee last September that he did not know if he was still on probation.

Saunders was before Congress in connection with Cargill's role in the spectacular sale of U.S. wheat to Russia last year.

Cargill sold some two million bushels of wheat to the Russians, under conditions which permitted Cargill, Continental Grain Co. and others to collect relatively high U.S. government subsidies on the sale.

Representative John Melcher (Dem., Mont.) pointed out to Saunders that his two-year probation period from the wheat futures manipulation case had ended a month earlier, in August, 1972.

"I was amazed," Melcher told Saunders, "that you did not seem to know when the probationary period ended . . .".

LITTLE STIGMA

"There does not seem to be much of a stigma attached to this ruling on the part of Mr. Flavin. Indeed, there is very little penalty involved since you are not aware when the probationary period ended," said Melcher.

The congressman, who was concerned over evidence that the Agriculture Department gave advance tips to Cargill and some other big grain firms about pending changes in the government wheat-export subsidy, also noted that at the time Cargill was on probation, the White House hired the firm's vice-president for public affairs, William R. Pearce, to be a special foreign trade adviser to President Nixon.

Melcher also pointed out that Cargill has used the New York City law firm of Mudge, Rose, Guthrie and Alexander as its attorneys in various legal matters. Former U.S. Atty. Gen. John Mitchell is a member of the firm, and Mr. Nixon was a partner there before he was elected president in 1968.

The wheat manipulation case, in which Cargill drove the price of wheat futures up to $2.28 a bushel, marked the fourth time the Minneapolis, Minn.-based firm has been in formal trouble with the CEA since the Commodity Exchange Act was passed in 1936.

Three of the cases involved alleged market manipulations, and one was a charge that Cargill and its Canadian subsidiary engaged in a series of bookkeeping maneuvers which permitted Cargill to illegally hold large amounts of oats futures contracts.

In one of the earlier cases, Cargill was prohibited from trading on any regulated commodity market for several years.

UNUSUALLY LENIENT

Examination of past CEA manipulation charges indicates that Cargill's recent two-year probation was unusually lenient.

In the past, firms and their officers have been barred from trading for three months, six months, often for an entire year, as the result of price-fixing schemes. Criminal penalties rarely are used although in one 1946 case a firm was fined $25,000 and each of its officers $1,000.

The stiffest penalties, such as the six-month or one-year suspensions, came in the 1940s and 1950s. Since Caldwell's reign began in 1960, the toughest penalty for price-rigging has been a 90-day suspension, but the more frequent penalty has been a 20- or 30-day suspension, or simply probation—as in the Cargill case.

CEA director Caldwell concedes that penalties imposed in recent years have not been tough enough, but he declines to commit himself to a crackdown other than to say, "We may have to toughen them."

But any crackdown on penalties first involves finding the market manipulators. And, as the court stated in the Cargill case: "The methods and techniques of manipulation are limited only by the ingenuity of man."

DOES THE JOB WELL: IT'S SCRAPPED—IV

(By George Anthan and James Risser)

CHICAGO, ILL.—An Agriculture Department computer program to spot possible commodity market violations has been judged a failure by the U.S. Commodity Exchange Authority (CEA) because it was spotting too many cases.

CEA chief Alex Caldwell, who has the responsibility for policing the $200-billion-a-year commodity market, told The Register the computer kicked out so many cards indicating deceptive or manipulative practices or other violations that it was impossible for his small staff to process them adequately.

Rather than seek staff increases or have his present staff flounder in "the mountain of paper the computer kicked out," Caldwell simply abandoned that computer as "unneeded" and "unworkable."

CLAIMS HE'S NOT EMPIRE BUILDER

"I'm no empire builder," Caldwell said in explaining his rejection of General Accounting Office (GAO) recommendations that he increase his staff to conduct enough investigations to properly police the market.

The GAO recommendations were made in 1965 and 1966 when the commodity market was only a $60-billion-a-year business. Although the trading has tripled, the CEA staff is essentially the same size.

Caldwell admits more investigators would probably turn up more violators. But he contends the investigations of the CEA are adequate as a deterrent in the self-policing system he favors. That is where Caldwell is at odds with the GAO and some of the smaller commodity traders who have the courage to speak out about a system that the big traders admire.

Actually, in its 37 years of operation, the CEA has issued fewer than 225 formal complaints against alleged violators of the Commodities Exchange Act.

And the CEA, especially in recent years, has allowed most offenders to continue in business, perhaps after a short suspension of trading privileges for a few.

This is despite the CEA's legal authority to permanently deny trading rights to offenders, to impose fines, and even to send violators to jail.

DEFENDS DECISION

Caldwell, who has been critical of a minor penalty imposed in a major wheat futures manipulation case, defends his agency's decision to impose a light sanction in the case of one of the nation's leading brokerage houses charged with violations involving its customers' funds.

The CEA charged in August, 1972, that Dean Witter & Co. had failed to properly allocate up to $414,000 in customer funds, a breach of the law. The violations, according to the agency's complaint, had occurred a year earlier, between July and October. 1971.

The CEA reported that Dean Witter & Co. "admitted the facts" and waived a hearing. The agency announced that, as a penalty, it had suspended the brokerage firm's privileges as a floor trading merchant for 10 days, in effect prohibiting the company from doing business on the commodity markets for that time.

WITTER RECEIVES SUSPENDED SENTENCE

But at the same time, the CEA announced that this penalty would be suspended, and that Dean Witter would be placed on probation for three years.

(The consent order suspending Dean Witter's license, and the order which suspended the sentence, was issued by Donald Campbell, the CEA's judicial officer in Chicago. Campbell has been described by Caldwell as a man expected to take tougher stands on violators.)

In defending this action, Caldwell said the violation by Dean Witter & Co. "was not willful. The problem was a poor set of records. It just happened. We thought the best way to work it out was for them to agree to fix up their bookkeeping."

Caldwell agreed, however, that as a leading brokerage firm, Dean Witter & Co. should have been aware of provisions of the commodities law.

But Caldwell did not mention that exactly one year before the most recent complaint was filed, in August, 1971, the CEA had issued another complaint against Dean Witter & Co., this time charging the firm had improperly handled up to $260,000 in customer funds.

In that case, too, Dean Witter & Co. is listed in CEA records as having filed a stipulation which "it admits the facts . . ."

No penalty was levied in the 1971 case. Dean Witter & Co. was directed to "cease and desist" from "failing to treat and deal with customers' funds as belonging to such customers . . . " Under the law, the CEA could have later imposed fines and jail terms for failure to comply with a cease and desist order.

1966–67 DISCREPANCIES

CEA records also show that examination of the company's records in 1966 and 1967 disclosed the firm "had not satisfactorily complied with the requirements" of the federal law. In this case, according to CEA records, "These matters were called to the attention of the corporation" . . . and the firm "promptly" complied with the law.

There is little question but that Caldwell's position that Dean Witter's later violations were simply a result of "bad bookkeeping practices" would be challenged by some veteran federal regulatory officials in Washington since the company was found to have been involved in earlier violations.

JUSTIFY EXISTENCE OF AGENCY

A former high official of the Chicago Mercantile Exchange, now practicing law here, contends the CEA is more concerned with impressing Congress with its modest budget requests than with adequately regulating a $200-billion-a-year industry that is growing at the rate of 20 per cent annually.

"They just want to justify their existence," said the lawyer, a former commodities trader and considered a market expert.

When CEA chief Caldwell asked Congress for money to be used on the computer investigations of illegal price manipulations, he said he would reduce the size of his staff to offset the $35,000 cost of the computer programming.

So when the computer investigations failed to work out, the agency was without its planned new program and had fewer employes than when it started the project. In fact, as the volume of commodity trading has swelled, the CEA staff has been steadily shrinking.

At congressional appropriations hearings a year ago, Caldwell, anticipating that the computer program would work, boasted that "despite an increase of 1.5 million in transactions supervised and a corresponding increase in workload, the agency is currently operating at 22 positions below the level authorized in the fiscal 1970 budget."

With fewer employes, Caldwell now acknowledges that one major investigation of trading in a single commodity—soybeans, for example—"would tie up our staff for a year."

"NOT MY THEORY"

Then, he adds quickly, "That doesn't mean we need more staff. You could build up an empire here, but that's never been my theory of regulation."

While Caldwell insists CEA's policy of allowing the commodities exchanges to police themselves is working, the U.S. General Accounting Office (GAO) has urged strongly that the CEA beef up its staff, and do more of this work itself.

SEEN AS UNUSUAL STAND

This is a highly unusual stand for the GAO, the congressional watchdog agency that rarely advocates increased government spending or staff expansions.

The CEA's 1973 budget request to Congress is indicative of its long-standing approach to its regulatory task.

The agency reported that it expects to conduct 107 investigations this year, compared to 106 last year. It expects to file two criminal proceedings this year, the same as in 1972.

The CEA said, also, that it had conducted 188 audits last year to determine if broker-

age firms were honestly handling their customers' money. In 1973, the CEA expects to conduct 195 such audits.

In another area, the agency said it examined 645 financial statements last year, and expects this to drop to 450 in 1973.

In 1972, the CEA spent $2,943,000. The agency is requesting a $52,000 decrease this year, and a drop to $2,848,000 for 1974.

As the size of the market has grown, CEA employes have been swamped in paperwork—they expect this year to process more than 700,000 reports which the law requires the bigger commodity traders to file daily and weekly.

This has left less time for investigations of possible market abuses. The CEA has reduced the scope of so-called "trade practice" investigations, changing them from market-wide investigations of a particular commodity to investigations of a single firm's trading activities. It did only 15 of the new-style investigations last year.

BUDGET REQUEST

The CEA's budget requests for the next fiscal year estimate there will be no increase in the number of employes. A steady decrease in the number of administrative proceedings it initiates in cases of suspected law violations is also foreseen.

Longtime Washington observers agree it isn't clear how a federal regulatory agency can determine in advance how many actions it will undertake, unless the agency has determined in advance to hold its activities to an arbitrary level.

Caldwell has reported his agency in recent years has doubled the number of customers' accounts covered in CEA audit programs, and he said the unit increasingly is taking steps to prevent market abuses by issuing warnings to traders suspected of engaging in price manipulation.

In order to guard against traders manipulating market prices, or "cornering" the market in any one commodity, the CEA has established limits on the amount of the commodity any one trader can hold.

For example, a trader is limited to buying or selling three million bushels of corn in one day. Also, he is not allowed to hold for any length of time contracts representing more than three million bushels. And anyone who buys or sells contracts representing more than $200,000 bushels of soybeans must report this to the CEA.

RECENT SCHEMES

But, according to one commodities exchange official, some recent price-manipulation schemes have gone undetected for months because many persons working together have kept their purchases just below the reporting limits. He agreed that a major CEA trade-practice investigation is the only way to insure against such activities. But it is this type of investigation the CEA has dropped because of staff shortages.

Donald L. Tendick, the CEA's deputy regional director here, said that although "we can't ever catch everything, I'm pretty comfortable with the system we have."

Tendick, who has been employed by CEA since 1964, said he doubts the Chicago office with its 87 employes misses many price manipulations or other attempted illegal practices at the Board of Trade and Mercantile Exchange.

To a large extent, he said, the CEA relies on records required to be filed by large traders showing their holdings in various commodities.

NO PROBE OF WHEAT SALES

According to Tendick, the CEA did no trade-practice investigation of wheat sales at the time of the recent huge export deal with the Soviet Union. This was despite reports that some persons or companies had advance tips about the sale and had used the commodities markets to make large profits.

Said one observer here with longtime commodities trading experience: "With the market going like it was, you know somebody had to know."

Tendick concluded that "given the resources we have, we're doing an adequate job." But he acknowledged that the agency could use more investigators and then would "perhaps find more violations."

Tendick and other CEA officials confirmed that most CEA investigations are a result of complaints from traders and from public investors in commodities.

Tendick said that before starting an investigation, the 87-member Chicago office, largest in the CEA, clears such an action with officials in Washington.

Herbert Sheidy, a vice-president of the Chicago Board of Trade, said "The regulation of commodities is real primitive compared to the securities industry."

Sheidy, the board's director of compliance, was a securities dealer before joining the Board of Trade.

He said of the CEA: "They're not as pervasive as in the Securities and Exchange Commission (SEC)," which regulates the country's stock exchanges.

"SUPER AGENCY"

The Board of Trade's Sheidy said there have been proposals to take the CEA out of the Agriculture Department, turn it "into a super agency, like the SEC, and give it authority to regulate all commodities."

Currently, the CEA does not regulate trading in the so-called "world" commodities, including coffee, silver, cocoa, platinum, plywood and sugar.

There have been mounting reports of abuses in trading of those commodities, and dealers don't have to follow disclosure procedures or observe capital reserve requirements.

Caldwell met last week with some 100 industry leaders to discuss the growing practice of selling options enabling customers to minimize the risks of buying and selling in the "world" commodities. The customers pay a premium for the option, and the dealer who sells it assumes part of the risk.

But there have been reports of unscrupulous dealers refusing eventually to honor the options they have sold, and of dealers with so little financial backing that they are unable to pay their customers who may have profited in a futures trade.

ASK REGULATION OF OPTIONS TRADING

Caldwell said most of the industry leaders called for federal regulation of options trading, but were unable to agree on how it should be done.

Sheidy said industry officials believe the commodities exchanges, rather than the CEA, should be given authority to police trading in the "world" commodities.

"The industry believes we'd rather do it ourselves," he said, "because the industry would not be as impractical and rigid as a legal standard might be."

There is little question that most commodities-trading professionals would like the CEA's regulatory activities to continue at the present level.

Similarly, among the CEA's strongest defenders are persons connected with trading commodities.

Richard Teweles, a Los Angeles, Calif., commodities-market analyst, agreed that the CEA is "obviously understaffed," but he added, "I'm also very impressed with them. They go at just about the rate of government bureau should go. They're not like the SEC, or the ICC (Interstate Commerce Commission). The railroads hate the ICC, and the securities industry hates the SEC. I don't know of anybody in our business that dislikes the CEA."

Teweles believes government agencies, as they get bigger, "go from a necessary evil, which I regard all government bureaus, to the point of being like a Russian commissar."

He continued, "But the CEA is one of the few I think is in just about the right position."

LOOSE REGULATION OF COMMODITY MARTS—V

(By Clark Mollenhoff)

WASHINGTON, D.C.—There are few clubs that could provide a better, more congenial atmosphere for big commodity traders to operate in than the one which exists under the approving eye of the U.S. Agriculture Department.

The department's Commodity Exchange Commission (CEC) and its operations arm, the Commodity Exchange Authority (CEA), run a loose regulatory structure that permits the big traders in the grain and livestock markets to pretty much regulate themselves.

The "club" members at Chicago, Ill., Kansas City, Mo., and other commodity futures exchanges are permitted to sit as jurors and judges in cases where one of their colleagues has been accused of illegal or improper conduct under rules which exchange members themselves have set.

They also set minimum commission fees to be charged for handling the buy and sell orders of their investing customers, although the fees admittedly are not directly related to the cost of the service. A member who steps out of line and tries to charge his customers a smaller commission may find himself disciplined by his fellow club-members.

COURT DECISION CAUSES TURMOIL

A recent U.S. Supreme Court decision, ordering an exchange member who allegedly was defrauded of his exchange membership to seek relief from the Commodity Exchange Commission, has thrown things into somewhat of a turmoil.

Justice William O. Douglas, dissenting in the 5-to-4 high court decision Jan. 9, objected that it was a "futile gesture" to direct plaintiff Thomas Ricci to the CEC "when the agency has, by its inaction, already shown every indication of sanctioning the alleged violation . . . We are requiring the petitioner to seek from the regulator an admission of their failure to regulate."

The CEC, made up of the secretary of agriculture, the secretary of commerce, and the attorney general, has no staff and, according to an Agriculture Department official, "meets no more than once a year."

The commission has generally left most of the regulatory work in the hands of the related agency—the CEA—which is headed by administrator Alex C. Caldwell. Under Caldwell the CEA refers many complaints over to the exchanges themselves for action.

Since the exchange committees handling such complaints are made up of important traders who sit as members of the exchange, the regulatory system breaks down, according to some critics, because it results in the regulators and regulated being one and the same.

The CEA's feeling toward regulation of what has grown into a $200-billion-a-year business is, "If each exchange polices itself, that's fine," a former exchange official said.

CEA chief Caldwell contends "the exchanges do a good job," but admits "they don't have large enough investigative staffs to police themselves as well as they should."

Rather than solve the problem by beefing up the CEA staff, Caldwell prefers to seek more self-regulation by the exchanges.

CALDWELL: I'M FOR SELF-POLICING"

"I'm all for self-policing as far as it can go," he explained. "I'm not a great one to spend public funds."

William Phelan, vice-president in charge of audits and investigations at the Chicago

Mercantile Exchange, like most commodities market officials, agrees with the approach taken by Caldwell.

Phelan is happy the CEA "in effect has relinquished its power to govern the minimum financial requirements" of commodity-futures brokerage houses.

Herbert Sheidy, vice-president of the Chicago Board of Trade, noted that "Regulation of commodities is real primitive compared to regulation of the securities industry."

Sheidy, a former securities broker, is director of compliance for the Board of Trade.

He noted that "John Q. Public is getting out of the stock markets and into our commodities market more and more. It means our entire industry is changing, and we (the exchanges) must change, too."

But Sheidy agrees with most commodity industry officials that these changes should not be dictated by the government. The industry should be allowed to make the changes," he said.

INDICATES GREED OF INVESTORS

Commodities analysts Charles Harlow and Richard Teweles of Los Angeles, Calif., said of the rush of small-time investors into buying such things as soybean and pork belly futures:

"It indicates a greediness on the part of people to make money fast; it indicates they have more money to spend, and it indicates that many people are dissatisfied with the relatively poor stock market results in recent years. If you win in commodities, you can win big."

This was illustrated last week at the Chicago Board of Trade. If a speculator had, for example, put up the $500 margin required to buy a single contract for 60,000 pounds of soybean oil on Feb. 12, he could have sold it at noon the following day and turned a profit of $1,200.

TAKES DIVES

But commodity futures prices also have a way of taking sickening dives, and analysts Harlow and Teweles contend their research indicates the "ordinary little guy" who speculates loses "about 98 per cent of the time."

Harlow and Teweles believe that if the CEA gained strength, it could stifle the commodities industry.

But seven years ago the General Accounting Office (GAO), which is the congressional investigating and auditing agency, called the CEA's regulation of the then $60-billion-a-year commodity markets "inadequate." The CEA was not making enough investigations to curb price manipulations and other abuses, was not policing the exchanges to insure that they were enforcing their own rules, and was not doing anything about possible abuses and conflicts-of-interest by traders who are permitted to gamble in commodities themselves as well as for customers' accounts, GAO complained.

The size of the CEA staff and the extent of its regulatory effort has changed little since the time of the GAO report.

The set-up at the Chicago Board of Trade, where much of the nation's corn, wheat and soybeans is bought and sold through commodity futures contracts, provide an illustration of the exclusivity of the commodity-trading fraternity.

The 1,400 members of the Board of Trade, which has a 45-story building in Chicago's loop, hold membership seats which are currently valued at about $30,000. (At the Mercantile Exchange, which has 500 members, a seat costs about $100,000.) No one can buy a membership unless he first proves his financial responsibility, is sponsored by two current members, and is okayed by a secret vote of the Board of Trade directors.

SUBSTANTIAL BENEFITS

Once he is admitted to the "club," the benefits are substantial. He gains admission to the exchange floor, where he can take advantage quickly of subtle indications of price changes.

As a floor broker, he may work for customers who want to buy and sell commodities, or he can trade in commodities himself.

One veteran floor broker estimated that "if a guy just handles customers accounts, he can make $45,000, $50,00, $60,000 a year. If he trades for himself, too, there's no limit."

REFER 111 CASES TO EXCHANGES

The extent to which the CEA relies on the commodities exchanges to police themselves is indicated by the fact that the agency last year referred 111 possible violations to the exchanges for action.

CEA deputy regional director Donald L. Tendick said exchanges must report back to CEA as to what action they have taken on referrals. CEA can object if it thinks the exchange has been too lenient, but such objections are "unusual," he admitted.

The 1965 GAO report scolded the CEA in this area, saying the agency's infrequent review of exchange records leaves the CEA "unable to satisfy itself independently as to the adequacy of investigations by the contract markets (exchanges)."

This "failure," as the GAO termed it, has "reduced the effectiveness of CEA's administration and enforcement of the provisions of the act."

RECORDKEEPING

With the huge jump in the size of the commodity markets since the 1965 GAO report, the CEA seems no better off now as far as keeping track of exchange actions.

However, Mercantile Exchange official Phelan insists his 15-member staff is able to keep tabs on the dealings of the 500 exchange members.

ATTENTION FOCUSED ON COMMISSION

The recent Supreme Court decision directing Mercantile Exchange member Thomas Ricci to take his fraud complaint to the Commodity Exchange Commission focused some unaccustomed attention on that moribund body.

According to law, the three-member, cabinet-level CEC is required to set speculative limits on the amount of trading that may be done by any person in commodity-futures contracts.

It also is to hold hearings on appeals from any board of trade which has been denied status as a legal exchange, and is authorized to suspend exchanges for failure to enforce their rules. In addition, the secretary of agriculture, who is a member of the commission, is given broad individual powers to prescribe trading practices and prevent manipulation and other abuses.

In practice, most of these activities have been delegated to the CEA headed by Caldwell.

The Supreme Court majority in the Ricci case said the petitioner would have to go to the commission for a ruling as to whether the deprivation of his exchange membership involved a violation of exchange rules.

Ricci contends he bought a membership on the Chicago Merchantile Exchange in 1967, using funds he borrowed from Siegel Trading Co. He also routinely signed a blank form authorizing transfer of his membership to someone else in the event he did not repay his loan.

Ricci alleges Siegel and the Chicago Mercantile Exchange conspired in violation of federal antitrust laws to defraud him of his seat by signing the transfer of his membership over to Siegel. He said the $18,000 which Siegel owned him for brokerage fees exceeded the amount he owed on the loan, and that Siegel had no lien against his membership.

The high court said the complaint should be dealt with by the commission because it is "especially familiar with the customs and practices of the industry and of the unique marketplace involved in this case."

DISSENTERS HIT POWER OF EXCHANGE

But the four dissenters, in addition to Douglas' comments that the CEC is not likely to declare itself a lax regulator, argued that the unit does not have the legal power to rule on Ricci's complaint of an antitrust conspiracy. That could be done only by the courts, they pointed out.

The dissent also noted that "although the commission and the secretary (of agriculture) have some general policing duties, day-to-day regulation has been largely left to the industry itself. Where, as here, the industry is given the power to control its own affairs, it is particularly important to make certain that this power is not abused for the purpose of eliminating competition."

Caldwell expressed no concern that the Ricci case will foul up the regulatory process. But those who have undertaken new legal efforts to stop anti-competitive practices at commodity exchanges and stock exchanges are worried that it is a setback for them.

One such effort to break up the "club" atmosphere and restore competition to the commodity exchanges deals with the commodity brokers' power to set minimum commission fees they charge the investing public.

In December, 1971, the U.S. Justice Department's antitrust division filed suit against the Chicago Board of Trade, whose minimum rate structure now requires commodity brokers to charge $25 to $30 for executing a customer's purchase or sale of a grain future contract.

At about the same time, a firm of Philadelphia, Pa., lawyers filed an antitrust action on behalf of all people in the U.S. who buy and sell commodity futures.

Named as defendants were all the commodity exchanges in the country, which, according to the petition, have entered into "an unlawful combination and conspiracy" to set brokerage commission fees at "a non-competitive and inflated level."

In the Justice Department case, federal district Judge Richard B. Austin asked CEA administrator Caldwell to do a study for him on the impact of abolishing minimum fees and restoring competition among brokers.

AGREED TO STUDY

Caldwell agreed to do so, but said he would not be able to say whether the fixed commission rates are reasonable, because "the commodity futures business has not had to report on its cost of doing business and justify the reasonableness of levels of commissions in the past."

Like the traders themselves, Caldwell and the CEA had assumed there was nothing wrong with the brokers being allowed to set their fees and punish those who tried to charge less.

In fact, the attorney for the Board of Trade told the court that Caldwell "requires us to enforce our minimum commission rules. He fires off a letter to us and says, 'Say, I understand so-and-so out in Kansas City is violating your rules, and I want you to investigate that and insure that it is complied with.'"

EXCHANGES ADOPT, ENFORCE RULES

The testimony illustrates the cozy atmosphere that has grown up between the big traders and their regulators at the CEA. The exchanges can adopt nearly any rule they please, as long as it is not in direct conflict with the Commodity Exchange Act. Then, once the rule is adopted, the CEA requires that the exchange enforce the rule, without regard to whether the rule is really in the public interest.

"The CEA," said the Board of Trade's Sheidy, "insists that an exchange observe its own rules, and it isn't too interested in

what those rules are, just so long as they are consistent with federal regulations."

Caldwell completed his report to the court last August, and was forced to conclude that the public would be better off if minimum commission fees were outlawed.

Allowing commodity brokers to compete in the services they offer and the commissions they charge would result in "a net reduction in commission charges paid by customers," he told the court.

"The trading public would benefit generally because charges would be more closely related to the costs involved in servicing an account," he said.

Caldwell also said minimum fees "are not now necessary, nor will they in the foreseeable future be necessary, to achieve the objectives of the Commodity Exchange Act." The administrator added that the minimum fee arrangement, on the other hand, has not hindered CEA's work, and urged that if the minimum fees are banned the industry be given "a reasonable period of time in which to develop their marketing strategy, pricing schedules and operating procedures before any change is made."

The Board of Trade is opposing any change and has argued that the minimum commission schedules it has used since 1919 have been "essential" to the development of "effective and efficient markets for futures trading."

Elimination of minimum fees, the Board argues, "would entail the risk of serious adverse repercussions on the industry."

CEA, JUDGE FAIL TO AGREE—VI

(By Clark Mollenhoff and George Anthan)

KANSAS CITY, MO.—Samuel Gordon has moved steadily upward in the U.S. Commodity Exchange Authority (CEA) despite his involvement in the agency's failure to protect one small trader from being victimized by some commodities-market professionals.

Gordon is the CEA's $27,000-a-year area director here, but a decade ago he was an employee in the agency's office in Chicago, Ill. There, an elderly Austrian immigrant had been telling just about anybody who would listen that he had been illegally deprived of his livelihood.

Bernard Rosee, now 74, had been a member of the Chicago Board of Trade, and a floor trader in commodities there.

But Rosee was different from the vast majority of insiders who operate the nation's commodities markets, a $200-billion industry that is growing by 20 per cent a year.

TOLD CONGRESS OF MANIPULATIONS

Since the middle 1940s, Rosee had been telling Congress of deceptive practices by certain officials of the U.S. Agriculture Department, and of efforts by big traders to manipulate commodities markets at the Chicago Board of Trade.

As a result, Rosee had few friends in the Agriculture Department and in the commodities trading establishment.

"There isn't any question but that a lot of people could hardly wait to get rid of him," said one market insider of Rosee.

By the early 1960s, Rosee had been defrauded of thousands of dollars and he had lost his seat on the Chicago Board of Trade. He thus lost his means of making a living.

Through all this, the Agriculture Department's CEA maintained consistently that there was no evidence Rosee was the victim of any illegal activities.

This conclusion was reached by Gordon, and affirmed by his superiors, including CEA administrator Alex Caldwell in Washington.

AWARDED $700,000

It was left to an Illinois State Court to vindicate Rosee, and to award him $700,000 in damages, with the judge branding his opponents as "thoroughly dishonest."

The Rosee case, which has dragged on for more than a dozen years, is perhaps the most glaring example of the CEA's reluctance to tackle influential members of the industry it is supposed to regulate.

It also shows how the commodity exchanges' disciplinary committees, made up entirely of exchange members, conduct "Star Chamber" proceedings in which an accused like Rosee is denied the basic rights of due process which he would receive in a court of law.

CLAIMS ROSEE'S CHARGES INVALID

Gordon, during an interview in his office here, refused to discuss the Rosee case, except to say that he investigated Rosee's charges and decided they weren't valid.

He would not discuss his reasons for the decision, nor would be explain why the CEA failed to use information in its possession that may have proved that a Chicago brokerage firm was defrauding Rosee.

Rosee has charged that Gordon, Albert, Kibby, a former Chicago CEA employe and now of Waukon, Ia., and other agency officials took part in the conspiracy to drive him out of business.

But CEA chief Caldwell maintains in Washington that "our actions in this case have been proper all along." Caldwell defends his promotion of Gordon, saying the Kansas City area director and Kibby "did a professional job" in the Rosee case.

An examination of the case leaves serious doubts. The case against Rosee came to light in 1961, when the Chicago Board of Trade took away his membership, depriving him of his commodities trading-floor privileges, and reducing him to accepting welfare payments.

TRADING ACCOUNT

Rosee's commodities trading account—the records of what he bought and sold and his profits and losses on these trades—was being handled by the brokerage firm of Baggot and Morrison. The two partners—James E. Baggot, Jr., and Donald W. Morrison were, like Rosee, members of the Chicago Board of Trade.

Baggot and Morrison contended that Rosee owed them substantial amounts of money, saying Rosse had been taking losses in his commodities trading, and that the firm was using its own money to make up these losses.

ALLEGATIONS A SURPRISE

Rosee said these allegations took him by surprise, that he had, in fact, been making profitable trades in the commodities market. Rosee said an examination of his account, the record of which was maintained at the Baggot and Morrison offices, would clearly show this was true. He said CEA records required by law to prevent the kind of abuse he was facing would back up his position.

But Baggot and Morrison presented to the Chicago Board of Trade a set of records that showed Rosee charged the records were not of his account. He said they were, in fact, records, of the firm's own money-losing dealings.

Since the "Star Chamber" proceedings in which Rosee lost his seat, these facts have emerged and are today unchallenged:

1. In November, 1963, Rosee and his attorney, Melvin Brandt, caught the office manager for Bagget and Morrison cutting onion-skin pages from commodity trading books that are required by law to be kept and retained. These records that office manager Harris Haywood now admits he destroyed are required to be retained for a five-year minimum period by Commodity Exchange Authority rules and by rules of the Board of Trade for use by authorities in connection with investigations.

2. Within a few days of finding Haywood removing pages from the trading book in the crucial period. Rosee and his lawyer told CEA investigators Gordon and Kibby of the incident. A short time later they also informed CEA boss Caldwell in Washington.

3. Gordon and Kibby investigated the incident and reported to Caldwell that there was nothing to Rosee's complaint on this or on his general charge of a Board of Trade conspiracy to frame him. Rosee retorted that CEA officials were involved in the conspiracy because examination of trading records would further corroborate his allegations that he had been defrauded. He also charged that a report Gordon and Kibby had submitted to the federal court was "fraudulent" and misled the court.

4. CEA boss Caldwell continues to defend the Gordon-Kibby investigations and the subsequent promotion of Gordon, in the face of Haywood's admissions in court that he did destroy the records. Despite the Illinois State Court ruling by Judge Nathan Cohen awarding a $700,000 verdict to Rosee against the Baggot and Morrison firm, Caldwell says he is still not certain that Rosee was defrauded, and has not ordered a reinvestigation. He says that Baggot and Morrison may appeal the verdict, and with regard to Haywood's admissions that he destroyed the onion-skin pages explains: "The statute of limitation has probably run out on any criminal charges."

5. Caldwell continues to refuse to make commodity trading records available to Rosee that Rosee and his lawyer contend will prove beyond doubt the full extent that he was defrauded and the role played by CEA and the Board of Trade in covering it up.

Generally, Caldwell denies direct responsibility for the Roses matter on grounds that the CEA policy is to permit the various boards of trade to police themselves, and to limit CEA investigations to cases of direct frauds upon the public.

Rosee contended his money had been used by the Baggot and Morrison firm to make up its own losses, but the Chicago Board of Trade's Arbitration Committee, made up of leading exchange members, ruled against him. The committee took away his seat in order to sell it and pay Baggot and Morrison the money they claimed Rosee owed them.

Rosee appealed repeatedly to Gordon and other CEA officials in Chicago, and to CEA chief Caldwell in Washington, to make available for his defense its own records that would indicate whether he was telling the truth.

The CEA consistently refused, saying the records were private, and that the law forbids the agency from revealing the details of a person's trading in commodities.

Rosee asked the CEA itself to investigate, and to determine if Baggot and Morrison had, indeed, substituted their own losing accounts for Rosee's profitable ones.

BARRED FROM TRADING

Rosee and his attorney, as they pursued their case over the years, pointed out numerous times that at about the same time Baggot and Morrison allegedly defrauded Rosee the firm was being disciplined by the CEA in another case. After admitting in May, 1960, that it had improperly handled customers' funds and had used them to margin and guarantee the trades of other customers, the firm was barred from commodity trading for three months and Baggot's individual registration as a floor broker was suspended for 30 days.

The CEA assigned Gordon and Kibby to the Rosee case, and Gordon recalls, they concluded that Baggot and Morrison "had not violated any federal laws."

The CEA remained steadfast in this position, even after Rosee and his lawyers informed the federal officials of the incident involving the removal of pages from the record books.

"UTTERLY ABSURD," JUDGE REMARKS

Haywood admitted to Judge Cohen that he had removed the onion-skin pages—on

which were recorded details of commodities transactions. But he did so, said Haywood, in order to save space in the Baggot and Morrison office.

Judge Cohen said of Haywood's explanation: "The man sat for hours cutting pages out of a book to save three inches of space in a room that has some, oh, 350 cubic feet of space or more. Utterly absurd."

Cohen who was highly critical of the Board of Trade's proceeding against Rosee, in which Rosee was not permitted to have his lawyer present, or call witnesses, or examine the records that are supposed to prevent the very abuses he contends he suffered.

Cohen called the Board of Trade's hearing in the Rosee case "a travesty," and said the session was run by the lawyer for Baggot and Morrison.

In fact, Cohen told the lawyer later, "The gentlemen you represent were thoroughly dishonest. They secreted records. They suppressed records. They altered records."

The CEA's Gordon said Rosee's allegation that the CEA aided Baggot and Morrison and the Chicago Board of Trade in their attempts to deprive him of his membership was proved false because a U.S. District Court had dismissed another suit brought by Rosee against Gordon and Kibby.

CLAIMS FALSE DOCUMENTS

But Rosee claims that CEA officials submitted false documents to the federal court in that case, and that the CEA again refused to turn over records that would support Rosee's position.

In July, 1972, Cohen ordered Baggot and Morrison to pay Rosee $25,000 for the loss of trading privileges, $275,000 in lost earnings and $99,000 representing the amount Rosee contends he was defrauded.

The judge also awarded punitive damages of $150,000 each against Morrison and against Haywood. The Baggot and Morrison firm now is defunct, but the Chicago Board of Trade continued to allow the partners to hold their memberships and to enjoy floor trading privileges.

The CEA, despite Cohen's findings, continues to refuse to take action in the case.

Caldwell admits his agency has done nothing to follow up the court's decison, even though there is little question but that Cohen's findings point to criminal activities in regard to the case.

"We haven't lagged," says Caldwell. "We have done what we think is right."

Caldwell admits he has no way of knowing if reports filed by Gordon and Kibby with the federal court early in the Rosee case were accurate, but he contends that reports sent to him by his two employees were accurate.

Gordon has held his job in Kansas City since 1970, and he oversees trading at the Kansas City Board of Trade, the Minneapolis, Minn., Grain Exchange, and at a federally-regulated commodities market in California.

[From the Des Moines Register, Feb. 25, 1973]

SMITH PROBE OF FUTURES MARKET SET—WILL STUDY QUALITY OF REGULATION

(By Clark Mollenhoff, James Risser and George Anthan)

WASHINGTON, D.C.—Representative Neal Smith (Dem., Ia.) said Saturday that he will conduct an investigation of the federal government's effectiveness in regulating the booming $200-billion-a-year commodity futures market.

The Iowa Congressman expressed his "grave concern" over events of recent weeks that "have resulted in an actual corner on the soybean market, even though there may be no actual conspiracy involved."

He told The Register that the investigation will be conducted this spring by his House small business subcommittee. Representative Joe Evins (Dem., Tenn.), chairman of the full committee, already has approved Smith's plan and authorized him to hire a staff for the job.

REGISTER SERIES

Representative Smith said that a series of articles by The Register's Washington Bureau has called his attention to "some new and specific aspects of the lack of effective regulation of the commodity markets" by the Agriculture Department's Commodity Exchange Authority (CEA).

"Regulatory work which the GAO (General Accounting Office) found to be inadequate for a $60-billion-a-year commodity market in 1965 is worse than inadequate to police a $200-billion-a-year market in 1973," Smith said.

The Altoona Democrat, who is both a farmer and a lawyer, said he has been troubled for some time because "trading in commodities is completely unrelated to the supply and demand situation for grains and livestock."

"It is the biggest legal gambling game in the world, no question about it," he declared.

Futures trading at the nation's commodity exchanges serves a useful purpose in the orderly marketing of foodstuffs and the prevention of wild price fluctuations, Smith acknowledged. But in recent years, the use of futures trading for "gambling" and "speculation" has grown "and I doubt if the CEA and the exchanges are doing all they can to keep this within reasonable bounds," he said.

People with money—particularly those with experience in dealing with stocks and bonds—have taken to commodity futures buying as a sort of hobby, said Smith. "They used to play pinochle during the lunch hour, but now they go over and 'play the board' for a while," he said.

Ineffective regulation in such an atmosphere can contribute to artificial pricing of commodities and can have serious financial impacts on traders, farmers and consumers, he said.

Smith said he is particularly concerned about the apparent lack of concern in the CEA about the operations of floor traders at the commodity exchanges who not only execute buy and sell orders for their customers but also trade in commodities themselves. There is vast opportunity for conflicts-of-interest and for traders to mix up their own trades with their customers' trades, to the disadvantage of the customers, he noted.

ARTIFICIAL PRICING

The floor traders also add to artificial pricing of commodities by buying and selling based on agreement among themselves that the market should go up or down, he said.

Smith said the recent boom in soybeans futures prices at the Chicago Board of Trade is suspicious and may illustrate that regulation of the commodity markets has gone awry.

In a matter of a few weeks soybean futures prices have soared to more than $6 a bushel and there have been big price fluctuations. Over a space of four days, prices went down 27 cents a bushel, then up 22 cents a bushel, Smith noted.

Such a change could not possibly be related to supply and demand factors, nor to legitimate "hedging" by traders trying to protect their investments, he said.

For a number of days, soybean prices advanced the legal daily maximum of 10 cents per bushel. The board of trade directors, who are traders themselves, responded by increasing the limit to 15 cents—a move that Smith said was precisely the wrong step because it tends to feed the speculating activity.

Illegal cornering of the soybean market and the inflated futures prices it causes, could have an immediate impact on consumers by raising the price of salad and cooking oils made from soybeans, and a longer range effect on the price of hogs and cattle which are fed soybean meal, Smith said.

"There is a need to look at regulation of the markets from every direction," said Smith.

Senator Dick Clark (Dem., Ia.) said that "because of government indifference and individual greed, the potential for fraud in the commodity market is incredible.

"LIKE STOCK MARKET"

"It is not at all unlike the condition of the stock market before the crash: unregulated buying and selling, virtually no enforcement procedures, and the constant threat of price manipulation," Clark said.

"In effect, the commodity market can be a floating dice game and the only sure losers are the farmer and the consumer. Rather than waiting for a crisis, rather than waiting for a massive scandal, the government should begin to take action now to correct the situation."

Clark is a member of the Senate Agriculture Committee. Smith and Representative William Scherle (Rep., Ia.) are members of the House appropriations subcommittee that controls the budget of the CEA and oversees its activities.

Representative Scherle said "these series of articles by The Register's investigative team raises grave questions about the integrity of the commodities exchange market.

"When Mr. Caldwell (CEA Administrator Alex C. Caldwell) appears before our subcommittee Mar. 15, I intend to question him regarding these serious allegations.

"Farming is a big enough gamble without allowing greedy speculators to manipulate the market. Both the consumer and the producer could suffer serious repercussions if the futures market is not properly regulated." Scherle added.

The Register's investigation found that CEA has done virtually nothing to comply with the GAO recommendations of 1965. The congressional watchdog agency said then that CEA should get more money and employes to properly police the markets—a recommendation that the cost-conscious GAO makes only when it thinks a problem is critical.

The Register series concluded that the CEA prefers to allow the commodities exchanges themselves to investigate many complaints of market manipulations or other deceptive practices.

The exchange members thus are permitted to sit as jurors and judges in cases where one or more of their colleagues have been accused of illegal or improper conduct.

Smith expressed concern over The Register's findings that the CEA has failed to follow through on the GAO suggesions, the CEA's long delay in moving on an alleged manipulation of the egg futures market that industry insiders say raised the supermarket price of eggs by as much as 10 cents a dozen, and the "slap on the wrist" which the CEA gave Cargill, Inc., after it was found guilty of manipulating the wheat market.

Smith said he also hopes to probe why the CEA discarded the use of computers in investigating futures markets and ferreting out price manipulation attempts.

DUE PROCESS

He also noted the lack of due process at the commodity exchanges, where traders are brought before committees of their peers and subjected to disciplinary proceedings without the benefit of a lawyer and without access to records.

A Chicago trader, Bernhard Rosee, recently won a $700,000 court judgment after trying to prove for a decade that a commodity brokerage house, with the co-operation of the board of trade and the CEA, defrauded him of his exchange membership.

[From the Des Moines Register, Feb. 27, 1973]

SHAM POLICING OF MARKETS

The articles by The Register's Washington bureau about the USDA Commodity Exchange Administration last week show in penetrating detail the failures of this agency to regulate the exchanges and brokerage houses it is supposed to regulate.

The articles by Clark Mollenhoff, George Anthan and James Risser reveal familiar condition in government regulatory bodies—at all levels of government. The regulators have been taken over by the regulated. In other words, the businesses which CEA is charged with supervising to protect the public are very much on the inside of the regulatory agency. There is a "cozy" relationship which permits violations of the law and dubious practices which plague the public.

CEA is almost in a class by itself, however, when it comes to letting the people to be regulated regulate themselves. The director of CEA, Alex Caldwell, even advocates letting the commodity exchanges and brokers do their own regulating.

CEA officials and their friends in the commodity exchange firms always talk about how futures market trading "stabilizes" prices and levels out seasonal ups and downs. Actually, this trading tends to accentuate market swings, trades and their brokers overestimate changes in supply and demand, and sometimes manipulate the markets by rumor-mongering.

In recent years every item of news about the corn crop, such as the Southern leaf blight or a spate of dry weather, or about exports, such as the dock strike which held up shipments, has sent prices up or down far more than the facts justified. Futures trading inevitably affects the cash market. Farmers, processors and even the USDA are given misleading signals by speculative excesses.

The value of commodity futures markets in enabling buyers and sellers to hedge against the future is obvious. But unless the trading operations are very closely regulated, the damage to farmers and to dealers from exaggerating market swings could well offset the benefits from hedging.

* * * * *

The encrusted Department of Agriculture bureaucracy all the way through has tended to become the captive of agri-business firms, trade associations and commercial agriculture. The Forest Service, for example, has tended to adopt policies favorable to the timber industry, as against the public interest. Cattle ranchers in the West have been favored in the use of public lands, including national forests.

When the Department of Agriculture was in charge of regulating the chemical pesticides used in farming it adopted lenient rules toward the chemical companies in granting permits. The general policies on pesticides favored the sellers and users of pesticides in farming, with relatively little attention to the public interest in the environment and in avoiding contamination of foods.

The research and educational arms of USDA, in the same pattern, have become allies of commercial farming and the agri-business firms that sell supplies to farmers or buy their products. The small farmer, the hired farm worker, the rural community and the consuming public have been slighted. This is not wholly the fault of the USDA bureaucracy.

It is a failure of Congress, whose agriculture committees are dominated by the interests USDA tends to favor. The bureaucracy is really run by the committees of Congress, and many a secretary of agriculture has been frustrated in his atempts to reform old-line agencies.

To reform the system to meet the needs of rural America and the nation as a whole, Congress will have to start with itself.

[From the Wall Street Journal, Feb. 2, 1973]

COMMODITY OPTIONS ARE THE LATEST WAY TO GET RICH OR POOR IN HURRY—SEC FRETS THAT POTENTIAL FOR FRAUD IS GREAT; HOW ONE FIRM WHEELS AND DEALS—WRITING NAKED IS NO DISGRACE

(By G. Christian Hill)

There is a new "investment" game in town. The Securities and Exchange Commission says it is riddled with potential for fraud. Other regulatory bodies view it as sheer gambling, not investing. But more and more players are putting more and more millions into it.

Most of them are West Coast speculators wheeling and dealing with West Coast concerns. But now national giants like Merrill Lynch, Pierce, Fenner & Smith Inc. and Bache & Co. are getting ready to take advantage of what one expert calls "a marketing dream" for commission houses.

The new game is trading in options to buy or sell commodity futures contracts. In theory it has big advantages over simple purchase of contracts, one of the riskiest speculations for the small investor because he must live in terror of margin calls that can wipe him out.

Suppose, for example, a speculator is bullish on sugar and buys a contract for 112,000 pounds at five cents a pound ($5,600). He pays only about 10%; the rest is on margin. But if the price dips even a little bit—and it often does—he will be forced to put up hundreds of dollars more to cover his margin, or lose his present investment. A move of only one cent a pound in sugar, for instance, represents a $1,120 loss if it's the wrong way.

BUYING TIME

If he's a little guy, the speculator usually loses his stake. He may then suffer further agonies watching the price of sugar bounce up again to levels that would have given him a nice profit if he'd had the money and the guts to hang on.

Suppose he buys a call option on the same sugar contract instead. He pays a $1,100 premium for an option to buy the contract anytime during the next six months at the current price. He loses that premium in any case (it is the underwriting fee plus broker's commission), but it has bought him the most precious thing a commodity speculator can get—time.

The immediate dip in sugar prices doesn't faze him because there are no margin calls and he has six months of grace. Then suppose the price rebounds over his option level by two cents a pound. He exercises his option to buy the contract, now worth $7,840, for $5,600, and sells it in the same transaction, keeping the difference. After subtracting what he paid for the option he is still $1,140 ahead.

A put option works the same way, except that the buyer purchases the right to sell a commodity contract at the current price over a set period of time; he is betting that it will decline in price. The latest wrinkle is the "double," an option that gives the buyer the right to buy or sell during a given period. It costs about twice as much as an ordinary put or call, and the buyer can make that much less profit. But a smart move in price in either direction will put him solidly in the black.

SOYBEANS ON THE FRONT LAWN

All this means that options buyers lose less often, and lose less money when they do lose, than ordinary "little guy" speculators in commodities. The latter lose up to 90% of the time, according to commodity analysts Charles Harlow and Richard Teweles. By contrast, put and call options buyers lose from 60% to 70% of the time, according to dealers. And doubles investors actually win more often than they lose; Commodity Options International Inc., a Los Angeles dealer that sells only doubles, boasts that not one of its customers has been a loser.

Brokers, exchanges and other commodity sources believe that the relative safety of options (at least compared to ordinary commodity speculation), coupled with the lure of big, fast potential profit, will make them irresistibly attractive to investors who feared commodities before. "In the commodity speculator there is a consistant tug of war between fear and greed," say Messrs. Barlow and Teweles. "He's afraid of losing his house and car, of not being able to meet the margin requirements of a big price move, of finding 100 tons of soybeans on his front lawn some morning. The commodity option removes these fears."

It seems to. In Los Angeles, the capital of the budding commodity options game, some dealers report their volume in options is doubling from one month to the next. But there are serpents in this speculators' Garden of Eden.

For one thing, options dealers are almost totally unregulated. They have popped through a gaping loophole in the Commodity Exchange Act of 1934, which sets up machinery for the regulation of trading in domestic commodities and forbids option selling in them. But the act doesn't cover the so-called world commodities, notably sugar, cocoa, copper, platinum and plywood. Though options on these have been sold in London for many years, it is only within the past 18 months or so that the game has boomed in the U.S.

FEARS OF FRAUD

Operating outside the usual strictures, options dealers here don't have to follow disclosure policies or observe capital reserve requirements. And legal precedent has ruled out consideration of commodity contracts and options as securities, thus presumably leaving the dealers largely outside the jurisdiction of the SEC. Recently, though, the SEC warned that it intends to investigate the finances of every commodity options outfit currently operating to see if any of their options can be construed as investment contracts under SEC jurisdiction.

Gerald Boltz, chief of the SEC's Los Angeles regional office, has seen enough to conclude flatly that "there is a great deal of fraud in the option's business." He and other frustrated regulators believe that, while most firms dealing in options are honest, many others are playing fast and loose in their unregulated limbo, hiding substantial risks they are taking with their clients' money and failing to disclose the resources they have—or don't have—to pay off winners.

A close look at the operations of Goldstein, Samuelson Inc. of Beverly Hills, the giant of the options game, lends considerable weight to the fears of the regulators.

Goldstein Samuelson is owned by its 27-year-old founder and chairman, Harold Goldstein. An owlish-looking dropout from Louisiana State University, he was engaged in several businesses before moving West about 18 months ago and starting his concern with capital of $800. He sold one option his first month; in December, he says, he sold thousands through more than 70 offices, including one in Taipei, grossing about $14.5 million. The firm's total gross in 1972 was estimated at between $42 million and $45 million.

Mr. Goldstein's way of doing business has set a pattern for others. One key technique is "writing naked," selling options on contracts that the dealer doesn't have. Anywhere else this sort of thing can put you in a cell, but in the options game this may be risky, but it's entirely legal.

Dealers explain that it would tie up enormous amounts of capital to immediately buy contracts to back all the options they write. So they keep their business booming by writing thousands of options and hedging, or covering with actual contract purchases, only a small percentage of them. This practice, of course, pits the dealer against his customer.

If the owner of, say, a naked call option to buy a contract at $10,000 gets lucky and the value soars to $14,000, and he exercises his option, his dealer will lose $4,000.

So the dealer writing naked hopes that his customers take a bath, or that few enough win so he can afford to buy future positions to cover them. But if his customers win consistently, as they seem to in double and long-term options, he must gamble heavily himself—with his clients' money—to keep running ahead of the steamroller, analysts say. And how does he gamble? Ironically, by doing just the sort of commodity speculation that he tells his customers they can avoid through options.

For instance, Commodity Options International, the double options outfit that boasts no losers, "hedged" its customers' sugar options last year by speculating heavily in the futures market that sugar prices would go up. "You have to solve the market or you're dead because the (long-term) double makes money sooner or later," says Joseph Rotter, the firm's president.

In 1972, Mr. Rotter guessed right—sugar prices did go up substantially. But analysts in the field say even veteran speculators have a hard time making big money year in, year out. Consistent big winners, analysts Harlow and Teweles say, make up only 2% of all speculators. Mr. Rotter, who made $600,000 in his sugar killing, is sure he is one of the privileged 2%; other traders say he has just been lucky.

BREATHING SPACE FROM GROWTH

It isn't known just how much Goldstein Samuelson has outstanding in naked options, but evidently Mr. Goldstein has managed to stay ahead of the steamroller, too. Mr. Goldstein and other dealers also have gained breathing space from the booming increases in their premium income on new options, which are unlikely to be exercised for awhile. This fresh money can provide a temporary cushion against anticipated short-term payoffs to earlier customers who look like winners. Goldstein Samuelson kept the money rolling in through an advertising blitz that includes full-page spreads in many papers ad magazines ("You might be a sugar baron").

One of these ads backfired, however. When Goldstein Samuelson guaranteed a specific return on a certain kind of sugar option, the SEC decided that that option, at least, could be categorized as a security. Last November, it filed a double-barreled civil suit in federal district court in Los Angeles. Among a lot of other things, it charged that the company neglected to tell its customers a few material facts: namely, that it was selling options on contracts it didn't own, betting that most of its cusomers would be losers; and that it could not afford to buy or sell contracts to cover all its options. This, said the SEC, constituted fraud.

At the same time, the SEC attacked First Leisure Corp., then Goldstein Samuelson's parent company (the two have since separated), charging that First Leisure was brought public with an illegal predating of stock, which was subsequently illegally sold over the counter without registration.

The SEC action has been settled through a consent decree, in which the defendants promise not to do all those things they were accused of without admitting they did them in the first place. The option that was mentioned in the suit isn't being sold now. Mr. Goldstein concedes that his ads may have been a bit overstated, and he has toned them down, but he insists that all he is guilty of is hustle. "We went after the business aggressively, and we got it," he says, maintaining that neither he nor his booming enterprise was irresponsible or untruthful in that pursuit.

A DIFFERENT STORY

However, interviews with some of Mr. Goldstein's former associates and employes, as well as brokers and customers, add up to a very different story. For example, Mr. Goldstein from the beginning told associates and brokers that he was buying and selling contracts to cover his customers' options.

In fact, though, he wasn't covering the options, according to Mr. Rotter, an associate of Mr. Goldstein during the early going. "When I left Goldstein in late 1971, he had 100 options on his books, no hedge positions in the market and $5,000 in the bank," Mr. Rotter says. Paul Richter, Goldstein Samuelson's top-selling broker at that time, quit when Mr. Goldstein declined to give him proof that the firm was covering its options. "To my knowledge, he had no positions in the market when I left," Mr. Richter says. "I never saw him put an order in or send a check to any exchange or house (in late 1971)."

Mr. Goldstein maintains, however, that he covered his options in the early days.

Some of Goldstein Samuelson's customers have also been suspicious enough to wonder what kind of guarantee the firm offered that it would be able to pay them off if they won the game. So, not long ago, a letter went out to brokers in Seattle, Denver and Miami, over the signature of a Los Angeles insurance agent named Wayne Fleischer. It stated that Goldstein Samuelson had purchased a $1 million surety bond from American Bankers Insurance Co. insuring the options the company sold.

American Bankers, however, says it never wrote such a bond. Mr. Fleischer's attorney says the letter is a forgery. Mr. Goldstein asserts that the letter was given him by Mr. Fleischer, who deceived him. But no harm done, says the options dealer, since the letter wasn't circulated anyway.

But William Ott, president of Lombard Street Inc., a Miami stock and commodity options concern, says he got a copy of that letter personally from Mr. Goldstein while in Los Angeles. "I wanted to distribute for Goldstein Samuelson if they were ethical," says Mr. Ott. "But they gave me this letter which I checked with American Bankers. It just wasn't true. I flew back to Miami, throwing up on the plane."

COLLECTING THE WINNINGS

Some customers of Goldstein Samuelson also complain that they can't get their winnings out of Mr. Goldstein. One is Robert Murray, a young sky marshal from New York who wanted to become an instant sugar baron, caught a bull market and—he contends—made a paper profit of some $21,000. He is suing Mr. Goldstein in federal district court in Los Angeles for his asserted profits plus damages of $220,000. Mr. Goldstein says Mr. Murray only thinks he is a sugar baron. He claims the investor failed to observe a technical requirement of his contract, and so his options were never executed.

"You have to fight like hell to get your money out of them," says another Goldstein Samuelson customer, who also claims Mr. Goldstein owes him plenty. Still others say they were told their options were fully covered by actual contracts, that they were charged hidden fees and that they were told that Goldstein Samuelson accounts were audited by the national independent accounting firm of Haskins & Sells. The latter says it has never audited Goldstein Samuelson.

None of this, of course, appears in Mr. Goldstein's advertising. Neither do some other salient facts, namely:

That Mr. Goldstein is being pursued by the International City Bank & Trust Co. of New Orleans, which has won judgments against him in state district court there for default on two business loans totaling $12,500 to an earlier Goldstein enterprise. "My partners owe that money, not me," says Mr. Goldstein.

That he is a co-defendant in a suit filed in federal district court in Chicago by a group of about 40 participants in a commodity fund he once ran; they claim he diverted their funds to his own use, churned their accounts and made false and fraudulent statements. Mr. Goldstein has denied the charges.

That he was expelled from the West Coast Commodity Exchange for alleged "major offenses," including diversion of $4,500 of a client's money to his own account. Mr. Goldstein says the money was erroneously put in the client's account in the first place.

That Gregerson & Co., a Salt Lake City investment concern, is suing him, his father and the company, charging that $200,000 worth of Phillips Petroleum securities that Gregerson sold on their behalf had actually been stolen. In the suit filed in state superior court in Santa Monica, Calif., Gregerson seeks recovery of stock put up as collateral and of expenses incurred in the transaction. Mr. Goldstein says he didn't know the shares were stolen.

That a federal grand jury in Los Angeles is investigating to see if any criminal offenses were involved in stock dealings of Goldstein Samuelson's former parent, First Leisure, of which Mr. Goldstein was chairman. Mr. Goldstein denies there's any basis for such an investigation.

That Mr. Goldstein and his firm are defendants in a class-action suit filed in Los Angeles superior court by a First Leisure shareholder who wants the divestiture agreement between Goldstein Samuelson and First Leisure rescinded. The shareholder asks that a receiver be appointed by the court for all the assets of both concerns.

Mr. Goldstein, wounded by all these charges, says he has been a victim of his own success. "Eighteen months ago," he says bitterly, "I had $800 in the bank and no one wanted anything from me. Now they're all coming out of the woodwork."

Despite all this, even those investors with some knowledge of Mr. Goldstein's past and present operations are sticking with him in great numbers. 'What Goldstein Samuelson is offering, if they can get away with it, is fantastic," says Lee Schlessinger, a professional investor in Los Angeles who has kept his account with the firm. "There's been nothing close to it as an investment since the pre-1929 stock market."

Back East, many are eager to get into the game themselves. "Goldstein Samuelson came into town with some beautiful ads and got a lot of business right from under our noses," says Felix Brennan, secretary of the New York Cocoa Exchange. He and colleagues at the Commodity Exchange of New York and at the Mercantile and Coffee and Sugar exchanges have formed committees to study options contracts.

Brokerage houses that buy and sell contracts for their customers are similarly excited. "Potentially, it's one of the finest new markets we have," says Robert Hagan, a Merrill Lynch vice president. Merrill Lynch, Bache, Dean Witter and other commission houses say they will begin marketing options as soon as the New York exchanges agree to guarantee them. This could come as early as this summer at the Cocoa and Coffee and Sugar exchanges.

It isn't certain at this time whether the big houses will be writing naked or not. Dean Witter is skeptical about it, and Merrill Lynch says the question remains to be decided. If the big national houses start writing naked in quantity, however, there is some fear that the markets in the commodities involved could be disrupted.

Opponents of the naked option well remember what happened during the great price collapse on the Chicago Board of Trade in 1932—a disaster that in part prompted the federal law barring options in domestic commodities. At the time of the debacle, however, options were being sold so heavily that the Agriculture Department estimated their volume was equal to 15% of the total volume on the Board of Trade.

These options, like those currently being

sold on world commodities, were written naked. All went reasonably well until a sudden upsurge in grain prices occurred; options dealers suddenly saw that many of their customers were going to be heavy winners at the dealers' expense unless they hedged fast by buying contracts to reduce their losses.

They swarmed into the pits buying all the contracts they could. But this only had the effect of driving prices sky high overnight, increasing the panic and touching off still more frantic buying. None of it had any connection with the actual supply and demand for grains, and it was inevitable that the bubble burst. On July 19, 1932, reality caught up with the market; rye futures crashed 38 cents a bushel, wheat futures 25 cents and corn 17 cents. Droves of dealers and speculators were ruined. Two days later, the exchange directors identified the frantic coverage of naked options as a "prime cause" of the most sensational price collapse in its history.

Many commodities men and regulatory authorities, including Alex Caldwell, administrator of the Commodity Exchange Authority, believe that at least the threat of a similar disaster lies in allowing naked options trading to flourish unchecked in world commodities—particularly if the dealers are unregulated and, therefore, possibly undercapitalized.

(Joseph Rotter, president of Commodity Options International, testified before California regulatory officials recently that "50% to 60%" of the present dealers would be put out of business if legislation was passed banning ex-felons, individuals previously convicted of fraud and other "questionable characters" from selling options.)

But the New York exchanges believe they can establish an options market that would preclude boom-or-bust price moves, and they claim that the world commodities markets are too large and diverse to be artifically moved by options anyway.

As for the charge that options speculation is nothing more than gambling and serves no useful economic purpose, they admit it. "Sure, it's like playing the numbers," says Lew Watts, secretary of the Mercantile Exchange in New York. "But everybody does it. You should hear how everybody yells and screams around the exchange when the cops pinch our numbers runner."

[From the Washington Post]

COMMODITY SPECULATION FACES REGULATION OR BAN

(By Jack Egan)

Rising concern over the unregulated trading of put and call options on commodity "futures" contracts brought the heads of all of the major commodity exchanges to Washington last week for an unusual one-day public meeting before the Commodity Exchange Authority.

It now appears likely that trading in commodity options, an increasingly popular type of highly speculative investment, will soon come under some form of regulation or will be banned entirely.

Commodity options grant the purchaser the right to buy or sell a commodity contract any time over a set period at the market price the day the option is bought.

For example a 6-month call option in cocoa gives the purchaser the right to buy a set amount of cocoa at the price when the option was purchased. He is betting that the price of cocoa will go up sufficiently during the 6-month period so that he can exercise his option to buy a contract at the lower option price, and immediately sell at the higher market price. The difference between the option and market prices, less the cost of the option, is the profit.

Similarly, a "put" option gives the buyer the right to sell at a given price—and in this case, the purchaser is betting that the price of a particular commodity will go down

There is also something known as a "double" option which gives the purchaser the right to either buy or sell during the given period. The cost of this option is roughly double either a put or a call, but any large movement in price, either up or down, will yield a profit. The "double" is viewed as outright gambling with no redeeming economic purpose by some commodity observers.

Option trading is virtually unregulated because of an unforeseen gap in the law. The 1934 Commodity Exchange Act forbids options, but this applies only to domestic commodities. International commodities—such as cocoa, silver and copper—do not fall under the Act. Option trading has naturally sprung up here and hence also is unregulated.

Options are usually traded through concerns that specialize in this area, and often are not executed on commodity exchanges.

"Since these firms have been operating outside the scope of federal, state or exchange regulations, no one really knows the full extent of their activities," Alex C. Caldwell, administrator of the Commodity Exchange Authority, told the meeting.

"We have already received reports that some firms are unable or unwilling to pay customers the amounts due them or to supply the futures contracts called for by the options," he continued.

Caldwell went on to point out that "the vast majority" of options sold are so-called "naked options." In a naked option, the trading firm does not actually have the contract it has sold an option on, and hopes for the market to move opposite to its customer's puts and calls.

Professor Roger W. Gray, a Stanford University economist and commodity futures expert, told the meeting that "the option writer is always better off when the option buyer loses," and pointed out the inherent conflict of interest.

Caldwell was concerned that, as naked options proliferate, "the potential liability of the option firm as a result of adverse price movements is virtually unlimited. We fear that few have the financial resources to withstand adverse price movements of any size."

Caldwell expressed the fear—echoed by many of the commodity exchange presidents—that the collapse of a major options firm and the loss of customer funds "would seriously damage public confidence in the entire brokerage industry and the whole system of futures trading."

All of the exchange presidents who made presentations advocated some immediate steps to bring commodity option trading under regulatory control.

Donald B. Conlin, chairman of the board of managers of the New York Cotton Exchange, urged federal regulation that would assure that customers were protected, and that option brokers were financially responsible.

To meet these ends, he suggested registration of all option dealers, limiting the writing of options to the exchange with which the dealer is registered, establishment of minimum financial standards for option firms, a cash deposit requirement for naked options, and an exchange clearing house guarantee for every option.

The president of California based Goldstein Samuelson, Inc., which claims to be the largest commodity option trader, also endorsed some form of regulation along the lines of the Conlin proposals, although he said he was waiting for a consulting firm study to be completed before making specific recommendations. The firm had been singled out in a recent Wall Street Journal article for questionable business practices.

Caldwell outlined four possible directions regulation of option grading could take:

Bringing option dealers under tighter state laws.

Placing option trading under Securities and Exchange Commission jurisdiction.

Seeking legislation that would expand the Commodity Exchange Act to include all commodities, thereby banning all option trading.

Seeking federal legislation to either ban or regulate option trading.

U.S. SENATE,
Washington, D.C., February 26, 1973.

ELMER STAATS,
Comptroller General,
Washington, D.C.

DEAR MR. STAATS: Several years ago, the General Accounting Office completed a study of the Commodity Exchange Authority, the federal agency responsible for monitoring and regulating the 20 commodity exchanges in this country. In the report, GAO recommended a series of changes to improve the CEA's effectiveness.

Since then, the volume of trade on the commodity exchanges has gone up four times. Since then, there have been many questions raised about trading practices, and there has been a number of court suits. Yet since then, CEA apparently has done little to change its attitude and procedures to take a harder look at the commodity trade.

The commodity market is a $200 billion a year business. The contracts in futures, bought and sold each day on the market floor, have a direct impact on the cost of wheat, corn, soybeans, eggs and other commodities on the supermarket shelf. Because of this, because of the potential for fraud and deception and conflict of interest, and because of your findings in 1965, I would like the GAO to make another study—not only of the CEA, but of the commodity trade it is supposed to regulate.

Does the CEA have enough manpower to do its job correctly? Does it have the statutory authority? Should CEA be given the authority to regulate option trading in international commodities? Has the CEA followed GAO's recommendations? In short, is the CEA doing its job regulating commodity trade, and, if not, what can be done to correct the situation?

Recently, the Des Moines *Register* carried an excellent investigative series on the CEA and commodity trade. The articles, which are enclosed, summarize and document the problems.

The importance of the commodity market and its influence on our economy cannot be underestimated—neither can the need for reform and increased regulation. I hope that I can hear from you soon.

Best Wishes,
Sincerely,

DICK CLARK.

LIEUTENANT COLONEL HERBERT AND ALLEGED VIETNAM ATROCITIES

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Arizona (Mr. GOLDWATER), I ask unanimous consent that a statement by him and certain insertions in connection with his statement be printed in the RECORD.

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

STATEMENT BY SENATOR GOLDWATER

On January 23rd, I appeared on a television talk show with retired Army Lieutenant Colonel Anthony Herbert at which time Colonel Herbert aired very serious charges against the Secretary of the Army, General William Westmoreland and other high ranking officers of the United States Army. He charged that these men were out to destroy him because he spoke out about alleged atrocities in Vietnam.

Now, Mr. President, it has always been my practice to investigate and check on alleged misconduct and injustices in the armed services whenever such allegations come to my personal attention—this has been my practice even though it is well known I am a strong believer in the need for an adequate defense establishment and have the highest regard for most of the top officers in that establishment. I wish to point out that nearly a year before the My Lai charges became an object of national interest I received a letter strongly suggesting that irregularities and atrocities had taken place in that instance and I immediately turned the letter over to the highest ranking man in the Pentagon for investigation and review. I did this even though, as I recall it, the letter was a mimeographed product which had been sent to other people in the Congress.

I recount this incident, Mr. President, to emphasize that when Colonel Herbert said he had a document signed by Army Secretary Froelke, General Westmoreland, General Walter T. Kerwin and General Winant Sidle, among others, I was sincere in asking for a copy of that document so I could ask the Senate Armed Services Committee to look into Colonel Herbert's very serious charges.

Later on in the program when I disagreed with the Colonel on how the war was fought under President Nixon, he became abusive and called me an ass. I might point out that this remark was not made at an especially heated point in the discussion and it surprised me until I realized that Colonel Herbert's presence on the program was pursuant to the publicizing and retailing of a book *Soldier*, he had written and that he wanted me to become angry and walk off the program or engage in a name calling contest which would bring him and his book a great deal of public attention. This appraisal of Colonel Herbert's motivation was borne out Sunday, February the 4th when the Colonel was interviewed on "The Lou Gordon Program" over Station WKBD–TV in South Field, Michigan. A transcript of that program shows Colonel Herbert was asked whether he was sorry he had called me an ass and he replied, and, Mr. President, these are direct quotes:

"Oh, no. I did it with forethought. I mean, I didn't, didn't, just blurt it out."

Mr. President, I mention this to show that even after this uncalled for insult I renewed my offer to have Colonel Herbert's material brought before the Armed Services Committee if he would send it to me.

I want to emphasize, in this connection, that at no time during the program did Colonel Herbert indicate that he had the material with him. It was understood by me and I believe by Dick Cavett who moderated the program that the material would be sent to me in the immediate future. I waited for the material to arrive and when it didn't I sent Colonel Herbert a letter reminding him of his remarks on television and asking him where the material was. The answer I did receive made no reference at all to the letter Colonel Herbert stated he had signed by top-ranking Army officials. In the meantime, the Colonel has been traveling around the country making appearances on talk shows to promote his book. On several of these shows he has told interviewers that I refused to accept his material the night of the Cavett Program. This I submit is a lie out of the whole cloth. Never did Colonel Herbert offer me anything at any time before, during or after the show. Despite his claim that I wouldn't accept his material, he told my son, Congressman Goldwater, when they met accidentally at a television studio in California, that he had intended to send the material earlier but that he had been too busy with his talk shows and had had some trouble contacting his attorney.

As I said, I have never received a single document from Colonel Herbert. However, my Press Secretary, Mr. Tony Smith, did receive some material purporting to be the Colonel's documentation with a note saying Herbert had requested that it be forwarded to my office. The material came from James Dunbar who has a program on radio station KGO in San Francisco and his letter was dated February the 15th. A week later I received a note from Colonel Herbert saying he understood the material was in my possession. Despite this round-about and sloppy procedure, I have looked at the material and cannot find that it backs up the Colonel's charges that the highest people in the United States Army are out to destroy him.

Nevertheless, I turned the material over to the Senate Armed Services Committee staff for examination. I might say here that immediately following the program of January the 23rd I wrote to Chairman John Stennis of the Armed Services Committee telling him about the charges leveled by Colonel Herbert and asking the Committee to look into them. Of course, as you all know, that was just before the Chairman was shot in that tragic episode in front of his home.

Now, Mr. President, I want the record to show that Colonel Herbert is a decorated veteran of the Korean and Vietnamese Wars. And I want the record to show that I have the highest possible respect for Colonel Herbert's combat record. However, I cannot extend that respect to Colonel Herbert's regard for the truth or his concern for the characters and reputations of the people he publicly maligns. And right here, I wish to say that everyone who has investigated seriously and in depth Colonel Herbert's charges and his book have come to the conclusion that the misstatements and exaggerations are almost monumental. One of these investigations was conducted by the CBS program, "60 Minutes." In a program February the 4th, Mike Wallace, one of the correspondents on that program, confronted Colonel Herbert with one discrepancy after another and got virtually no explanation from the Colonel.

Perhaps the most outstanding incident was when Wallace confronted Herbert with his claim that he brought his war crimes charge to the attention of Colonel Ross Franklin on February 14th, 1969. The meeting allegedly took place at Landing Zone English in Vietnam. Wallace informed Colonel Herbert that on the date mentioned Colonel Franklin claimed he was in Honolulu, Hawaii, at the Ilikai Hotel for a period of rest and relaxation. And when Herbert told Wallace that Franklin was lying, Wallace said "60 Minutes" had checked with the hotel in Hawaii and found that Colonel and Mrs. Franklin had indeed been registered there from February 7th to late on the afternoon of the 14th. Because of the difference in time, February 14th in Hawaii is February 15th in Vietnam.

Wallace also confronted Herbert with a cancelled check signed by Colonel Franklin and made out to the Ilikai Hotel for the exact amount of the hotel bill. The check was dated February 14th. In addition, Wallace told Herbert that his staff had spoken with two Army officers who were in Hawaii at the same time and flew back to Vietnam with Colonel Franklin on February 14th. The transcript of the "60 Minutes" program shows this reply by Colonel Herbert: "I can probably find you a hundred checks that I have either dated for another reason, wrote after the fact, misdated, what have you. I don't know. All I know is I saw Ross Franklin there and talked to him. I know that. I know what I say. I know what I did. And I stick by it and I still say it. And I swear to it and I've sworn to it under oath and I'll swear to it again, you know."

In other words, Mr. President, everyone is wrong—Colonel Franklin, the hotel, the men who flew back to Vietnam with Colonel Franklin—everyone is wrong but Colonel Herbert.

From additional interviews on the "60 Minutes" show, and from the claims of people who have investigated Herbert's book, the Colonel's track record for truth and accuracy is staggeringly bad. For example, L. G. Smith, who reviewed Herbert's book for the *Army Times* had this cogent comment:

"Despite the initial furor, however, as a work of documentary non-fiction, *Soldier* is largely a hoax. Its papers are filled with half-truths and outright lies, ranging from relatively innocent 'war stories' to the most malicious kinds of character assassinations. Investigations and interviews with witnesses to dozens of incidents described by Herbert in the pages of *Soldier* reveal a consistent pattern: A kernel of truth imbedded in a web of distortion, exaggeration and falsehoods that in every case serves to discredit the Army and to add to the reader's sympathy and respect for a wronged Herbert.

"It is a measure of Herbert's persuasiveness and ability to tell a story with conviction that neither his co-author, James Wooten of the *New York Times* nor his editors were moved to make the most elementary efforts to double-check the information Herbert provided as factual. Researchers for CBS, checking stories from advanced copies of the book, were repeatedly told by those mentioned in Herbert's anecdotes that no effort had been made to contact them for confirmation of Herbert's assertion, and that if they had been consulted, some drastic editing of the book would have been required."

Mr. Smith goes on to list some of the discrepencies in Herbert's book by their page numbers. I won't go over them here because at the end of my remarks I plan to insert for the record the transcript of my appearance with Herbert on the Dick Cavett Show together with the transcript from the CBS "60 Minutes" show and the review of Herbert's book carried in the *Army Times*.

Mr. President, needless to say, that the Generals and Colonels whom Herbert claims removed him from command because he complained of war crimes in Vietnam have branded the whole business a "hoax." The *Army Times* reviewer also used the word "hoax" to describe the Colonel's book including parts of it related to his charges. It continues to be something of a communications media mystery why the *New York Times*, whose staff member Mr. Wooten, helped to write the Herbert book failed to investigate its allegations prior to publication. Let me just say that the *New York Times* is not noted for its admiration of the defense establishment and the people who run it and I am convinced that the *Times* editors found Colonel Herbert's charges so much to their liking that they overlooked the need for reportorial investigation.

I have my own very definite feelings about this but let's hear what a real reporter, Mike Wallace of CBS, has to say about the treatment given the Herbert charges. The following is a direct quote from Mr. Wallace aired in the "60 Minutes" program of February the 4th:

"The deeper we got into this investigation, the more we felt that the way in which the media, including CBS News, reacted to Herbert's allegations was almost as interesting as Herbert's story itself. Several reporters did make an effort to check out Herbert's claims, found his case was far from clearcut and made that obvious in their reports. Many others did not. The *New York Times* did more, probably, to publicize Tony Herbert's story than any other paper. When Herbert passed a lie-detector test on whether or not he had reported war crimes to Franklin, the *Times* gave it big play. But when the Army said that Colonel Franklin, the man Herbert

had accused, had also passed a lie-detector test, other papers reported it but there was not a word about it in the *Times*."

Mr. President, I may have more to say on this matter at a later date. For the present, I believe the procedure would be to obtain an appraisal of Colonel Herbert's material from the staff of the Armed Services Committee and if the situation warrants it, to ask Colonel Herbert to appear before the Committee for questioning. Colonel Herbert claims he will be available if clarification of this material is needed. Should he change his mind, I would not hesitate to ask that he be called before the Committee by subpoena.

Mr. President, at this time, I would like to insert in the Record the material that I mentioned during my remarks, that is the transcript of the January 23rd Dick Cavett Show, the transcript of the February 4th "60 Minutes" program and the review from the *Army Times*. Also, I am inserting the papers which were forwarded to me at the request of Colonel Herbert by a San Francisco newscaster.

DICK CAVETT SHOW TRANSCRIPT

DC. My first guest tonight is Senator Barry Goldwater who is junior Senator from Arizona as you know. And as you all know he ran and lost against the late President Johnson, Lyndon Johnson, in a landslide in 1964; but they remained friends; they had been friends for years. There may have been a time when they were not friends in the middle of all that, I don't know. And his appearance was planned before, of course, we knew that Lyndon Johnson had died. But it seemed fitting to introduce him as a friend of his. Will you welcome please Senator Barry Goldwater.

DC. Say let me say something first here. Things are so strange with television and all and last night right in the middle of the taping I found out that Lyndon Johnson had died and who knows how many things might come up and what can happen so I suppose I should establish that this is for this moment anyway the following day and we always assume things are going to be when they are planned but we never quite know.

DC. Where were you when the news came that the President died?

BG. I was having dinner with my wife and a number of friends at a club in Washington and the T.V. came on to interview me and I never got to eat dinner. But I was very sorry about it; it was a great loss.

DC. Well you were fierce competitors as Presidential candidates I guess.

BG. Yes.

DC. How long did it take you to get back together after a thing like that?

BG. Oh, we never parted friends; you don't do that in politics. I know people often think it's strange that for example Hubert Humphrey and I are the best of friends but we fight like a cat and a dog on the Floor. Politicians may seem to dislike each other but they respect each other and I know of very few cases where there is disrespect or dislike for one another.

DC. Weren't there bitter moments during the campaign?

BG. Oh, as at the time, yes, I imagine there were; but that's eight, nine years ago and you grow older, more mellow and you forget about the things that happened then. I always liked Lyndon Johnson, I admired him and he made mistakes like we all did. I think but for some unfortunate circumstances he could have been a great President but one never knows what you're going to run into when you take a job like that.

DC. You don't think he was a great President then, but might have been?

BG. It's too early, you never—it takes time to tell the value of a President. I think at least 50 years have to go by so that history can record whether or not the things they did were good or bad. I don't—there is no such thing as instant success as a President.

DC. Do you see him as a tragic figure the way a lot of people do. A man who wanted to be loved, wanted to be great, had the capacity to be great and that it was all ruined by Vietnam?

BG. Well Vietnam was not the only reason, nor do I think it was the major reason; I think the fact that the President no longer had control of his government which has been true since the days of Truman. I think that really was a blow to him. I don't think he really realized when he took office how little, practically nothing to say he would have concerning the operation of the government. And this has bugged President Nixon. I shouldn't use bugged, that's a bad name for a Republican to use.

DC. Say Watergate—if that might do it.

BC. Watergate? That takes longer. I think Vietnam naturally had something to do with it but I think the main factor was that he kept members of the Kennedy staff on; not that they were Kennedy, but no President should ever keep any of his predecessor's staff or policy making people around. They should get rid of them.

DC. Sweep them all out.

BG. They should because he's been elected because of policies he's run on and the people expect him to do something about it. But if he goes into office and still has the same State Department, the same Interior Department, the same Defense Department, they're not going to do the things that the new President wants. I tried to get President Johnson to get rid of McNamara as soon as he became President. It took him four long years and he finally admitted I was right but it was too late at that time.

DC. Gee, did he—he probably read David Halbersten's book about all those people McNamara, Rusk and Bundy and all of them. Did they ever get a comment out of him on it at all?

BG. I don't know whether they did or not—I don't know if he read it.

DC. Gee, it would be interesting to know because it took a lot of the blame off him in many ways.

BG. Well the blame wasn't all his, I put as much of the blame on the men who advised him—take for example, I don't think a ground soldier should have ever gone into Southeast Asia, and I think that the war could have ended before it started had we used, made the proper use of our air power, sea and land based land power. But we didn't do it and this is a reflection on the advisors that surrounded both Kennedy and Johnson.

DC. It will be interesting to see what Col. Herbert feels about that. By the way, the other reason I made a point of when we're doing this show is that it is another one of those weird time warp things where President Nixon as you are concerned out there viewing has spoken to the country probably at this time but we don't know yet because we're taping earlier in the evening and we don't know if he has or not. Can you tell us anything that he might already have said in the future, or not?

BG. No, I can't; to be honest with you, I don't know. I don't think anyone in Washington knows except Dr. Kissinger and President Nixon. He's been very, very quiet about this, and I think it's been proper. I think it's very wise that the President be quiet during periods of negotiation just as the people in the enemy countries are quiet. Negotiations with the Asian people who have been doing it for 3,000 years and we've been doing it for about 20, is a very risky business at its best and I think the original negotiations collapse more from too much talk in the United States by everyone than by anything that was done in Saigon or Hanoi. So his quietness I admire and I respect and I think what he says tonight will be an indication of what we all want to know. Now you figure that out.

DC. O.K. I know what you mean, or meant or he said, or whatever.

Senator Goldwater, I was thinking last night when we were all sitting here and heard that President Johnson had died, Paul Newman said that one of the ironies of this whole thing, the actor Paul Newman, said that he found out in reading the Pentagon Papers that at the time he was campaigning for Johnson as a peace candidate it had already been decided to escalate but the people didn't know it and so that in effect he was campaigning for what you wanted while campaigning against you. Does that irony amuse you.

BG. No, it doesn't amuse me; in fact, it was one of the disappointments in my campaign because I had asked the President to not debate with me but meet and decide what we couldn't talk about and then talk about the Vietnam War with the American people so that they would know what they were faced with regardless with which one of us won the Presidency. Either, we would pull out completely which the country was not in the mood for at that time; or we would have to escalate. I kept saying that and he kept denying it. Now, I don't know whether the so-called Pentagon Papers made any declaration as to that or not; it wasn't, I don't think at that time there had been any general decision made by the joint chiefs to actually escalate, I know it had been talked about. I sat through several war games that had looked into it; but nevertheless, this is one of the ways of war—you escalate, you try to win a war as fast as you can once you have decided to go into it. And this is the major mistake we made; we never tried to win that war until too late and then if you don't win it with this action, you do it a little stronger tomorrow, a little stronger the next day until finally the enemy realizes he can't win and then he'll give up, we hope. That's the theory of escalation.

DC. Colonel Herbert, among others, refers to his book to the war as a defeat for us. I mean just in passing; as if that's an assumption that was made and then goes on to talk about it.

BG. Well, I can understand how a man who fought in this war would call it a defeat. We've been in 192 wars in the history of our country; and we've never suffered a defeat or even a humiliation on the battlefield until—

DC. How about General Custer?

BG. Well, I won't comment on General Custer.

DC. It would be hard to call it a victory.

BG. No, you couldn't. I don't think even he'd call it a victory. But anyone who has fought in Vietnam or Korea, I think was disgusted with the idea that the Commanders-in-Chief and other civilian controllers of the military would not allow them victory. Korea we were not allowed to go north of the Yalu and had we been allowed to go up there, I think the war would have turned differently. Had we gone earlier north of the 17th and 20th parallels in Vietnam, I think the war would have—I think the men who fought there would consider it a victory. Now, I will say this, that if the enemy agrees to a cease-fire or to a peace, I would have to call it a victory for the use of our arms because otherwise they would not have given up, they would have continued. The North Vietnamese soldiers are probably as good soldiers as you will find in the world and they're motivated. And a soldier is not going to quit unless he's denied ammunition, weapons or food or any one of them and these are the things they began to miss.

DC. But the idea of referring to it as a defeat doesn't . . .

BG. I don't buy it as a defeat but I can understand any man who has fought over there saying we didn't win.

DC. Yet to a military man that's a defeat.

BG. That's right.

DC. If you can read this book without throwing it up against the wall a couple of times in just outrage or astonishment and then not pick it up again and start reading it, it's very hard to stop reading it. I did but I got to page 267; I wish I had started it sooner, I could have finished it by tonight. Lt. Colonel Anthony Herbert was the most decorated hero of the Korean War and in Vietnam he won a silver star and three bronze stars and two air medals and the army commendation medal for valor and a number of other things like recommendation for distinguished service cross. A General at one point called him "the best God damn commander the Army ever had." Then he charged a General Barnes with cover-up and now he's no longer in the Army; he was retired and General Barnes seems to have been exonerated. If you saw his two previous appearances here, you would be fair to say the general impression was that it should have been the other way around. Anyway, Colonel Herbert has written this book with James Wooten of the *Times*; it's called "Soldier" and it's a fascinating, facinating book. He is fascinating. Lt. Colonel Retired Anthony B. Herbert.

DC. You know I'm trying to look for signs of civilian life in you now; you are civilian.

CH. My hair's longer.

DC. Say, you really let it grow out. You like civilian life?

CH. Yea, I like all life. I like to live. That's why I fought so hard. Yes, I like it very, very much. I find that people are very, very nice, you know. It's just the opposite of what the Army told me it was like on the other side of the fence.

DC They told you it would be lousy when you got out?

CH. Yeah, they would call it the outside and the inside; like you were in prison. But, no, it's very nice. I like people so I get along in the Army or out of the Army.

DC. Did you hear what Senator Goldwater said earlier about he thinks it was a mistake to put any fighting men in—the ground troops, that is—in the . . .

CH. It's obvious I disagree with that. I look at the ground troops as a surgical instrument. I think bombing is haphazard. I think we all saw what bombing does in Vietnam. I think just the opposite, if you want to destroy everything, the good and the bad, then you bomb. But I've always looked at the Army as a surgical tool—it could go into a place save the good and eliminate the cancer without killing the organism itself. Summing me up—I mean this is nothing personal—but summing me up—yes, it is personal, I guess—might be as well be honest—summing me up as why I was frustrated about Vietnam would be like me saying, Senator, that I admire you because after the election you didn't declare a mandate. It's that far out; I just wouldn't—it just wasn't me.

DC. I heard that you had found out what the Army had in mind during the last few months you were in service for you. Is it something you can talk about?

CH. Oh, sure. You know, I mean, throw it all out there and suffer the—you know whenever people comment makes them more interesting, I think. I was told that if I stayed in the Army, I was told by a General on the side, a friendly General, that the Secretary of the Army was literally out to destroy me. That means go to prison, get rid of you, discredit you. Not honestly, but behind the scenes. Secretary of the Army told the American people, you know, that this was not so, that Colonel Herbert retired of his own volition that he was not being forced out of the Army.

Since then, of course, we have obtained a document which I talked about yesterday and this document is signed by Secretary of the Army Froehlke, it's signed by William Westmoreland, it's signed by General Sidle, it's signed by General Kerwin among Generals. And it says in effect that item one we will, once the publicity dies down, we will get this guy. We know what he's really like; you know, he has destroyed our image.

We will accuse him of beating up his own troops. And then it says in the document that he didn't beat up his own troops—there are no evidence to this effect. And then the Secretary of the Army and General Westmoreland says then we will accuse him of violating regulations and of lying to the press and then it says in effect that he did not lie to the press and that he did not violate any regulations. And then he says, well, we can't get him legally—what we will do is we will get him for moral reasons; in other words, we will file a false morals charge against him—we will do this administratively and we won't have to answer to the press and I think they will buy this.

DC. Do you have a document that says all this?

CH. Yes, signed by the Secretary of the Army, yes.

DC. How, I suppose this is tactless to ask, how do you get a thing like this?

CH. You get it by having a tremendous amount of friends in the military who want the Army reformed also before it destroys us all. And it shows how high up these friends go when it came out of the Secretary of the Army's office.

DC. What would you do with a document like that?

BG. I would make it public and I would——

CH. I just did.

BG. I would make it public and I would work through the proper Congressional Committees and demand an investigation of it.

CH. Like Congressman Hébert right sir?

BG. No, no. If you interested, I would be happy to introduce it in the Armed Services Committee or the Senate and we will be glad to hold hearings on it.

CH. I would be very, very interested.

BG. You give it to me we will.

DC. Now, this show may not get on tonight. We're back and I'm talking with former Lt. Colonel Herbert and with Senator Goldwater. Well, that was a bit of a rocker that thing we heard earlier about the paper you have and the Senator offered to introduce it into a—and to get an investigation going.

BG. I might say that as this goes on now, not constantly, but almost all the time, we are investigating reports made by members of the armed forces that seem to go away from standard practice. If we find anything to them, we can do something about it. If we find out that it's just dreamed up then we just commisserate with the men and let it go.

CH. For instance, sir, which case.

BG. I'm thinking of the case of the boy in U–Tapao who refused to fly a B–52 mission who'd already flown 200 and some odd missions and we're still on that; in fact, it only came up a few weeks ago. . . .

CH. Let's talk about division we know.

BG. Whether or not—wait a minute—whether or not it is wrong for a man to decide that he doesn't want to fly a mission or he doesn't want to fly a combat my personal feeling is that he had the same right to conscientiously object as a man does who is not yet in the Armed Services. But we never—we've run into this I'll say in every war—but we've never had any way of taking care of it.

DC. How do you feel about—what about General Lavelle—what did you want to ask about that—he was a General who bombed against orders.

CH. That's right, because during a break the Senator said about the Lavelle case, for instance. Let's talk a little bit about the Lavelle case. Here is a man who violated the orders of the Commander-in-Chief in the United States Armed Forces, the President. Here is a man who is worse than Rusty Calley beneath his skin?

DC. Who?

CH. Rusty Calley, the My Lai thing—notorious or whatever you want to call it. Lavelle not only defied the words of the President and bombed and killed innocent people, we know today that Lavelle's actions helped the peace talks fall apart. That means not only the blood of the innocent Vietnamese that were killed but every American soldier who was killed after that some of the blood is on the hands of General Lavelle because this fall down of the peace talks. The hero in that Lonnie Franks, that we found was telling the truth in every case, Sgt. Franks, how did the Senate protect him? What did General Ryan turn around and do—we find a man with 19 years service suddenly serving coffee to recruits in order to put him back in his place. Then the next thing we find out that after some of us complained to Proxmire and other people when they went out and got that changed, we find Lonnie Franks with 19 years and 2 months service suddenly the Air Force decides he should learn how to type before he retires and puts him in typing with a bunch of recruits again. This is how we regard the heroes who told the truth. How did we punish General Lavelle? We took a fictitious gimmick off him, a third star, and what did he retire at—$27,000 a year. Suddenly he's flying jet airplanes and that afternoon we punish him by putting him on 90% disability so that he doesn't have to pay any income tax. That's the—true?

BG. What you said is partially true. Now let's . . .

CH. Which is partially false?

BG. Now let me give you my version of it. As you know having served over there, we have orders of engagement. I believe the Army has them, I know the Air Force has them and I know the Navy has them. Now the orders of engagement to the Air Force said that you were not to fire on any target until the target showed hostile intentions.

Now, if I had been General Lavelle, I think I could have interpreted those orders as he did and if I was wrong, I would have demanded a court martial. Every time a man flew in North Vietnam, you had to assume that somebody was shooting at him. He might not have gotten hit, he might not have seen an enemy but that order prevented us from shooting radar sites that were controlling MIG aircraft that were coming down to shoot our rescue helicopters. It prevented our men from firing on SAM sites unless the SAM sites fired on them. We couldn't fire on POL lines, we couldn't fire on trucks in convoy unless they showed hostile intentions.

Now, I asked General Ryan at the hearings when does a MIG show hostile intentions? Well, he says technically I guess when you see tracers coming at you or he's on your tail, that's a hostile intention. Now General Lavelle interpreted the orders, the order of engagement which by the way was not written by a President, it was written by the Joint Chiefs of Staff but I'll have to say that he would assume right away that they were his orders. He interpreted them to mean that every aircraft that left the base in the South to fly north or south was under hostile fire, therefore they had a right to fire back. Now there were out of 40,000 sorties when he was commander there were 28 of these in violation excuse him if there was one violation and it was in effect a direct violation, then I think he should have been—I think he should have asked for a court martial. Now, being relieved of command is the worst thing that can happen to a man in the service. I think you'll agree with that.

CH. Oh, I was relieved, sir. I had . . .

BG. Well, I don't—I can't think of anything that I would dislike worse than being relieved of a command. So in General Lavelle's case, while I'm not trying to defend him, I think he was acting under a very, very difficult book of rules to understand and one which nobody likes over there.

CH. Alright sir, I was a Lt. Colonel and I understood them; if that man was a three star General, why the hell didn't he understand those rules. I'll tell you another thing, General Lavelle has stated that he had the permission of his commander, General Abrams. Now if General Lavelle had to interpret those orders, what in the hell are we paying General Abrams for.

BG. He did not have the permission of General Abrams.

CH. He said he did.

BG. No, he did not.

CH. Sir, I read it, too. I was up there at the same time.

BG. Well, I sat through the whole thing and I've known General Lavelle and General Abrams for a long time. General Lavelle asked . . .

CH. He was a friend.

BG. He asked Admiral Moore through General Abrams if he could attack this radar site on the perimeter of the Plains of Jars and Abrams never told him to and he didn't tell him not to but it was interpreted by Lavelle and frankly I can defend that. If my son were killed by a MIG that was guided to that kill by a radar site that I was not allowed to hit, I would think it's a pretty bad order.

CH. That's the same old cop-out we keep using for the protection of the American boys who are going to protect more lives. If we're protecting, we lost 56,000.

BG. That's right.

CH. What did we protect. Would we have lost 58,000 if Lavalle would have obeyed orders?

BG. We lost men over there because that war was not fought right from the very beginning.

CH. By whom?

BG. By President Kennedy to start with.

CH. What about after him?

BG. By President Johnson.

CH. What about after him?

BG. Why President Nixon has practically ended this war.

CH. Nooo. No, no. What about after President Johnson? Did Nixon fight it right?

BG. Well, when Nixon went in he started bringing the troops home. Nobody had done that before. I'll say this, I don't think he fought it right up until the time he resumed bombing. I disagree with you.

CH. You're an ass.

BG. I'm a what?

CH. I said you're an ass. You say that President Nixon's killing those people—if President Nixon was doing what was right, President Nixon didn't have to do it when Congress was out of session, he didn't have to do it when the college kids were all home and couldn't protest. He could have done it with the good backing of the American people but he didn't. Nor did he have the backing of Congress.

BG. Well, this shows your ignorance, Colonel, if you don't mind my saying so.

CH. You're right.

BG. You think along with many American people that the Congress has the only power to go into war. The Congress cannot go to war. The Congress cannot go to peace.

CH. Can they declare war?

BG. It can declare war.

CH. Did they?

BG. But out of a hundred and ninety . . .

CH. Did they declare war?

BG. Just a minute—no they didn't—out of 192 wars that we've been in, five have been declared wars. Only the President can take this country to war or send troops. Only the President can negotiate and have a peace. Now . . .

CH. We've caused 192 wars?

BG. What? We've been in 192 battles.

CH. Name them . . . yea that's right, battles—we were not in 192 wars.

BG. Battles, wars, we called the troops 192 times.

CH. Chicago, Washington, D.C.

BG. I don't care where it is, there is a very good book written on the subject by a fellow named Balmer. I never realized we called the troops out that many times. I'd say they include everything. But, I get back to the point that the Congress cannot go to war—the Congress cannot end war. Now the Congress can disband the military if they want to. They can stop pay, they can stop appropriations, but there is always enough money in the slot to run the thing quite a while. So, I wish the American people would understand that it's not the Congress—the President does not have to ask the Congress. He doesn't have to confer with the Congress. President Roosevelt didn't ask the Congress if he could send destroyers to England. President Truman didn't ask the Congress . . .

CH. Who appropriates troops?

BG. What?

CH. Who appropriates troops?

BG. Nobody appropriates—we raise . . .

CH. Sure, Congress does—Congress raises the funds to appropriate troops

BG. We raised the Army and the Navy.

CH. Who does that?

BG. The Congress.

CH. Well if you don't have no Army and a Navy raised, you sure as hell can't support the world . . .

BG. That's right, that's one way you can do it. But I don't think you could get away with it.

CH. Oh, certainly you could.

BG. You think the American people want to disband the Army and the Navy?

CH. No, no, sir. No.

BG. Well that's what you're saying.

CH. I'm talking about raising enough troops, to draft men to go over and fight a war to export warfare overseas. I'm saying that it should be up to Congress and it is up to Congress and you and I both know that, we can quibble all we want back and forth. It has always been the Congress expressing the will of the people. We have always had a cause and then we had the open Army to go fight that cause. Suddenly, we want to maintain a large standing Army to go out and look for causes in order to engage in the next foreign war.

BG. No it's not.

CH. Certainly it is.

BG. Not it's not. Our Army today is smaller than it was three years ago and it's going to be smaller next year than it is now. . . .

CH. Well, what does that mean?

BG. Well, it means it just discredits what you've been saying.

CH. Is it smaller than 1939?

BG. Uh, no. But it's getting closer.

CH. Is it smaller than 1775?

BG. Oh, hell no, its not smaller than. . . .

CH. Is it smaller than 1913?

BG. No.

CH. Well, what does this . . .

BG. Alright, we have a little more responsibility around this world than we had in 1774 and 1913.

CH. You can't really believe that?

BG. I do. I do believe it and I'll go further and say that if we don't pay attention to those responsibilities we're inviting a third world war.

CH. Yea, I saw book you endorsed was General Walt. It said in effect that we won Vietnam in 1968, therefore it's been a mopping action ever since then. I don't know where in the hell he's been since then. The other thing it says in there is that gee I don't understand the American people's concern about because the Marines were well loved, all the Marines could speak Vietnamese fluently and the people hailed them in the villages and cried when they left. They cried when we left, alright, because their sons and daughters were no longer there. That's why they cried. And I saw where he says the old cliche, well if we're the bad side and they're the good side, why do the refugees always move south? This is one of the ones you commented on so I thought I would give you the answer tonight. They moved south because we in the south are bombing the hell out of the north and if you don't want bombed you move down where they're not being bombed.

BG. We didn't bomb for five years.

DC. Excuse me this is so interesting, I forgot I wasn't watching it and supposedly we're supposed to keep it starting and stopping. We probably have about 15 messages. We'll be right back.

DC. There's so much to pick up and there seems to be a rather strong disagreement as to whether the President should or shouldn't or has to consult with people before he does something like resume bombing. Before that, we have one ass and one ignorant person according to the words that I remember from the last segment. Who feels most wrong and would like to lead in?

CH. Well I don't feel wrong and I don't think the Senator does either. I think the American people have been wrong. I think we would both agree to that part of it, regardless of our differences why.

DC. The Senator seems interested in improving the Armed Forces and you give a hundred of instances in your book it seems of what's wrong with them. Let's just take one. For example, it has to do with a rope. It's the kind of incident once you hear about it starting you can—you know how it's going to come out.

CH. Oh, you mean when the mountain climbing?

DC. The mountain climbing.

CH. Well.

DC. Or better one if you . . .

CH. No, the mountain climbing isn't, well it was a while back. It was back in 1957. I was an assistant mountain climbing instructor at this time. I was assistant because I was the junior officer and we were supposed to teach mountain climbing, cliff scaling, repelling in the ranger department, the committee I was on at that time taught suspension traverse which was hooking a large manila rope at the top of a mountain and a man would hook up on to a rope and slide down to the bottom of the mountain. And the ranger department always advertises there is some degree of danger to life, limb, what have you. And the day before, you're supposed to inspect your equipment and do our homework.

Now to inspect the equipment, you twist the rope open and there should be what they call a marker strand in there. When a rope is a good rope made by the company that meets all the specifications, it has a little colored strand that you'll find in any manila rope or nylon rope. You pull it out and unravel it and it names the cordage company that made that particular rope and it's their o.k.

I checked the rope and the rope didn't have the marker so I went and, I talked to the Colonel and one of the senior officers, I told them the rope does not have the marker, I'm not going to use it. And I was told, listen, that rope cost us $300, you are going to use it even though it doesn't meet the safety requirements.

And I said that that will have to be under orders sir. And they told me it was. And I filled out an unsatisfactory equipment report that this equipment was unsatisfactory but I was being ordered to use it. I went out the next day and we put the ropes up on the mountain side, I slid down each rope

first to make sure that if it was going to break I mean at least you're better off dead then being in charge when somebody else is killed. And when we started that noon, sliding down, I wasn't in charge, I was assistant, sure enough, the only non-volunteer in that course who was forced to go there stepped out on the rope and the rope exploded and dropped him 65 feet to the rocks.

I went over to pick him up and my hands literally went right through him because he was all smashed you know they went up into his stomach. And I turned around to the principal instructor who was in charge and he was moving up over the hill, he didn't want to be a witness. He went back to the base camp. So students were all milling around, I put the man on a jeep and sent him off to the hospital because there were some signs of life and then I went back and had control of the troops and I didn't know what else to do so I said o.k. you people agreed to come here, the equipment was all checked out, now move over to the next rope. Of course, they weren't too happy about that, you know.

And so I figured well I have to set the example, I went up and slid down the next rope and told them, you know, you want to be rangers, here you are. So they slid down the rope. At lunch time, I went down to the base camp and this Captain who had left the scene was down there wringing his hands in front of the Colonel and kept saying he'll live, he'll live. And of course, I answered each one being a good officer. No he won't, no he won't. You know, I mean right on down the line, that he'll be dead on arrival and he kept saying don't say that, don't say that.

And he went over and picked up the phone, the phone rang, and the thing was he was dead on arrival at the hospital in Deliga (sp?), Georgia. Then he turned on me and he said you're responsible you're in charge. I wasn't in charge an hour before, but I was in charge now. And I said I understand that I made all my safety checks but I also wrote an unsatisfactory equipment report, don't forget that. And they came up and checked it out and I told them I would take full responsibility.

The question was, are you a rope expert? I kept saying well I don't know, I've been working with it for 11 or 12 years. Nobody wants to put themselves on the line that way. So it finally got down are you an expert or not I said yea I'm an expert. O.K. I'm better than you are. I mean, you know if that's an expert, I'm an expert. So, they said, will you take the Navy rope test? And I didn't know if—well you know, I'd never been in the Navy. So, I said, O.K. So, I took it and answered them and it was considered a fault of—well at that time they just said this is what occurred, an exploding rope.

It was published in the mountaineering safety handbook of an exploding rope. So, I told the Army, you know, this is a fault of the company that built the rope. The people should get some kind of reimbursement for this. You know something they should take the responsibility. I was told to keep your mouth shut, lay off, don't bother with it. So, for the next year I just kept writing back and forth to the cordage company that made the rope and finally with a mountaineering safety inspection and everything else in a publication finally the people were given compensation for the death, I heard, later on. No thanks to the Army hierarchy.

DC. Did the family of that dead soldier know how he died?

CH. Oh, yes, yes. Not only that when the body was taken home the father-in-law was in a tremendous over this. He knew the whole story. The wife just had a baby, I think the baby was two weeks old when we arrived there, when we buried him. The rest of the people didn't even go to the funeral, you know. I was the guy who supposedly killed him and I was the only one there, you know.

D.C. Well, there are a lot of stories like that. One of the saddest in the book and the most it would be comic, you could use the same thing in a comedy, it would be the comic version of a man who sets a trap for a burglar and then goes out and walks into it himself. I'm thinking of the Lt. who set up an ambush, walked out of the perimeter.

CH. Oh, yes.

DC. Called on the walkie-talkie apparently, and they said we think it's an enemy and he said let him have it. And they fired and killed him.

CH. Yes.

D.C. And you said you were so furious about that because it pointed to the kind of training.

CH. Yes, it did point to the kind of training that they got. You know, the Army's finding these incidences. This is one of the reasons we have problems over-seas where we go in, people always wonder why aren't the people—like we had the South Vietnamese, the Communists had the North Vietnamese. Why do the South Vietnamese fight so poorly? We had the South Koreans and the Communists had the North Koreans, why do the South Koreans fight so poorly? Well, you see we go in a country and we teach them how to carry their rifle and use their bayonets for honor guard. Communists teach them how to shoot the rifle and how to use their bayonet to kill people. We show them how to shine their shoes, the Communists show them how to wear camouflage. We go in there, the Communists show them how to live on a handful of rice a day like they have to in order to fight. We go in there and show people who are used to living on 800 calaries a day how to live on sea rations and American whiskey at 6,000 calories a day. Now this is why the people, we go in and we corrupt even more.

Yea, we're worried more about inspections; they're worried more about winning the battle. This is the kind of thing we do with our own troops. Yes, we teach too much Mickey Mouse in order to fight a war.

DC. Do you go along with that?

BG. I'll buy a lot of that. We have accidents in training. We have it in all branches of the service. We have accidents on the highway everyday because some part in an automobile breaks. Somebody slips in the bathtub and gets killed. That doesn't defend the poor training where it's given. But it's instances like these where they can be brought to the attention of people that care that will do some good.

DC. Well what about a man that would order a man to use an unsafe rope?

BC. I think he did exactly what I would have done. I would have refused to obey the order unless I were allowed to put it in writing and have him put it in writing that I did refuse and the reasons why and then write an unsatisfactory report. This is the procedure.

DC. Whatever became of the man who ordered that? Was he in any sense punished?

CH. No. But it's good to hear you say that, you should be on Heck's side.

BG. On who's side?

CH. On Heck's. The guy that refused to fly the bombing missions because it was an illegal . . .

BG. I didn't say I was opposed to it. I happen to believe in conscientious objection.

CH. Even if he's not a conscientious objector, you see, after that Calley case, the government decided no longer would a commander be responsible for all his unit does or fails to do. Now each man must make up his mind whether the order is legal or illegal. Heck made up his mind that it was illegal. Why are we even talking about punishing him?

BG. Well, in Heck's case, no, it wasn't illegal. But had he been flying for Lavelle, he could have said no. No, you see the Army said each man must make up it's mind whether any order is legal or illegal. And Heck made up his mind that bombing those South Vietnamese and North Vietnamese civilians and hospitals was illegal.

BG. No, he didn't judge it was illegal; it was immoral.

CH. Oh. That is just illegal at a higher level.

BG. No, it's not. No war is moral. Now if a man can't stand the immorality of it, I think he has a reason and a right not to go ahead with it. Even if he's had two or three hundred combat missions behind him. I don't say he's wrong. I think that he probably did the right things because no man wants to fly in a formation or in an airplane where one member is flying against his will.

CH. In other words, you think he did the right thing because he was endangering the other ones only; not because of what his moral . . .

BG. No. no. That's part of the support I could give him. I believe in conscientious objection. I have aided men to stay out of the service who conscientiously objected. I don't want a man next to me that I can't depend on.

CH. You mean he's undependable?

BG. If he doesn't want to go I would say he's undependable, even though he's been out there many, many, many times. I think you have the same attitude.

CH. I don't think so sir.

BG. Yes, I do.

CH. The undependables for this country are the men who blindly obey the orders and say it's just a job.

BG. But you're talking about disobedience to orders at any time?

CH. No, sir, I'm not. What I'm saying is this. Here's the way it should be. If I as the commander give an order to a Private to fire on those people in civilian clothes because they are enemy in civilian clothes, I expect that man to fire. Now, I expect that man to fire because he should trust that I know more than he does in experience, etc., etc. the line that fed from Washington. However, I expect the other part.

If that person turns out to be a civilian like he did under General Koster, under General Westmoreland, under General Young, under Colonel Oren Henderson, under Ernie Medina, under Colonel Barker than I will accept the punishment for the orders I gave that man. Suddenly we are trying the men who pulled the triggers under our orders instead of the criminal, the khaki Mafia, that gave those orders. Who, William Westmoreland, who now says, I'm not responsible. If he's not responsible, what the hell do we pay him for. You know.

BG. Well I happen to think that Westmoreland was not responsible for this.

CH. He said it not me. I'm just repeating it.

DC. We have to take a message, we'll be back. We are on an intriguing point there about who's responsible for what. I believe you're almost last Senator Goldwater where you did not think General Westmoreland was responsible. Did you mean irresponsible or not responsible.

BG. No, I don't think that he was although I will follow that by saying any commander is responsible for what goes on beneath him. I don't care if it's in 50,000 files down.

DC. Well what about the Japanese General Yamshita?

BG. What?

DC. I say General Yamshita. Wasn't that the famous case for not being able to control his men in the Phillipines.

BG. Yes, the instance that the Colonel refers to in My Lai, for example, I'm convinced that the top brass didn't know about it when it happened. But I think that they did know about it. Now, I don't we've ever, this is not to excuse this, but for example we had a massacre in Arizona during the Indian War that only came to light about

17 years ago and it was never entered into the official reports of the Army where 150 innocent Indians were killed by a posse of white people during the Indian Wars. I don't think any commanding general would allow it if he knew it. Now, I happen to know General Westmoreland, I can think of some Generals who might, but it wouldn't be Westmoreland or Abrams.

CH. Well, let me say the other side of that. General Westmoreland, it becomes apparant, was guilty. Delbert Taylor who handled the Nuremburg trials over there points out clearly according to international law and our own laws and the Nuremburg press that General Westmoreland is guilty. If you say he was responsible, then why haven't we done something about it. The next thing is, we have an officer who I've read about recently who was sworn under oath the public information officer of the 25th infantry division that he personally stood there and heard General Westmoreland tell his General after the Tet loss, "I want bodies, B.O.D.I.E.S." and that was the war crime policy in Vietnam. When you want bodies, you get bodies. Regardless of whose bodies they are. If General Westmoreland would not have demanded bodies and said I want no war crimes.

I can guarantee you there would have been no war crimes because then General Peters would have made sure there would be no war crimes because he wouldn't want to bring the wrath of General Westmoreland down upon him. And General Koster who wanted promoted desperately would have not committed any war crimes because he wouldn't want to offend General Peters and then Colonel Oren Henderson would have committed no war crimes he wouldn't have wanted to offend General Koster. And Barker wouldn't have wanted to offend Oren Henderson and Ernie Medina wouldn't have wanted to offend Barker and Rusty Calley would have pulled the trigger.

BG. Well, what would you do if you heard that a platoon leader of yours fired on the civilians without provocation?

CH. What would I do?

BG. Yea.

CH. I would have that man under arrest in a matter of 30 seconds. And I'd have him hauled back to the rear. I would have filed charges on him exactly like I did in Vietnam.

BG. I agree with you. And that's the chain of command that it should have occurred at.

CH. Did it?

BG. I don't think it did.

CH. Well the hell were all these Generals, these duty honored country men that were supposed to be. . . .

BG. The command structure at that size is inconceivable. For example, getting back to the Lavelle case. . .

CH. Oh, am I glad, I was going back to that right now.

BG. During the hearings, we repeatedly heard it said by one Senator, "Why didn't Abrams know about this because of the daily intelligence reports?" There were probably 2,000 a day never reached General Abrams office. They were made on a computer and it took the computer expert to read them and this is how the Sergeant got into it. And the Sergeant wasn't the only one, I might say who made reports on this, we've had many reports about it from pilots and crew men who said we feel this against the rules of engagement. But there was no way for General Abrams to have known that a pilot had fired on a radar site or a pilot had fired on this particular site unless he had nothing to do but read these reports.

CH. Then there are too many headquarters.

BG. Well, I mean, that's always been true and it's true today.

CH. Good, you know what the corrective action was over the Lavelle affair don't you? Secretary Melvin Laird formed three more headquarters. That was the corrective action. He formed a new IG office to report directly in. He formed another assistant secretary defense and he formed another channel. If there were too many headquarters in order for one man to command, what in the hell did we form three more for?

BG. Well the important thing he did was to not only put an IG in that job which we've never had before, but to put a man there whose only duty is to see to it that the pilot reports are reviewed and if there is a discrepancy the charge is made right there. We had no way before, unless an IG had nothing to do one day and went down the line and listened to the pilots being debriefed and said well now look, you went out and fired on these trucks, show me the evidence of hostile intention. And then it would have to be proven. Now, I think we've got the apparatus although I won't say that it's solved. I don't think that as long as you're dealing with human beings where there's war or peace that you can solve all the little and big idiosyncracies of men.

DC. That is your point isn't it that things are so glaring that you could solve a lot more of them?

CH. The thing is that we had General Lavelle saying one thing about the orders and we had General Abrams saying the other. Which one lied or did they both tell the truth?

BG. Neither one of them lied because General Abrams did not know of any instance except the requests that went and they had to go through the joint chiefs of staff because Lavelle wanted permission to attack this one radar site and Abrams said take it on up the line and he did. And Admiral Moore as Chairman of the Joint Chiefs said that he thought it was all right. Later, after it was done, he decided it wasn't all right. I think he was right in the first place.

CH. Well, if they were both right, then why did they relieve Lavelle.

BG. I think if I had been Lavelle I would have taken it to a court martial because I don't think that he was guilty, I think a man is entitled to interpretate a funny, crazy order like that the way he interpreted it.

CH. The court martial doesn't do anything. You see a court martial in the military is used to protect the khaki Mafia and to smash the little ants, the Privates and Corporals.

BG. Well, that's your opinion. You're entitled to it.

CH. And Birch Bayh's opinion and Luther Wess' opinion . . .

DC. And in my opinion we have a message and IG is a Inspector General and we'll be right back. We have not too much time left I should bring out Germaine Greer who is a woman who is interesting enough to talk about what we've been talking about as well as whether people should wear certain garments or not. Will you welcome please the amazing Germaine Greer. Have a seat.

GG. Thank you. Of course I was listening.

DC. Colonel Herbert has advocated, not here tonight, I think a plan for conscription that would involve women.

CH. Oh, absolutely, I think that uh . . . well when I say natural description I don't mean just to serve in the armed forces either. I mean a person should . . . it would cost less for the American people, we wouldn't have a drafted Army, we wouldn't have volunteer Army. A person should get a choice to serve in the Army, the Navy, the Marine Corps, AID, the ghettos of America, the Peace Corps. Give them a choice to serve where they want for their country. Men and women, women are just as capable as men.

DC. Well what about women in battle?

CH. Absolutely; why not? If they ever told me in 1950 in Korea in November when it was 30 below zero they were going to replace me with my mother, I would have been happy. I don't mean that facetiously. Yes, they're just as capable. I mean Germaine back there bombed me right to my knees when she came in.

BG. Women are not new in war.

DC. Would you volunteer for a war?

GG. Well, if I was a Vietnamese, I would. In fact, if I remember rightly, when they were publishing all those things in Da Nang about the enemy and who you have to look for they were publishing descriptions of guerrilla fighters and nonsympathisers with what they laughingly call the Viet Cong. Something like two-thirds of them were twelve year old girls that you were supposed to look for and kill. I mean the American G.I.s have been fighting women in Vietnam, that's part of the point. They've been making war against the civilian population, that's their whole dilemma, that's what all this conversation is about.

DC. But an armed woman is not civilian population, is she?

GG. Well it depends with what she's armed with and how she's behaving and what she's doing. I mean the way that they were conducting punitive raids just meant that a certain kind of conversation meant that a village got wiped out.

DC. But have you seen women firing weapons in Vietnam?

CH. Have I? Yes. Certainly, I mean and in Israel and in Pakistan and in India.

GG. I'd like to know how many women are responsible for bringing down the bombers in the latest fiasco in the North because everybody in the North has some sort of weapon that they keep buried in the corner of the field that they dig out and just blaze away, they just stand unprotected in the field.

CH. That's what the President is going to tell you next—it was probably a woman that missed the airplane that let the rocket fall back on the hospital they accused us of bombing.

GG. Well, I'm afraid this sex isn't capable of nearly anything.

CH. Yea, I know.

DC. We have a message. Germaine would have fought as a soldier, let's say you would volunteer and fight and carry a gun, would you have done it in the second World War?

GG. I think I might have done; I'm not sure. I think I probably would have, well it depends because the economic criteria was so rigorous; in the case of Vietnam, we are supposed to have something like half a million women who have had to turn to whoring to keep their families alive. In France, those women had their heads shaved and so on after the Vichy government collapsed.

I imagine the same sort of thing is going to happen in Vietnam. And whatever happens after tonight, it is not going to be peace in Vietnam; it is going to be a different sort of war, like in Bangladesh, there will be reprisals and misery of all kinds. And those women, as far as I'm concerned, were combatants, the women who had to go out and adopt a completely foreign and distasteful lifestyle in order to keep their parents and their children and their brothers alive.

I think lots of women in Vietnam are involved in the combat in a curious way like the Hootch Maids, some of whom have been known to bury grenades underneath the front door step so that when the G.I.s are coming home they just get blown to smithereens. The women who are smuggling heroin into the camps. I think if I were in a situation like the Vietnamese, I'd certainly be involved in combat.

But, whether I'd be carrying a gun, I don't know. There are other ways of doing it. There was a woman in Saigon who used to ride around on a motorcycle shooting American soldiers in the back. Maybe I'd do something like that. I don't know.

DC. You'd shoot American soldiers in the back?

CH. Well they don't actually ask people to turn around before they fire at them.

DC. Oh well. You would obviously fight in Vietnam, and did.

CH. Yes.

GG. He was on the other side.

DC. Well, how does a remark like that strike you? I means does that offend you that . . .

CH. That she would shoot me in the back?

DC. Yea.

CH. No, it just means she would have beat me to the punch because if she had a weapon, I would have probably shot her in the back. I mean, you know, I like Germaine and all that, but what I'm saying is that in a war if you're both carrying a rifle, she turned around and fired, of course, you fire back.

GG. But the point about this war, anyway, it's a guerrilla war. Americans try to fight a guerrilla war with conventional warfare. And it's just got it wrong all the time.

CH. Well, what we have finally tried to do, we have tried to fight into a civil war where we had no motive, no cause. That's where we were weak. And they had a mission and a cause. Something to fight for.

DC. So this moral that's different? How about the people you have seen die in the sights of your own rifle? Do they ever occur in your dreams?

CH. No, because I never killed a person that wasn't attempting to kill me. And they do not ocur in my dreams. If I had to drop bombs on Hanoi, it would occur in my dreams. If I had to sit in the Senate and advocate dropping bombs in Hanoi, it would occur in my dreams.

BG. Well, I would take exception to that. There is a constant war going on between the infantry and the Air Force. It will probably never be settled. My concept of the use of weapons is that all weapons should be used to make it possible for the man on the ground to advance. Now, if it takes bombing to do that, we do it. If it takes artillery, we do it. If it takes mining harbors, we do it. The man on the ground is the man that wins or loses a war. And in our case, and I've heard this from too many commanders to make me feel other than sick about it, we have been restrained in Vietnam and fighting the way that we could even though I think we were wrong in fighting on the ground. I don't think we had to. I think the whole war has been a mistake in the way it was fought and the way it was controlled through.

GG. But the aerial war hasn't worked either.

BG. Yes, it has.

GG. I don't believe that. I mean you may say it has because we don't know what the peace terms are.

BG. Well, let's see what the President has to say tonight.

GG. And if you're going to bring out a whole fleet of bombers to kill one water buffalo because he's triggered off a radar screen.

BG. He brought out a fleet of bombers to destroy supplies that we had allowed the enemy to build up for five long years by allowing them to come into the harbors of Haiphong and the others, by allowing them to come down the roads and the railroads north of the DMZ. And that's why we never made progress. The enemy soldier . . .

GG. The supply routes have never been satisfactorily uncovered. A lot of the arms caches, as far as I can see, are other American goods that have been stolen and sold on the black market.

BG. No, the supply depots that I'm talking about is not the Ho Chi Minh trails. That's impossible. But the supplies around the harbors of Haiphong and the other harbors, the petroleum lines, the railroads that we were not allowed to touch for five long years. And they built up a supply of weapons, that had we not destroyed them, I'm convinced this war would not even be close to ending.

DC. Whatever the President may have said tonight, will it prove or disprove that the bombing was effective or not.

BG. Oh, I don't think anyone can say effective or uneffective. As many people who argue that the bombing of Germany was a mistake, but it did bring peace. It was a bloody peace. But war is not a pleasant thing.

GG. But how can anybody ever argue that the bombing of Dresden and Hamburg made the quality of the peace any better. It was sheerly vindictive. It was quite unnecessary.

BG. There is no quality of peace following a war except a dirty quality.

GG. Well, in this case, I don't think we've even left the possible groundwork of a peace behind. I don't see how the social fabric of South Vietnam can ever be reintegrated. A thing has just appeared in an English paper about defoliation and its effects. And the funniest part of the story was how the journalist had to actually go about looking for defoliated areas. All you had to do was catch a plane from Saigon to Vien Chin and you would have flown over it for 50 minutes without stopping. And then we have all kinds of things like the rain has washed the defoliates away. Well, where to? The rain has spread the defoliants.

DC. Excuse me, we're running out of time. You have not taken back your offer about Colonel Herbert's letter?

BG. No, I'd be very happy to bring it before the committee and invite him down.

DC. OK. Just wait a minute, we'll be right back. Thank you. We have run out of time. This is most interesting and this could have gone on and we certainly didn't cover everything but I hope you all enjoyed being here.

BG. I'd rather have a woman fight me with a rifle than without one.

DC. Well said.

CH. Senator Goldwater struck me during the break.

DC. He struck you during the break?

CH. During the break.

DC. We'll have to have you both back to see who can do that better. Thank you all and we will have Lawrence Olivier tomorrow. And presumably Orson Wells.

"60 MINUTES"

(As broadcast over the CBS Television Network, February 4, 1973)

DICK CAVETT. Will you welcome, please, Lieutenant Colonel Anthony Herbert. [Applause]

MIKE WALLACE. As millions of viewers watched, Lieutenant Colonel Herbert described one of the war crimes he said that he had witnessed in Vietnam.

HERBERT. He had a woman by the hair with her head bent back . . . and he had his right arm around her throat with the knife dug in right here. And there was a child holding her leg, screaming, and he had another—the second child buried face-down in the sand with his foot on his head, suffocating him.

WALLACE. And you say it was your insistence on having war crimes investigated that led to your relief from command, right?

HERBERT. I still say it.

WALLACE. Did Colonel Herbert ever report war crimes or atrocities of any nature to you, Colonel Franklin?

Colonel ROSS FRANKLIN. No.

WALLACE. Never?

FRANKLIN. Never.

* * * * *

MORLEY SAFER. After a week or two weeks of prodding and pushing, of relentless competition, of harassment and baiting, of the kind of abuse that would get any self-respecting Englishman up in arms if it were animals treated thus, the vacation is almost over.

* * * * *

I'm Morley Safer.

WALLACE. I'm Mike Wallace. Those stories and more, tonight on 60 MINUTES. First, these headline items.

The first American POWs will begin to return from Hanoi by midweek. This, according to a Canadian member of the International Control Commission in Saigon.

Also in Saigon today, North Vietnamese and Viet Cong officials had their first public outing, passing out cigarettes to journalists, answering the questions of passers-by and generally trying to be friendly.

But in Belfast, Northern Ireland, the past 24 hours have been the bloodiest of the year: 10 persons dead, 20 wounded.

"60 Minutes" continues in a moment.

[Announcements]

"THE SELLING OF COLONEL HERBERT"

WALLACE. One of the sad legacies of our years in Vietnam is the distrust of the American military establishment the war planted in the minds of millions of Americans. The Pentagon's efforts to obscure the facts, from Tonkin Gulf to My Lai to General Lavelle, seriously damaged the credibility of the military. And one man who helped to breed suspicion in our minds was Army Lieutenant Colonel Anthony Herbert, now retired.

For the past two years Herbert has been stating and repeating his charges that the American military covered up war crimes in Vietnam. Now he has published a book called "Soldier" which he wrote with James Wooten of *The New York Times*. Its publisher is Holt, Rinehart and Winston, a subsidiary of CBS. The book is a savage indictment of the Pentagon in general and some of its top officers in particular. A good deal of Herbert's firepower aims at proving that his military career was destroyed by the Pentagon only because he tried to report war crimes, atrocities in Vietnam to his superior officers. They wanted to hear none of it he says, and they broke him because he persisted.

"60 Minutes" set out to investigate the validity of Herbert's allegations. In the course of the last year, producer Barry Lando talked with scores of people in and out of the service—people who have known Herbert and the Army. Here is our report.

DICK CAVETT. My first guest tonight is one of America's great war heroes. And he is also one of its war victims. It's an astonishing story. I'll let him tell the rest of it. Will you welcome, please, Lieutenant Colonel Anthony Herbert. [Applause]

WALLACE. "The Dick Cavett Show"—December 30, 1971. As millions of viewers watched, Lieutenant Colonel Herbert described one of the war crimes he said that he had witnessed in Vietnam. Since it took place on February 14, 1969, he calls it the "St. Valentine's Day Massacre".

HERBERT. He had a woman by the hair with her head bent back—there were four dead males lying on the ground by now—and he had his right arm around her throat with the knife dug in right here. And there was a child holding her leg, screaming, and he had another—the second child buried face-down in the sand with his foot on his head, suffocating him.

CAVETT. Who were the men who were doing this, now?

HERBERT. They were Vietnamese, but under an American's charge.

CAVETT. They would be ARVN?

HERBERT. Well, they were police, is what they really were. They were national police. And just as I looked, he cut the woman's throat and dropped her into the sand. So this made five dead now.

WALLACE. As Herbert tells it, then and now, he tried repeatedly to have this and other alleged war crimes investigated by his commanders in Vietnam. As a result, he says, he was relieved of command and had his career ruined by an Army establishment intent on covering up atrocities.

HERBERT. For people to think that Ernie

Medina could have reported those crimes is ridiculous. If Ernie Medina had reported those crimes he'd have been—the bolt of lightning would have come out of the blue so fast that he wouldn't have known what the hell hit him, you know.

WALLACE. There seemed to be good reason for the attention Colonel Herbert has gotten from the public and the media: he was a hero. After all, even the Pentagon had to admit his Army record was outstanding.

He had enlisted at the age of 17, won 22 medals in some of the bloodiest fighting in the Korean War, wrote an account of his exploits, traded books with World War II hero Audie Murphy. He shot up through the ranks of commissioned officers, served as a Ranger, had duty tours in Europe, the Middle East. Then in February 1969 he was given a combat command in Vietnam. His unit: the 2nd Battalion of the 173rd Airborne, based south of Danang. Again Herbert excelled. In only 58 days he won a Silver Star and three Bronze Stars. But then, abruptly, in April of 1969, he was relieved of command by the same officer who had given it to him, General John Barnes.

BARNES. I thought he was a killer. I thought he enjoyed killing and I thought that he would cause me a lot of trouble in the pacification. I don't think he understood the role.

BARRY LANDO. Do you have any evidence, hard evidence, to show that he was a killer?

BARNES. No, I have no hard evidence other than the fact I know that he enjoyed getting out with squads with an M–16 and leading squads. No other battalion commander did that.

LANDO. Couldn't this just be a sign of bravery?

BARNES. Oh, it certainly could. But the same kind of a thing I didn't want happening in—then we got to the pacification role.

WALLACE. General Barnes elaborated his suspicions about Herbert.

BARNES. I can't pin this thing anywhere, but I just got the feeling, with all these high body counts he had, that some of them were suspect. And that—he would tell different stories as to the body count. He'd come in one day and I'd get a report that so many people were killed, and then when I tried to get the details of it there would be a different figure table. And I just didn't have confidence in him. I'd lost confidence in him as a commander with the ability to control his people.

LANDO. Did Colonel Herbert ever formally or informally report any war crimes or atrocities to you?

BARNES. He himself never did to me. Absolutely not. If he had, I would have taken the same action I did when I learned of atrocities anywhere. If they are under my responsibility, I would have court-martialed the man responsible for it, as I told every replacement that came into the brigade.

WALLACE. General Barnes' deputy commander was Colonel Ross Franklin. It was he who recommended to Barnes that Herbert be relieved. One reason, says Franklin, is that he had come to feel he could not trust Herbert's word.

FRANKLIN. Tactically, he was the best battalion commander we had. I counseled Herbert several times and once I counseled him on telling the truth or being more exact in what he said. I told him at that time that he could run circles around all the rest of the battalion commanders if he'd just tell the truth.

WALLACE. Did Colonel Herbert ever report war crimes or atrocities of any nature to you, Colonel Franklin?

FRANKLIN. No.

WALLACE. Never?

FRANKLIN. Never.

WALLACE. Verbally or in writing?

FRANKLIN. In no way, neither orally or in writing. This—I had many conversations with Colonel Herbert. We discussed many things, but never war crimes.

WALLACE. After losing his command, Herbert went to Saigon. He requested a formal hearing. An investigation was held. His appeal was denied. Herbert returned to the U.S., was ultimately assigned to Fort McPherson, Georgia. And then in September 1970, 17 months after he had been relieved of command, with the headlines filled with news of the My Lai trials, Colonel Herbert filed his war crimes charges with the Army Inspector General. Six months later, Colonel Herbert went public.

Why would Herbert make such charges if they were just baldly untrue?

FRANKLIN. There's a certain amount of vindiction, certainly. I would say that he probably holds me more responsible for what happened to him than any other officer.

WALLACE. Being relieved of his command?

FRANKLIN. Yes, but I can't really imagine the motivation that would lead to such a monumental thing such as this.

WALLACE. Monumental? What's monumental?

FRANKLIN. He has come up with totally fictional charges that, as far as I'm concerned, has been a hoax on the American people.

WALLACE. You were relieved. You were given a bad efficiency report.

HERBERT [agreeing]. Mm-hmm.

WALLACE. And you say it was your insistence on having war crimes investigated that led to your relief from command, right?

HERBERT. I still say it.

WALLACE. Okay. Now, in almost all the cases that you claim that you reported war crimes, either to Colonel Franklin or General Barnes, we have only your word against theirs. Nobody else was there.

HERBERT. Mm-hmm.

WALLACE. So what we decided to do was to zero in on the one case where there's a possibility, anyway, of proving who's telling the truth—without relying on your word against their word.

HERBERT. Mm-hmm.

WALLACE. And that's the incident of February 14—the "St. Valentines' Day Massacre," as you've called it. Now, what happened there, briefly?

HERBERT. What happened?

WALLACE. Yeah.

HERBERT. A platoon, I believe it was from B or C Company—

WALLACE. As Colonel Herbert tells it, he spoke with Colonel Franklin twice from the field on February 14. Then, he says, he flew directly back to Landing Zone English to report the killings personally to Franklin.

Well, specifically, on February the 14th in 1969, Colonel Herbert said that he reported to you, first on the radio and then in your command post, the killing of captured Vietnamese by South Vietnamese police while an American adviser was looking on.

FRANKLIN. At that period I was in the Ilikai Hotel in Honolulu, Hawaii, on R & R. I did not return to Vietnam until 16 February, two days after this alleged incident.

HERBERT. I say that he was there.

WALLACE. And that he's lying?

HERBERT. If he says he wasn't there, I say he's lying.

WALLACE. Can you prove it?

HERBERT. No, I cannot.

WALLACE. 60 MINUTES tried to find out who was telling the truth. Checking with the Ilikai Hotel in Hawaii, we found that Colonel and Mrs. Franklin had indeed been registered there from February 7 to late in the afternoon of February 14. That would already have been February 15 in Vietnam. Colonel Franklin also gave us a cancelled check signed by himself and made out to the Ilikai Hotel for the exact amount of the hotel bill. The check was dated February 14. And we spoke with two Army officers who were in Hawaii at the same time. They say they flew back to Vietnam with Colonel Franklin, taking off from Honolulu late on February 14, arriving at Camranh Bay in Vietnam on February 16, local time.

Let me provide something to you.

HERBERT. Okay.

WALLACE. A check, signed by Ross Franklin, 14 February, in Hawaii, for the full amount of that hotel bill that you have there, which means that he had to be in Hawaii to pay his bill himself on the 14th of February; therefore could not have been where you said he was on the 14th of February.

HERBERT. Mm-hmm. I can probably find you checks—I don't know. I can probably find you—I don't know about this check. I can probably find—

WALLACE. Wait a minute. I mean, you say—

HERBERT. I see the check.

WALLACE. Yeah, okay.

HERBERT. I can probably find you a hundred checks that I have either dated for another reason, wrote after the fact, misdated, what have you. I don't know. All I know is I saw Ross Franklin there and talked to him. I know that. I know what I saw. I know what I did. And I stick by it and I still say it. And I swear to it and I've sworn to it under oath and I'll swear to it again, you know?

WALLACE. In his book, Colonel Herbert writes that there are several people who can testify that Franklin was in Vietnam on February the 14th. We asked Herbert for the names of those men. We contacted almost every one of them. None could confirm Herbert's claim. Several men serving under Herbert said they had heard Herbert say, while in Vietnam, that he had reported the February 14 killings, but none were certain that he had actually reported them.

BARNES. Why didn't he do something that had a date on it that would prove that he did report those things? He had plenty of time to do it. He left the brigade, he was down in Saigon three months where he had this court of inquiry, this Article 138. He had plenty of time to jot something down on a piece of paper, to get it notarized. Why didn't he?

WALLACE. You have no documents to show, not a piece of paper to show that you ever reported a war crime to anybody prior to the time that the My Lai trials were going on at Fort McPherson in Georgia. You were in Fort McPherson, Georgia, at the very same time that those My Lai trials were going on and then suddenly you went public.

HERBERT. Let's say that we—I'm not going to say we don't have documents to show that I reported war crimes in Vietnam. That's not for me to say here. I say that we can prove that I did report them in Vietnam.

WALLACE. You have documents to prove——

HERBERT. I'm not going to say we have documents or not. I just say we have statements—sworn statements—and testimony that will prove that I reported war crimes in Vietnam.

WALLACE. Have you—have you published them in your book?

HERBERT. I don't think so.

WALLACE. Why?

HERBERT. I didn't—I had no reason to. It was already in the paper, other things. I don't know why. I have lawyers, just like you have lawyers. We didn't put everything out we have.

WALLACE. Earlier, Herbert had tried to put the whole question of his reporting or not reporting atrocities in a different light.

HERBERT. Let's say I didn't, just for the sake of the discussion. It would make absolutely no difference if I waited five years to do it. The motive would make no difference whatsoever. The question is: did the crimes occur or didn't they?

WALLACE. Oh.

HERBERT. Were Colonel Franklin and General Barnes well aware of them or weren't they? I say they were and I say I reported them, and it's still there and it still stands.

WALLACE. No. The point is there's no dispute that war crimes occurred in Vietnam. The dispute, it seems, is this: you've called Franklin a liar.

HERBERT. Yes.

WALLACE. You've called Barnes a liar.

HERBERT. Yes.

WALLACE. You said the Army, really, deprived you of your military career because you insisted upon reporting war crimes and they wanted them covered up. And that's really what the issue is here.

HERBERT. And I still say it.

WALLACE. The sprawling U.S. Army base at Longbinh, just outside Saigon. After he lost his battalion, Colonel Herbert went to Longbinh to appeal his relief from command—and also, he says, to present his war crimes charges. One of the officers he spoke with was the top U.S. military lawyer and judge in the country, Colonel John Douglass. Herbert claims that Douglass listened to his story and then told him he wouldn't touch war crimes charges against a general with a ten-foot pole.

DOUGLASS. The story, of course, is not correct. He has not recalled the facts, apparently, as they really existed.

WALLACE. All right, what were the facts?

DOUGLASS. Well, the facts as they really existed were that he was brought to my office by an assistant inspector general, as I recall it. That officer explained that Colonel Herbert has been relieved of command and had a complaint about his relief. I said, "Well, I better turn this over to my assistant, Colonel Rector"—who was in the room right next to mine—

WALLACE. Wait a minute. Did he mention war crimes to Colonel Rector?

DOUGLASS. I don't know. If he did, he never mentioned—Colonel Rector never told me about them. And as a matter of fact, Colonel Rector's comments to me were that his complaint was that he'd been improperly relieved and he'd—there was some jealousy, some hard feelings between Franklin and whoever the general was up there, and Herbert.

WALLACE. Barnes.

DOUGLASS. General Barnes and Colonel Herbert. And that he'd been improperly relieved. And it looked like enough of a case that we ought to get a full investigation. I can't believe that if there were war crimes involved and we were trying to stay out of it, as indicated by this passage you've just read to me, that then we'd recommend a full-scale investigation—which we did.

WALLACE. Douglass said that he was irritated by the implication that he wouldn't bring charges against a general.

DOUGLASS. And I am annoyed, I'm hurt, I'm—I feel that this is an indication that I'm not of a strong enough character to be either a lawyer or an Army officer, and I happen to be both and I'm proud of being both.

WALLACE. But why haven't you said this up to now?

DOUGLASS. Nobody's asked me.

WALLACE. He says you—He's a gentleman, so he won't——

HERBERT. Yeah, and I'm not.

WALLACE. —So he won't call you dirty names, but he says that it's absolutely made up out of the whole cloth. He said that he barely talked to you, you didn't mention war crimes, that he bucked you to his next-in-command, a fellow by the name of Rector.

HERBERT. That's not true. I never saw Rector, ever.

WALLACE. Okay.

But when 60 MINUTES contacted Colonel Rector, he said that he had indeed spoken with Colonel Herbert at some length about his relief from command, but that Herbert never claimed that war crimes had anything to do with it.

In fact, over the past several months, we have spoken with many men who saw Herbert after his relief in Vietnam. Some are still in the service, some are out. Most of them admire Herbert, yet to a man they say that Herbert never once said to them that he had been relieved because he had tried to push war crimes charges.

You claim that the investigations into Barnes and Franklin, conducted by the Army and based on your charges, was whitewash, right?

HERBERT. Mm-hmm.

WALLACE. Do you remember an attorney by the name of Ken Rosenbloom?

HERBERT. Yes, I do. I was the one that put you in contact with him.

WALLACE. Right.

While in the Army, handling the Barnes investigation, Ken Rosenbloom was a captain in the Judge Advocate General's Corps He is now an assistant district attorney on Long Island in New York.

Now, he has charged, as Herbert has charged all along, that the Army's investigation into charges against General Barnes were a whitewash. You worked on the Barnes investigation.

ROSENBLOOM. That's correct. I did.

WALLACE. What do you think?

ROSENBLOOM. It certainly wasn't a whitewash. We traveled all over the country. We took thousands and thousands of pages of transcript. We spoke to witnesses in person and over the telephone. We had access to all the CID files. We were refused nothing and we were permitted to go anywhere that we desired and talk to anyone we desired, in or out of the Army. We had all of the Army's facilities made available to us, and anywhere we wanted to go, we went.

WALLACE. You were present throughout the whole business of investigating Herbert's charges General Barnes?

ROSENBLOOM. Yes, I was, sir.

WALLACE. And you came up with a verdict that the charges just didn't hold water?

ROSENBLOOM. Essentially that's correct, sir. I tried to approach it in a very open-minded way. I have no grudge against the Army, no grudge against Herbert. I knew I was getting out. I was not a career man, and so I had no desire to protect the Army nor did I have a desire to protect Herbert.

WALLACE. Are you trying to set the record straight about Anthony Herbert?

ROSENBLOOM. I don't know if the record requires to be set straight. Nobody ever asked me before what happened at the investigation.

WALLACE. He says no cover-up. He says that they tracked down every lead that you gave them—many of them provided by you—and more. And when they contacted those people they just could not confirm what you said they knew or had seen.

HERBERT. Then let them present the statements and the evidence. I told you the other military lawyer is Dick Heintz, who will verify what we have said. There are—The documents are there. Then let the Army release all the documentation and let the people judge for themselves.

WALLACE. We contacted Herbert's military lawyer, Captain Heintz. He said that, from the few documents that he had seen, he suspected the Army was not doing its best to investigate Herbert's charges. But he said that he could not be at all certain of that until the full investigations are made public.

Another thing that we found out checking out Herbert's book: Although several men who served with Herbert say it's not so, there are others who claim that Herbert was an officer who could be brutal with captured enemy prisoners himself.

You used to have a radioman by the name of Bruce Potter, right?

HERBERT. Yes, I had. Sergeant Bruce Potter.

WALLACE. A man you've spoken highly of and who speaks highly of you.

HERBERT. And I still do, no matter what [indistinct] I still do.

WALLACE. All right.

POTTER. One day we captured two detainees and we had an interpreter with us. We were on a recon mission. And we took one of the detainees in the air, because neither of them would talk on the ground. And we took him in the air and Colonel Herbert held him in the door of the helicopter. The helicopter then made a bank to the left and Colonel Herbert jolted him a little bit to scare him into talking—to think he was going to be thrown out the door. And the interpreter that was with us in the helicopter was questioning him constantly through the flight. And the helicopter then made another bank over the mountains and Colonel Herbert gave him a bigger jerk out the door, and he started talking. And then we flew across the area where the other detainee was being held and threw a sandbag out full of clothes and rocks and things of this nature into the area where he was. He was blindfolded on the ground. And he apparently started talking then, because he was talking very well when we came down. And both of them—We got quite a few—quite a bit of information out of them. They were trail watchers.

LANDO. He started talking why?

POTTER. Because he thought that the other detainee we took in the air was thrown out of the helicopter and that was him hitting the ground rather than the sandbag. This was a method that was thought up on the spur of the moment, I believe, and it worked, definitely worked.

LANDO. Who thought it up?

POTTER. It must have been Colonel Herbert. Had to be.

HERBERT. This is not true.

WALLACE. In other words, Potter's a liar?

HERBERT. No, Potter's mistaken. Potter may remember somebody doing that—

WALLACE. No, no, no, no. Potter told us that he was with you, Colonel Herbert, in the chopper as it went on and he said it was your idea.

HERBERT. I understand what you are saying that Potter said. I say that it is untrue—

WALLACE. All right. All right, now—

HERBERT. —you know?

WALLACE.—another man: Bob Stemmies.

HERBERT. Bob Stemmies?

WALLACE. Do you know him?

HERBERT. No, he wasn't—didn't work for me, but I do know him, yes.

WALLACE. Well he was a military intelligence sergeant.

HERBERT. Yes.

WALLACE. You spoke very highly of him on the Cavett show back in '71—September.

HERBERT. Yeah, I spoke—Well, I knew about him as an IG, yes.

WALLACE. Stemmies told us that he was present once with you as a Viet Cong nurse was being interrogated by ARVN troops, being beaten by them to get her to talk, you were there, stood by, did nothing.

HERBERT. Well, let me tell you this. As long as I was in Vietnam, my unit never captured a single nurse. And you won't find anything about a nurse in any of our records.

WALLACE. Do you remember a chopper pilot by the name of Mike Plantz?

HERBERT. No, because Mike—I don't remember him, because Mike Plantz never flew me in Vietnam.

WALLACE. He was based at Landing Zone English.

HERBERT. Yes.

WALLACE. He claims that he was flying a chopper for you, saw you beat up a woodcutter after you went down to check a group of them out; also say that he saw you beat up a VC prisoner being brought back by you to Landing Zone English.

HERBERT. It's false. It's false.

WALLACE. Bill Hill, one of your top company commanders—

HERBERT. Yes.

WALLACE.—has told us that Herbert "is the best battalion commander I've ever had, but for some reason he's become a liar. It's all so much garbage."

HERBERT. If he's still in the Army, he will do the same as other officers will do, I'm sure, in order to keep their career going. These men are not going to destroy themselves.

WALLACE. In other words, he has simply chickened out and is going along with the Army line against Herbert?

HERBERT. I don't know.

WALLACE. Well, that's what you're suggesting.

HERBERT. I don't even know he said it. You're telling me he said it. But I'm sure he did say it if you say he did. I'm telling you, if Bill Hill feels I'm lying, he's entitled to have that opinion, right?

WALLACE. In checking out Herbert's book, "Soldier," we found numerous stories that, according to the people mentioned in those stories, are not true. One such man is Major Jim Grimshaw, a former company commander who served under Herbert in Vietnam. He thinks that many of the charges in Herbert's book, like the politicking that goes on among Army officers—especially West Point officers—are true. Like many of the officers who served under Herbert, Grimshaw has the highest praise for him. When I interviewed him in the Pentagon, Major Grimshaw was frank to admit his admiration.

GRIMSHAW. I would stick up for Tony Herbert for anything. I'd follow him in combat because I don't think I could keep up with him, he was such a fine combat leader. However, I feel that as an individual, let alone an Army officer, a man must have integrity. Therefore, I would not lie for him or for anybody else.

WALLACE. I asked Jim Grimshaw about the stories in the book that related specifically to him. The most dramatic involved an incident where he and his men supposedly tried to flush some Viet Cong soldiers from a cave without injuring some female civilians also in the cave.

Major, let me read you from the book, from Herbert's book. He says:

"Grimshaw suddenly dropped down to his knees and crawled into the cave, Whispering softly in Vietnamese. A couple of minutes later, as his men watched open-mouthed, he, Grimshaw, emerged from the cave carrying a baby in his arms. The three Viet Cong soldiers and the two women followed closely behind. It was cool. Nobody asked him why he did it. He never explained. I submitted him for the Silver Star, the country's third-highest combat decoration. He more than deserved it, but he never received it."

GRIMSHAW. I did not do that.

WALLACE. You didn't go in, come out carrying a baby, followed by three VC soldiers and two women?

GRIMSHAW. I did not.

WALLACE. Did he submit you for the Silver Star? Because I don't see your—At that time?

GRIMSHAW. I have no recollection of being subm— being recommended for the Silver Star for that incident. There was another incident, in which my first sergeant recommended me.

WALLACE. But not Herbert?

GRIMSHAW. But not Herbert.

WALLACE. In sum, Major, what do you think about Tony Herbert?

GRIMSHAW. You're asking me before or now?

WALLACE. Now.

GRIMSHAW. Having read the stories about me, and only about me—

WALLACE. Right. Things of which you have certain knowledge.

GRIMSHAW. Right. I would say that there is a kernel of truth, there is a nucleus of truth, but unfortunately, I think that he has expanded some of these stories, which may be great reading to the public but not entirely true. And—

WALLACE. You seem to say that with—

GRIMSHAW. I say it with resignation—

WALLACE. Reluctance?

GRIMSHAW. —dismay and reluctance. Believe me, if I felt that that was the truth if I felt that, you know, that was the undeniable truth, I'd stand up in front of everybody and say, "This is the truth." But he's blown it out. He's gone beyond that point and it's a shame.

WALLACE. Do you believe that he was relieved because he wanted to push allegations of war crimes and atrocities? Do you think that's the case?

GRIMSHAW. I don't think that was the cause. I just don't think that was the truth. I feel, somehow, somebody had it in for him, and I don't know who. And it's too bad.

WALLACE. Here we are in the Pentagon. Did anybody here order you to come here and talk to us?

GRIMSHAW. No.

WALLACE. You're your own man?

GRIMSHAW. I'm my own man. I like to think I am. I hope I am.

WALLACE. Jim Grimshaw telephoned Colonel Herbert after we had talked to him. Herbert called us with that news and he claimed that Grimshaw told him that he had spoken with us in the Pentagon only under pressure—that his career was on the line. Herbert told us that was the reason that other officers had also come out against him. When we checked with Grimshaw, he denied telling Herbert that. So to settle the argument, we flew Grimshaw and his wife to New York and had them wait outside listening to our interview with Herbert. When Herbert again intimated that Grimshaw had been pressured by the Pentagon to bad-mouth Herbert, we told Herbert that Grimshaw was there.

HERBERT. Bring him in.

WALLACE. Fine.

HERBERT. Good. And ask him the same questions.

WALLACE. You can ask him whatever questions you want to. Here he is right now.

GRIMSHAW. Hi, how are you doing?

HERBERT. Very fine.

WALLACE. Jim, have you heard what's been going on between the Colonel and me?

GRIMSHAW. Yes.

HERBERT. Okay.

GRIMSHAW. We started on line at the base of the hill searching caves. You were with me probably 90% of the time.

HERBERT. Yes, that's why I put in for the Silver Star, yes.

GRIMSHAW. But I'm saying—

WALLACE. Wait a minute. You told me that he didn't put in for the Silver Star for you. [Crosstalk]

HERBERT. —saying I didn't put you in for a medal on that, Jim?

GRIMSHAW. Well, because I don't remember you ever putting me in for a medal.

HERBERT. How about the rest of the things in the book?

WALLACE. Have you read the book? Have you read the book?

GRIMSHAW. Yes, I have read the book.

WALLACE. Do you think it's accurate, by and large?

GRIMSHAW. Well, the incidents—We have to talk about the incidents that I'm personally involved in.

WALLACE. All right. Sure.

GRIMSHAW. So, now we're talking three incidents, when you get right down to it.

WALLACE. And you've told me—

GRIMSHAW. I'm telling you two-thirds, then, are not true.

WALLACE. Were you under any pressure, Jim Grimshaw, to—from the Pentagon or from your commanding officer to show up at the Pentagon for an interview?

GRIMSHAW. No.

HERBERT. Now, you told me that—

GRIMSHAW. Absolutely not.

HERBERT. You told me that.

GRIMSHAW. And I wasn't briefed.

WALLACE. Later in the interview, Grimshaw told Herbert he should have checked out his stories with the people whose names appear in the book.

GRIMSHAW. Why didn't you call guys like myself or Hill or some of these guys?

HERBERT. Okay——

GRIMSHAW. You know, you're making us a public figure—

HERBERT. Okay, wait a minute, Jim.

GRIMSHAW. —whether you want—You know, you're trying to do me a very good job and, in a sense, maybe I think it's because of all the problems that occurred and you maybe want to put us in a good light to the American public. But now you're made me a public figure. I can't help it; I have to speak out.

WALLACE. The deeper we got into this investigation, the more we felt that the way in which the media, including CBS News, reacted to Herbert's allegations was almost as interesting as Herbert's story itself. Several reporters did make an effort to check out Herbert's claims, found his case was far from clear-cut and made that obvious in their reports. Many others did not. *The New York Times* did more, probably, to publicize Tony Herbert's story than any other paper. When Herbert passed a lie-detector test on whether or not he had reported war crimes to Franklin, the *Times* gave it big play. But when the Army said that Colonel Franklin, the man Herbert had accused, had also passed a lie-detector test, other papers reported it but there was not a word about it in the *Times*.

Attorney Ken Rosenbloom, the former Army lawyer who investigated many of Herbert's charges, say the attitude of the media towards Herbert was understandable.

ROSENBLOOM. Well, he's highly decorated and a respected soldier, and he makes these charges and he gets a lot of newspaper coverage about it. Because of the temper of the times and what the country wanted to hear perhaps, or because the media was looking for another hero, they tended to accept these allegations uncriticallv

WALLACE. *The New York Times* in Vietnam wanted to talk to you and you wouldn't talk to them?

FRANKLIN. No.

WALLACE. Well, you wouldn't talk to them?

FRANKLIN. Well, the logical conclusion to draw from what you're saying, then, is that if you won't talk to the press, then they can say anything they want.

WALLACE. No.

FRANKLIN. But there's still a responsibility to present the truth.

BARNES. During the long investigation on me, the Army's policy was not to put out any statements at all because of prejudice to others involved in the investigation while it was going on. Therefore, the press had no place else to go for information but back to Herbert, where the source was. And I just think that the press did what they could but they weren't given both sides of the stories. Right or wrong, that's—I think that's what happened.

LANDO. Why not make the investigation public, then?

BARNES. Don't ask me. If I was in charge I would, but I'm not in charge.

HERBERT. One of the things I have said from the beginning is that you'll never know for sure. No one will know the whole truth until the Army releases for publication every single document and statement they have, which they have not done unless they've let you read them all. And the second portion is, until they have a full Congressional inquiry to find out is Herbert telling the truth? Is Herbert lying? Is Ross Franklin telling the truth? Is Ross Franklin lying? And lay it all out there for everybody—and I'm sure that's what you're trying to do to some extent tonight and I go along with it.

WALLACE. Okay.

The Army could indeed help resolve the

controversy. They could open their files to a public airing. They could make themselves available for questioning about the whole Herbert business. But they won't. I asked former Army Chief of Staff William Westmoreland to talk about it. He refused to be interviewed. I asked General Winant Sidle, the Army's Public Information Chief. He refused, too. We heard two lines of speculation among Pentagon people. One is that the Army doesn't want to help make a martyr of Tony Herbert. And the other is that during their various investigations into Herbert's charges, the Army found so many true stories of war crimes that, irrespective of whether Tony Herbert had reported any of them, the Army just doesn't want to wash that kind of dirty linen in the open. Perhaps the best way to stop all speculation is to do what you heard Anthony Herbert and General Barnes suggest a moment ago: make the Army investigations public.

[Announcements]

"COME TO BRITAIN"

SAFER. "Come to Britain!" That's what the travel posters say. And we do—millions of us—carrying with us our own special baggage of national characteristics. We like England. We share a heritage and a language. Englishmen sometimes poke fun at what they call our "trans-Atlantic manners". And many Americans are overwhelmed by their elegance, even the stateliness of English life. We tend sometimes to think of England in almost Shakespearean terms. Well, that's partly true. But only partly true.

[Music: "Pomp and Circumstance"]

This royal throne of kings, this scepter'd isle,
This earth of majesty, this seat of Mars,
This other Eden, demi-paradise,
* * * * * *
This happy breed of men, this little world.
This precious stone set in the silver sea,
* * * * * *
This blessed plot, this earth, this realm, this England.

"This England"—as seen by the ad men who make the BOAC commercials, by those who print the "Come to Britain" posters. "This England"—as American Anglophiles like to think of England.

But for the Englishman on vacation—at least one in 50 of them—"this England" is *this* England. [Shouting crowds] This England is the England of a phenomenon unknown in the rest of the civilized world—a phenomenon called Butlin's: vacation camps named after their founder, Sir Billy Butlin.

If you suspect that we're exaggerating the phenomenon, then we begin with the way Butlin's sees itself. [Music: "Pomp and Circumstance"] A "Come to Butlin's" commercial.

They are set in places no tourist ever gets to or much less ever hears of. And Butlin's offers to the Englishman at leisure a peculiar brand of impossibly English pleasure. [Crowd laughter and applause]

The English have always been a baffling curiosity to their European neighbors and their American friends. But nothing baffles an English-watcher more than the English at play. One million people every year spend good money to endure a kind of folksy survival course in which everything seems designed for anything but a holiday. Unlike the rest of the civilized world, the Englishman on holiday is not trying to get away from it all. He's trying to find out just how much he can put up with: a test to see if his dignity can withstand monsoon rains and arctic temperatures. And apparently nature is not harsh enough at what they euphemistically call holiday camps: they employ a whole staff of people to test his backbone, his patience and the stiffness of his upper lip. [Music]

The "Redcoats" they are called: uniformed counselors who are there to ensure that privacy is kept to a minimum. They are a mixture of cheerleader and tormentor.

MASTER OF CEREMONIES. Ladies and gentlemen, the Redcoats! [Cheers]

CAMPER. If you've got two legs you can do it, but if you haven't, you can't.

SAFER. Their motto could be "Fun Through Adversity." Four decades ago, Sir Billy Butlin, an ex-carnival man realized that what an Englishman wants most out of their vacation is organization, routine, discipline—not escape and relaxation—so he provided it. [Shouting]

It's not as simple as exploiting the British competitive spirit on what might loosely be called the field of sport. It's like a Roman circus with everyone in the audience taking his turn in the arena. A Butlin's vacationer is somewhere between a second-century Christian in Rome and a 15th-century victim of the Spanish Inquisition. [Shouting, cheering and laughter]

REDCOAT WOMAN. [Indistinct] cup and saucer. You have a balloon between your legs, cup and saucer in each hand, a cup and saucer on your head. You have to balance, walk up, around that chair, back again.

SAFER. And all of it in the best British tradition of, quote, "being a good sport."

WOMAN. You've got to win! You must win!

M.C. Everybody give a nice round of applause! They've done very, very well! [Indistinct] these lads!

[Shouting; man barking like dog; laughter.]

WOMAN. Whoever the girl is in the last thing, they're going to get soaked. So [indistinct] mind getting wet. You'll get really soaked.

WOMAN. Don't squash it so hard! Pump harder! Pump harder!

M.C. And there they are, lining up to do—

SAFER. Experienced Butlin's holidaymakers—"lifers" they call them—complain that the harsh discipline of the thirties has all but disappeared, that young Redcoats do not have much imagination at meting out indignities.

REDCOAT WOMAN. Just shut up! Go on! Go on! [Shouting]

Voice on PA system. This is Radio Butlin's calling all first-seating guests. The time is 12:15 and your lunch is now available.

SAFER. And then there's the food. Butlin's offers their guests no shocks or surprises in this department. They boast their campers consume enough tea each year to float an ocean liner, enough baked beans and potatoes to sink one, and untold millions of fried eggs.

It's not surprising that the British Government converted some of the pre-war holiday camps to prisoner-of-war camps during the forties, and then they were just as quickly turned back into holiday camps after hostilities.

Voice on PA system. This is Radio Butlin's giving you the highlights of your evening's entertainment. In the Gaiety Theater at 6:30 this evening: "Holiday Magic" with the resident review company. At 7:00 o'clock in the [indistinct] Room. the Phillips [indistinct] contest, when anyone between the ages of 14 and 39 has the chance to win a recording contract with Phillips. [Indistinct]

[Music]

M.C. A one, a two, a one, two, three, four. [La-la-la-ing]

SAFER. The Miss Chichi competition, to find the most charming, cheerful, chubby lady guest, is now taking place in the Princess Ballroom. [Laughter and applause]

[M.C. singing]

SAFER. The Glamorous Legs competition. [Indistinct M.C. voice] And always a good old-fashioned dash of Anglo-Saxon vulgarity.

M.C. Come as close to the screen as you can, girls. We want to see those knees. Number 44, it looks like you've got a wedding dress on. If you can lift it up. Look at this lot! I've got to lift something up here. Look at this! I'll turn your [indistinct] try to get a peek. [Indistinct; screen] Hey! [To music:] A three, a four, and a one, a two, a one, a two, a three and a knee! Yes, that's better! Oh, a one, a two, a one, a two, a three, a four—

SAFER. Critics of Butlin's claim they have gone too far in this business of regimentation, that guards patrol the barriers with trained-to-maim Alsatians looking for stray campers. We noticed only a few guard dogs, who were really not that vicious.

After a week or two weeks of prodding and pushing, soaking and freezing, of relentless competition, of harassment and baiting, of the kind of abuse that would get any self-respecting Englishman up in arms if it were animals treated thus, the vacation is almost over. [Singing] It is midnight. Campers and Redcoats and other tormentors gather in the Gaiety Theater for one last inspection and a few old songs.

[Singing: "We'll Meet Again"]

SAFER. And in the morning they are free.

[Announcements]

POINT-COUNTERPOINT

WALLACE. The Congress has been going over President Nixon's new budget. And our two Point-Counterpoint columnists have been doing the same thing.

JAMES J. KILPATRICK. For the past 30 years, since Roosevelt came to the White House, political power in this country has been running in one direction only: it's been running to Washington. And the thing I like most about Nixon's budget—and I like a lot of things about it, Nick—is that it represents a wise, determined and vigorous effort to reverse this flow of power and to send many of the decisions back to the hands of the people in the states and their communities: back where it ought to be. The notion that all wisdom is concentrated here in Washington, that Federal bureaucrats truly know what is best for us, is one of the great lies of our time.

The President proposes to dismantle some $7-billion worth of categorical handouts and to return roughly the same amount back to the states and communities to be spent at their discretion in four broad areas. Nick, what's wrong with that? You can find some good and useful programs among the 70, but most of them are riddled with waste and many of them should have been abolished long ago.

The contention that this budget will oppress the poor and the elderly is sheer humbug. There's plenty of money here to cover legitimate needs and to deal compassionately with human misery. It's also baloney to argue that social needs are being sacrificed to an overblown national defense. In the light of our treaty obligations, Nick, and in view of the Soviet military build-up, the President may have allocated not too much, but too little, to national defense. The bleeding hearts, bureaucrats and boondogglers—your fans, Nick—may be aghast at this budget. But I think it's great.

NICHOLAS VON HOFFMAN. Now, Jack, this new budget calls for an expenditure of $79-billion on the military. My bleeding little liberal heart tells me that's a lot of moola—too much moola. You righties only see waste and inefficiency in the programs you don't like. I agree that many of the programs the President is gutting haven't helped the poor. Too often the principal beneficiaries have been the social workers, the consultants and the hot-shot per-diem business-school boys. But the biggest waste isn't in the social program areas. It's still in the Pentagon, where the big money is. There's never been a housing scandal like the Lockheed scandal.

And Jack, if you really think this budget, with its minimal $12-billion deficit is re-

versing the flow of power out of Washington and back to the states, you're hallucinating. To reverse the flow, give back the taxing power to the states and don't come in with any more $269-billion budgets like this one.

* * * * *

SAFER. Several of the letters we got last week were about those two gentlemen and our feature, POINT-COUNTERPOINT.

One viewer wrote: "[They] are so cynical, so self-righteous and so offensive, why do you have them on your program? . . . How can [they] help bring our country together?"

About the Vietnamese in France and Belgium who fled the war in their own country, a viewer wrote: "In Vietnam, it seems, almost everyone wants to desert. And it's the rich and powerful who do. . . . Our rich probably do the same thing, but you boys don't go poking in their backyards."

On that same subject, another viewer wrote: "You might tell us sometime how many professional [athletes in our own country] got in the Reserve and National Guard, while [those] with no money or talent or influence ended up in Vietnam."

Finally, about our story on the Washington policewoman: "After you guys succeed in getting the boys [effeminate] and the gals [masculine], won't it be just a little bit dull? . . . The hand that rocks a drunk with a judo chop cannot rock the cradle."

I'm Morley Safer.

WALLACE. I'm Mike Wallace and we'll be back next Sunday evening with another edition of "60 minutes."

THE HERBERT STORY: FACT AND HERBERT SAGA DISSECTED

(Reviewed by L. G. Smith)

("Soldier" by Lt. Col. (Ret.) Anthony B. Herbert with James F. Wooten. Holt, Rienhart and Winston, N.Y., 498 pages. $10.95)

If it were to be judged as fiction, this book would earn high marks from most readers. It is a fast-moving, vividly written collection of anecdotes and adventures from a remarkably varied and sometimes exciting military career. And whatever else may be said about Tony Herbert, it must be acknowledged that he is a good storyteller.

His zesty, often humorous, sometimes horrifying tales of military snafus, of young officers bucking the system while senior officers abuse it, of corruption and atrocities, and of the intense experience of soldiers in wartime provide reading that will fascinate most who have access to the book.

However, *Soldier* is not offered as a work of fiction, but as a factual documentation of the life and career of a man who devoted his life to being a good soldier and officer, and who was betrayed by the Army he loved when he dared to report war crimes to his superiors.

Focusing on Herbert's 58 days as a battalion commander with the 173d Abn Bde, the book presents a pervasive indictment of the Army's conduct of the war in Vietnam, ranging from the philosophies of the top strategists to the tactics employed by company commanders and the training of the troops in the field.

None of the criticism in *Soldier* is new, but the manner of presentation is. Herbert names names, provides dates and places and quotes, and thus gives new impact to the familiar charges of war crime coverups, ticket-punching command assignments, self-protective decisionmaking, and widespread corruption.

It is for these reasons that *Soldier* already is arousing considerable public interest, that it has already been favorably reviewed by *Saturday Review*, *Newsweek* and the *New York Times*, that Herbert has been interviewed with enthusiastic approval by Frank McGee and Dick Cavett on nationwide television, that three book clubs already have purchased rights to the book and that the Army is anticipating renewed criticism from the media and the public.

Despite the initial furor, however, as a work of documentary non-fiction, *Soldier* is largely a hoax. Its pages are filled with half-truths and outright lies ranging from relatively innocent "war stories" to the most malicious kind of character assassination. Investigation and interviews with witnesses to dozens of incidents described by Herbert in the pages of *Soldier* reveal a consistent pattern: a kernel of truth imbedded in a web of distortion, exaggeration and falsehood that in every case serves to discredit the Army and to add to the reader's sympathy and respect for a wronged Herbert.

It is a measure of Herbert's persuasiveness and ability to tell a story with conviction that neither his coauthor, James Wooten of the *New York Times*, nor his editors were moved to make the most elementary efforts to doublecheck the information Herbert provided as factual. Researchers for CBS, checking stories from advance copies of the book, were repeatedly told by those mentioned in Herbert's anecdotes that no effort previously had been made to contact them for confirmation of Herbert's assertions, and that if they had been consulted, some drastic editing of the book would have been required.

Several examples from the book will illuminate Herbert's technique of mingling fact and fiction.

THE DUCK

Page 350—Herbert claims to have wrung the neck of Maj. Gen. John W. Barnes' duck, the brigade mascot, out of frustration and rage, then to have tucked the dead bird under his shirt for a late night snack.

Barnes reports (and others confirm) that he inherited the duck mascot from his predecessor, and that the duck was passed on alive and healthy to his successor.

THE ICE CREAM

Page 298—Herbert describes how Maj. Jim Grimshaw, one of his company commanders, ridiculed Col. Ross Franklin, the deputy brigade commander, by plunging both feet into the canisters of ice cream which Franklin delivered to Grimshaw's troops in the field. According to Herbert, Franklin was enraged and chewed out Herbert, insisting that he relieve Grimshaw.

Grimshaw in a taped interview for CBS flatly denies that the incident ever happened. Franklin confirmed Grimshaw's denial.

GRIMSHAW AND THE CAVE

Page 382—Herbert describes an act of unusual courage by Grimshaw when his company was engaged in an operation to clean out some VC-occupied caves. According to Herbert, Grimshaw went alone into a cave known to be sheltering armed VC and emerged carrying a baby and leading three men and two women who immediately surrendered. Herbert was so impressed that he nominated Grimshaw for the Silver Star.

Grimshaw in the CBS interview acknowledges that he and his company did engage in an operation to clean out the caves. However, while he admits he is flattered by Herbert's story, he denies it ever happened. He did not enter a cave alone and emerge with a baby and five adults. Moreover, he reports being unaware that Herbert ever submitted his name for a Silver Star.

REPORTING WAR CRIMES TO FRANKLIN

Page 258—Herbert reports that immediately after witnessing the murder of five Vietnamese prisoners by a South Vietnamese military police unit under the supervision of an American lieutenant outside Cu Loi, he reported the incident to Col. Ross Franklin by radio. On the following pages Herbert describes in detail an interview with Franklin upon Herbert's return to headquarters in which Herbert again reports the Cu Loi events as a war crime.

Franklin has witnesses and cancelled checks proving that he was in Hawaii on the day of the Cu Loi operation, and that Herbert could not possibly have reported war crimes to him either over the radio or in person.

It is apparent from a comparison of the two versions of each story that Herbert's is by far the more interesting and readable, and that for those readers predisposed to believe the worst about the military, Herbert's stories will not only be readable but credible. But it is not just through telling a good story that Herbert engages his reader's interest and sympathy. He uses a variety of techniques, some of them very subtle, and some of them so clearly manipulative that even an uncritical reader will notice.

But, with all of this going for him, Herbert loses control of his book and, for many readers, his credibility, with the elaborate, self-serving, and over-long account of his duel with Col. Franklin, the deputy brigade commander of the 173d during the short time that Herbert was a battalion commander.

The purpose of these passages which comprise nearly half the book is to document the charges Herbert made well after his relief from command: that Herbert reported war crimes to Franklin and to the brigade commander Maj. Gen. John W. Barnes, and that they failed to investigate them. Incident after incident is recounted in which Herbert's white hat and Franklin's black hat are the dominant features. Eventually, even the most sympathetic reader must tire of the theme, and begin to suspect that there might be another side of Herbert's story.

An essential question raised by the publication of Herbert's book is whether he will be widely believed. Exploiting the Army's official position of stoic endurance, Herbert renews old charges, makes many new attacks and echoes familiar criticism of Army careerism and management of the war effort.

On the the other hand, most readers will recognize Herbert's egocentricity despite his efforts to disguise it, and most are sufficiently fair-minded to be at least curious about the other side of the story. Much of this story already has been told in official fact sheets released by the Army to the press when Herbert first entered the public eye. Part of the story was told later on the CBS investigation of the events described in Herbert's book ("Sixty Minutes", February 4) and part of it will be told by the individuals involved through interviews with other media. However, much of the evidence to counter the charges and slurs which appear in Soldier will never reach the audience that will be influenced by the book itself, and by the efforts of Herbert and his editor to promote it.

LT. COL. TONY HERBERT

(By John Bankham)

Even in civilian clothes Lt. Col. (Ret.) "Tony" Herbert looks every inch the model soldier the Army held him up to be. Tall, lean, wearing a crew cut, speaking quickly and incisively, he personified the field officer accustomed to taking charge. His experience of Army life in a 24-year career, both as expressed in his book, *Soldier* and in his conversation, seemed encyclopedic. Yet here he was in a grey suit, white shirt and striped tie. What happened?

As every reader of his book will discover, Herbert resigned in controversy with the brass after having been clearly marked for top leadership. "I'm told I was rebellious—not radical, but rebellious," he said by way of explanation. "The fact is that I became disgusted with the Army corruption I found in Vietnam and spoke up. Junior officers—lieutenants and captains—who see things in the Army they don't like quit early. It's rare to get as far as I did before having the boom lowered."

In his book Herbert presents lengthy documentation on what he calls Army "corruption," using that term in its broadest sense. In conversation he adduces point after point of adverse criticism, never raising his voice or displaying overt emotion. He gives the impression of a military investigator delivering a report on Army reorganization after an extensive probe.

"One of the many things wrong with the Army today," he said calmly, "is that men with a public relations image of the military are being advanced to leadership over the heads of true military men. They are not capable of handling the responsibilities thrust on them. In addition, the American people have come to believe in generals and admirals as semi-gods incapable of error. This just isn't true."

Though the Vietnam war is generally viewed as a tragic misadventure for the United States, Herbert sees some good as coming out of it. "The Army situation is now so bad that even the dullest American recognizes the urgent need for corrective measures. They will have to come not from the Pentagon but from the people through Congress. If the winds for reform blow strongly enough, Congress will act." For his own part Herbert intends to stimulate this process with a book on Army reform to which he will next address his attention.

FEBRUARY 15, 1973.

Mr. TONY SMITH,
Care of Senator BARRY GOLDWATER,
Senate Office Building,
Washington, D.C.

DEAR MR. SMITH: In accordance with my understanding of your conversation yesterday morning with Hap Kaufman, producer of my KGO Radio program, I am forwarding the material left with me by Lt. Col. Anthony Herbert, following his appearance on my program. Lt. Col. Herbert also requested that I forward this material to your office.

No use was made of this material by KGO Radio, nor do we intend to do so.

Sincerely,

JAMES DUNBAR.

COINCIDENT RETIREMENT ACTIONS

Request the Staff consider the need for any unusual actions coincident with LTC Herbert's 29 Feb. 72 retirement. Also, request consideration of coordination with CG, Third Army before submitting the Staff's conclusions/recommendations to CSA/SA for review and approval.

RETIREMENT OF LT. COL. ANTHONY B. HERBERT

PURPOSE

To obtain approval of a recommended action regarding LTC Anthony B. Herbert's retirement.

DISCUSSION

1. OCSA Referral Slip 52792, dated 25 January 1972, subject: Coincident Retirement Actions, tasked ODCSPER to consider the need for actions to be taken coincident with LTC Herbert's forthcoming retirement.

2. LTC Herbert is scheduled to retire from the Army with 20 years active federal service effective 1 March 1972. During the past year he has been the subject of national news media because of widely publicized remarks attributed to him regarding allegations of war crimes and certain critical remarks about the Army. Additional interest in his situation was generated when it became known that LTC Herbert was required to retire effective 1 March 1972, as he had twice been nonselected for promotion to major, Regular Army. This requirement for retirement was negated as LTC Herbert was subsequently promoted to major, RA. A chronology of major events pertaining to LTC Herbert is at Tab A.

3. On 30 August 1971, the Chief of Staff approved the CG, CONARC recommendation that no adverse administrative action be taken against LTC Herbert for statements attributed to him as reported in the 9 July 1971 issue of Life magazine (summary sheet at Tab B). However, as a result of a MACIG investigation into LTC Herbert's allegations regarding the adverse state of discipline in the 173d Abn Bde, widespread use of marijuana in a 173d Abn Bde unit, and issuance of illegal orders, it was recommended that appropriate administrative action be taken against LTC Anthony B. Herbert. MACIG report of inquiry is at Tab C. Additionally, LTC Herbert was the subject of a CID investigation for allegedly assaulting enlisted personnel in Vietnam. No action was taken against LTC Herbert by CG, Third US Army as there was insufficient evidence for further judicial action.

4. A discussion of possible adverse key administrative actions against LTC Herbert is at Tab D. Any consideration given to taking adverse administrative action against LTC Herbert must be weighed against the high probability of renewed media interest and the overall value of such action to the Army.

ALTERNATIVES

1. That adverse administrative action be taken against LTC Herbert.

2. That no adverse administrative action be taken against LTC Herbert.

3. That the Certificate of Appreciation (DA Form 3563) normally presented to an individual on retirement not be issued (copy at Tab E).

CONCLUSION

Actions by LTC Herbert have been prejudicial to the Army. However, any action against LTC Herbert would act as a catalyst for him to continue his public remarks, and would appear vindictive on the part of the Army. It also would not be a deterrent to other Army personnel inclined to speak out.

RECOMMENDATIONS

1. That no adverse administrative action be taken against LTC Herbert.

2. That the Certificate of Appreciation, DA Form 3563, not be included in the retirement packet given to LTC Herbert.

ACTIONS INVOLVING LIEUTENANT COLONEL HERBERT

CHRONOLOGY

3 Sep 68–5 Feb 69: Served as the Acting Inspector General, 173d Airborne Brigade.

6 Feb 69–4 Apr 69: Commanded the 2d Bn, 503d Inf, 173d Airborne Brigade.

4 Apr 69: Relieved of his command by BG John W. Barnes, CG, 173rd Airborne Brigade.

27 Apr 69: Board convened at HQ, IFFV UP Art 138a, UCMJ, to review the relief of LTC Herbert.

Jul–Aug 69: Returned from Vietnam and reported to HQ, USAG, Ft Leavenworth, for duty. Removed from C&GSC list.

11 Sep 69: Submitted first efficiency report appeal.

2 Dec 69: Notified that appeal was denied.

12 Mar 70: Considered by major, RA selection board (first appeal seen by DASB).

22 May 70: Letter of notification of nonselection mailed to LTC Herbert at Ft Leavenworth.

4 Sep 70: Submitted second efficiency report appeal.

28 Sep 70: Made sworn statement to Third Army IG, alleging certain war crimes and other serious offenses.

1 Oct 70: Herbert allegations forwarded to TIG, DA.

31 Oct 70: CSA informed of Herbert allegations. Investigative responsibility given to USACIDC.

2–6 Nov 70: LTC Herbert interviewed by USACIDC.

12 Nov 70: Initial CID inquiry reported to CSA.

13 Nov 70: CSA directed USACIDC to conduct formal investigation.

9 Feb 71: Considered by major, RA selection board and was not recommended (2d pass over). Only first appeal was seen by DASB.

15 Mar 71: LTC Herbert preferred charges of dereliction of duty against MG Barnes and COL J. R. Franklin.

17 Mar 71: File flagged by Third Army (CID investigation for assault of EM, 2/503d Inf).

25 May 71: Notified that his second appeal had been denied.

4 Jun 71: Letter notifying him of nonselection to major, RA for the second time.

15 Jul 71: Charges against COL Franklin dismissed.

10 Aug 71: Flag lifted by Third Army—Charges of assault dropped (see 17 Mar 71).

8 Oct 71: The Secretary of the Army ordered removal of the adverse efficiency report.

12 Oct 71: Charges against MG J. W. Barnes dismissed.

9 Nov 71: LTC Herbert submitted retirement application to be effective 1 Mar 72 (subject to completion of physical examination).

12 Nov 71: Major, RA confirmed by the Senate.

2 Dec. 71: Retirement application received at Department of the Army.

7 Dec. 71: Retirement, effective 1 Mar 72, approved.

8 Dec 71: Retirement packet sent to Third Army.

LT. COL. ANTHONY B. HERBERT

PURPOSE

To obtain approval of a recommendation not to take adverse administrative action against LTC Herbert.

DISCUSSION

1. Reference is made to OCSA Referral Slip 52858, 10 Aug 71, subject as above.

2. The 9 Jul 71 Life magazine article "Confessions of 'The Winter Soldiers'" contained statements attributed to subject officer which were generally critical of the Army on a variety of subjects (Tab A). By DA Message 261212Z Jul 71 (Tab B), CG, CONARC was requested to conduct an inquiry to determine the basis for LTC Herbert's observations and to determine whether administrative action against LTC Herbert is indicated. In response to the DA request, CG, CONARC (Message 051500Z Aug 71, at Tab C), based on an inquiry conducted by HQ, 3d US Army, recommended that no action be taken against LTC Herbert at this time.

3. A review conducted by OTJAG of the remarks attributed to LTC Herbert in the Life article revealed there is no basis for judicial action pursuant to the UCMJ; however, an opinion was given that statements made by LTC Herbert form sufficient basis to take adverse administrative actions against him (TJAG memo at Tab D).

4. At the present time MDW is conducting a preliminary investigation under the provisions of Paragraph 32, MCM, of the charges made by LTC Herbert against MG Barnes This investigation is not expected to be complete until mid-September 1971. Any action initiated against LTC Herbert at this time would undoubtedly be misconstrued by the press as undue influence on the investigation.

ALTERNATIVES

1. Approve CG, CONARC's recommendation that no action be taken against LTC Herbert at this time for information inferred or attributed to him in the Life article.

2. Disapprove CG, CONARC's recommendation and take appropriate adverse administrative action against LTC Herbert; possible alternatives are listed in OTJAG memorandum at Tab D.

3. Further review of CG, CONARC's rec-

ommendation be held in abeyance until a decision has been announced by CG, MDW.

CONCLUSION

Final consideration of LTC Herbert's conduct should be held in abeyance until a decision has been made by CG, MDW.

RECOMMENDATIONS

1. That adverse administrative action against LTC Herbert not be taken at this time.

2. That the circumstances surrounding LTC Herbert to include the Life magazine article, be reviewed after the decision has been announced by CG, MDW regarding the charges preferred against MG Barnes.

(S) WALTER T. KERWIN, Jr.,
Lieutenant General, GS,
Deputy Chief of Staff for Personnel.

Approved—C/S US Army, 30 Aug. 1971.

"Hold but don't close case." (S) W.C.W.

(S) A. DEBERNARDINO,
LTG, GS,
Assistant Secretary of the General Staff.

[Extract of July 9, 1971, Life magazine article]

CONFESSIONS OF "THE WINTER SOLDIERS"

(By Donald Jackson)

William Hatton, Bagley, Minn., Cpl., FLSG Bravo, Third Marine Division, 1968–69:

"I always had this idea of a battlion of little bodies running toward me with rifles and screaming, sneaking around in dark pajamas with daggers. But what you see mainly are civilians, old men, little kids. Once we were on guard at the Dongha Ramp, and for three nights running this little kid, about 3 years old, ran out of his hootch when our truck went by and screamed at us, giving us the finger and saying, "marines number 10." It means the worst, the lowest. We decided to rip him off. So the next night we all loaded up with big rocks, I mean boulders, and when he came out, WHAP, everybody stood up in the truck and threw their rocks and the truck just kept going and I looked back and all I could see was this bloody little hump of flesh, this little bundle of flesh and shorts and blood."

Lt. Col. Anthony Herbert, 23 years in the U.S. Army, is crewcut, stiff of bearing, an up-from-the-ranks "mustang" who was the army's most decorated enlisted man in Korea. Herbert has always believed the best of the army. "I like the military," he says. "I go along with almost everything." But this almost weighs on his mind.

Herbert feels that something went irretrievably wrong for the army in Vietnam. "I guess I'm just maverick," he says. "I think that when things go wrong, the best thing of course is to be honest, and let the chips fall." The chips falling now, around Herbert and the entire American military, are accounts of atrocities committed by U.S. troops in Vietnam, stories of widespread murder and torture, willful and often casual, stories that are being told by the veterans themselves.

The colonel, who won his commission in 1956, commanded a battalion in Vietnam for 58 days. When he brought charges against his superior officers for covering up atrocities, he was transferred back to the U.S. He was assigned to the prestigious Army Command and General Staff College in Fort Leavenworth, Kans., but was again transferred to Fort McPherson, Ga., before he could begin attending classes.

He sat uneasily now in a French provincial chair in his Atlanta living room. "It's easy to get soldiers to do what's right," he said. "You just have to tell them. When I first joined my battalion in Vietnam, in February 1969, they were getting R & R (rest and recuperation) leaves for kills. I changed that. I gave them R & R for live prisoners. They're worth information.

"Day after day," he continued, "a man doesn't see the enemy over there. Finally he gets so he has to do something physical, to strike back. His friends are getting wounded by booby traps and there's no enemy in sight. A man gets a prisoner and he wants to hide his fear by showing how tough he is."

The colonel's chest is ribboned and medaled. He wears a paratrooper's badge but not his Vietnam patch. "We overpreach about women and kids fighting. The majority of the civilians don't shoot at us. Some are forced by the enemy to be involved. But we condition our people to the idea that everyone is a goddamned enemy by this kind of talk.

"And we condition our recruits to be losers. We try to scare them, telling them the Vietcong lives in darkness, painting him as some kind of superman when he's a stumblebum just like we are. Maybe it's the training cadre. We use our worst for cadre. The best go to the Pentagon looking for big jobs. Then when these incidents, these atrocities happen, the enlisted men don't report them. They're afraid to. They can get charged with insubordination."

The colonel relaxed slightly. He shook his head. "My first engagement with the enemy in Vietnam, I captured two VC who were trying to run. We were on a hill. A sergeant came running up and tried to bayonet the people I captured." Colonel Herbert's eyebrows rose in incredulity. "I grabbed him and threw him down."

Colonel Herbert picked a piece of lint off his razor-creased trousers. He seemed somehow out of place amid the formal furniture of his living room. He speaks in an Appalachian accent. He still considers himself a sergeant in disguise.

"When I first got to Vietnam and saw the torture that went on in my battalion," he said, "I talked to other officers about it. They all told me, 'That's the way it is. You can't rock the boat. You can't antagonize the big dragons.' That was what they said—don't antagonize the big dragons, or you're gone."

Herbert believes the principal reason for American atrocities in Vietnam is a failure of command responsibility. "It's ambition," he said emphatically, leaning forward in his chair. "The commanders are out to get a war record. It's called 'getting your ticket punched.' And the battalion commanders aren't held accountable. They don't *feel* responsible. They take the job as a steppingstone. The only time they are held responsible is if they're caught. What I keep driving to say is this: what if these things happen in your unit and you don't do anything about it and then later it comes to light? And they come to you and say, what did you do about it? Who's criminal then?"

The colonel glanced at his bookcase. *The Professional Soldier* was there, and *The New Military*. But so were *Psychoanalysis and Literature* and *Sex-driven People*. The colonel has a master's degree in psychology.

"The commanders are up there in helicopters," he went on. "You can command from a chopper but you can't control. They don't want to get their boots dirty. Look at Mylai. The commanders were in helicopters. It's not real from up there, it's little lead soldiers falling down."

Herbert feels that by sticking to his charges he has forfeited his future in the army, a conviction that leaves him sad, frustrated and angry. He still believes in a corner of his mind, that the military is an honorable calling. "This stuff would stop," he said, "if we'd hang a couple of senior commanders. If it's no longer condoned, then it will cease. If you don't tell a soldier what's right, then he thinks whatever is tacitly condoned is what you want, and that's what he does. It's not brave to be cruel."

The colonel stood up, almost came to attention. "The Vietnamese civilians walk a tightrope," he said. "They get no protection from either side. If they're friendly to VC, we get them. If they help us, the VC get them." He paused and looked at the floor. "It's only a matter of time who's going to get them. If it doesn't stop they'll eventually all be exterminated."

He had a final thought. "We're telling those people that our way is the right way of living. If we torture—what's right?"

LT. COL. ANTHONY B. HERBERT

1. Reference A has attributed to Lt. Col. Herbert certain generalized remarks critical of the army on a variety of subjects, including the training of army recruits, assignment of training cadre, and reporting of suspected war crimes.

2. In view of the comments attributed to Lt. Col. Herbert in reference and their widespread dissemination, it is requested that an inquiry be conducted to determine the basis for Lt. Col. Herbert's observations; to determine whether administrative action against Lt. Col. Herbert is indicated; and to report resulting conclusions, actions, and recommendations to HO, DA.

3. Lt. Col. Herbert's questionable statements include the following allegations:

(a) That the army conditioned soldiers to the idea that "everyone," including women and children, is the enemy in RVN.

(b) That the army has trained recruits "to be losers" in RVN by virtue of orientation regarding the Viet Cong.

(c) That the army uses its "worst" personnel for "training cadre" while "the best go to the Pentagon looking for big jobs."

(d) That enlisted men do not report incidents of war crimes, because they fear being "charged with insubordination."

(e) That officers of Lt. Col. Herbert's acquaintance in RVN advised his inaction concerning "the torture" that occurred in his battalion, so as to avoid antagonizing the "big dragons."

(f) That war crimes (if synonymous with "stuff") in RVN would stop "if we'd hang a couple of senior commanders," and that U.S. war crimes have persisted in RVN because the soldier thinks they are "tacitly condoned."

4. Lt. Col. Herbert also claimed that he was the army's "most decorated enlisted man in Korea." The basis for this statement, should be determined and reported.

5. The statement in reference A, "when he (Lt. Col. Herbert) brought charges against his superior officers for covering up atrocities, he was transferred back to the U.S., "is entirely without substantiation, according to records and reports here. Lt. Col. Herbert's explanation is sought.

6. Request the report indicated in para. 2 above be submitted to this Hq. by Aug. 3, 1971.

LT. COL. ANTHONY B. HERBERT

1. Information requested by DA was directed to HQ 3d Army Fog inquiry.

2. HQ 3d Army provided the following information:

"A. LTC Herbert, after being told the purpose of the inquiry and having been informed of his rights, sought advice from counsel and thereafter chose to remain silent. It was not possible, consequently, to determine the basis for the statements attributed to LTC Herbert in para 3, reference A, nor could it be determined whether these statements were, in fact, correct quotations from LTC Herbert.

"B. Although no evidence was discovered that LTC Herbert has claimed or denied being the "most decorated enlisted man in Korea", such a statement has appeared in publication on previous occasions. LTC Herbert's pesonnel file reveals that he received the following personal decorations during the Korean conflict:

(1) Silver Star with three oak leaf clusters.

(2) Bronze Star Medal.
(3) Purple Heart with 3 oak leaf clusters.
(4) Sygman Rhee citation.
(5) Turkish Ozanu.

"C. The source of the statement, "when he (LTC Herbert) brought charges against his superior officers for covering up atrocities, he was transferred back to the U.S." could not be determined. The author of the article in Life magazine did not attribute it directly to LTC Herbert. LTC Herbert's records indicate:

(1) 12 Jul 68—enroute to RVN does not count on tour only 3 Sept.
(2) 3 Sep 68—Acting IG, HHC, 173D ABN BDE.
(3) 6 Feb 69—CD, 2 BN 503D infantry.
(4) 5 Apr 69—DEP C/S, Cap Mill asst. Comd.
(5) 1 Jul 69—enroute to Conus.

On 28 Sep 70 LTC Herbert made a sworn statement for the IG.

This headquarters in which he indicated that he arrived in RVN in August 1968 and was assigned as the acting IG, 173D ABN BDE. He was commanding officer, 2D battalion, 503D infantry 6 Feb 69 until 4 Apr 69, and the assistant chief of staff to CHAC from 5 Apr 69 until return to Conus on or about 4 Jul 69. In this sworn statement LTC Herbert reported some alleged war crimes and stated that he had made reports of these while he was in RVN, although he did not aver that his RVN tour was curtailed because of these reports.

"3. Conclusions:

(a) LTC Herbert was within his rights not to answer questions and no inference can be drawn therefrom.

(b) The basis for the observation attributed to LTC Herbert (par 3, reference A) could not be detemined because LTC Herbert elected, on advice of counsel, not to answer any questions on the subject.

(c) It was not established that LTC Herbert claims he was the Army's most decorated enlisted man in Korea.

(d) LTC Herbert was credited with a normal tour in RVN. The allegation that he was transferred back to the U.S. after he brought charges against his superior officers could not be substantiated.

(e) No violation of the provisions of AR 360-5 or other regulations by LTC Herbert was established.

"4. Action taken: This headquarters has taken no action against LTC Herbert in connection with the article. "Confessions of 'the winter soldiers'" published in Life magazine, dated 9 Jul 71, nor is any action contemplated.

"5. Recommendation: It is recommended that no administrative action be taken against LTC Herbert in connection with the Life magazine article."

3. Since there is no apparent evidence to support findings on the questions proposed by DA reference A, it is recommended that no action was be taken against LTC Herbert at this time. Protective marking is excluded from automatic termination (Para. 13, AR 340–16).

JULY 9, 1971.

LT. COL. ANTHONY B. HERBERT

1. This is in response to your oral request of 8 July 1971, concerning remarks made by Lieutenant Colonel Anthony B. Herbert that appeared in a UPI story in the Washington News on 2 July 1971, and an article that appeared in the 9 July 1971 issue of *Life Magazine*. The articles were reviewed to determine if LTC Herbert, by his statements, had violated any Army regulations or other applicable statutes. The articles were also reviewed to determine if there is any basis for any punitive or administrative action against LTC Herbert.

2. The two articles have been reviewed and it is the opinion of this office that there is an insufficient basis for punitive action against LTC Herbert. His comments in the two articles were made to reporters, and the reporters' versions thereof may not be introduced into evidence because they are hearsay. Thus, at present, there is no basis for court-martial charges or action pursuant to Article 15 of the Uniform Code of Military Justice.

3. The following administrative non-punitive actions were considered:

(a) A letter of admonition, reprimand or censure may be given by the Secretary or a military commander in the chain of command. This letter could be included in the Official Military Personnel File (OMPF), either by direction of the Secretary or by action of the Department of the Army Suitability Evaluation Board under the provisions of DA Memo 600–10, 19 January 1970. However, the provisions of paragraph 4a, Army Regulation 640–98, 19 July 1965, no adverse suitability information may be filed in a member's OMPF without his knowledge and an opportunity being afforded him either to make a written statement in reply to the adverse communication or to decline in writing, to make such a statement.

(b) The appointment of an officer holding a temporary grade or grades higher than his permanent grade may be vacated under the provisions of Title 10, United States Code, section 3447. The officer would then revert to the lower grade desired, but not below his permanent grade. LTC Herbert is a permanent captain and holds temporary appointments as a major and lieutenant colonel. The vacation of either or both temporary appointments may be effected by the Secretary of the Army acting for the President.

(c) An officer may be eliminated from the service for moral or professional dereliction pursuant to paragraph 5–12, Army Regulation 635–100, 19 February 1969, as changed, subject to the right of an officer to request retirement in lieu thereof (10 USC 3796).

4. The statements made by LTC Herbert form sufficient basis to invoke the adverse administrative actions outlined in paragraph 3 above. In addition, you may wish to consider the issuance of a press release detailing the reasons for LTC Herbert's relief from command, his failure to report the alleged atrocities to a general officer who conducted an investigation into his relief from command, and other inadequacies and shortcomings as an officer.

LAWRENCE H. WILLIAMS,
Colonel, U.S. Army, Assistant Judge Advocate General for Military Law.

INQUIRY CONCERNING THE ALLEGATIONS BY LT. COL. ANTHONY B. HERBERT, FORMERLY OF THE 173D AIRBORNE BRIGADE

1. References:

(a) Letter, DAIG-INA, file and subject as above, dtd 25 Jan 71.

(b) Letter, DAIG-INA, file and subject as above, dtd 11 Feb 71.

(c) Letter, DAIG-INA, file and subject as above, dtd 17 Feb 71.

(d) Letter, DAIG-INA, file and subject as above, dtd 30 Apr 71.

2. In accordance with reference 1d above, the attached report of inquiry is forwarded for your information and retention.

3. It is requested that this office be advised of the final action taken in this matter.

ARTHUR E. SIKES,
Colonel, U.S. Army, Deputy Inspector General.

REPORT OF INQUIRY OF ALLEGATIONS BY LT. COL. ANTHONY B. HERBERT, FORMERLY OF THE 173D AIRBORNE BRIGADE

1. Purpose:

(a) To obtain the Chief of Staff's approval of the report of inquiry pertaining to the 173d Airborne Brigade (Tab H).

(b) To obtain the Chief of Staff's approval of a proposed letter to the Inspector General, DA, to be signed and dispatched by MACIG (Tab A).

(c) To obtain the Chief of Staff's approval and release of a proposed message to Major General Enemark, TIG, DA (Tab B).

2. Background:

(a) On 25 January 1971, The Office of The Inspector General, DA, referred the following allegations to MACIG which were derived from the statements made to USACIDA by LTC Anthony B. Herbert:

(1) The general state of discipline in the 173d Airborne Brigade was disgraceful and the brigade was a substandard military organization that could not be considered a fighting unit.

(2) In September 1968, Company A, 4th Battalion, 503d Infantry, was overrun and sustained heavy casualties as a result of widespread use of marijuana and the 173d Airborne Brigade subsequently covered up the incident by publishing in the unit newspaper and releasing to the news media a false account of this action.

(3) In the course of a USACIDA investigation it was developed that during August 1968, the 2d Battalion, 503d Infantry, 173d Airborne Brigade, had been ordered to level the hamlets surrounding Landing Zone English, in the vicinity of Bong Son, RVN (Tab C).

(b) On 11 February OTIG forwarded to MACIG 11 statements pertaining to the allegations obtained from former members of the 173d Airborne Brigade stationed at Fort Benning, Georgia (Tab D).

(c) On 14 February 1971, the Inspector General, MACV, directed that an inquiry be conducted into the facts and circumstances surrounding the allegations to determine if further investigation is warranted (Tab E).

(d) On 17 February 1971, OTIG forwarded to MACIG four statements pertaining to the allegations obtained from former members of the 173d Airborne Brigade stationed at Fort Bragg, North Carolina, and Fort Campbell, Kentucky (Tab F).

(e) During the period 15–17 February 1971, MACIG Investigators visited Headquarters, 173d Airborne Brigade and Headquarters, IFFV, to obtain available records and documents related to the allegations.

(f) On 7 April 1971, 389 statements and documents were received from USACIDA and an additional 29 statements were provided in May by the in-country USACIDA investigation team.

(g) During the period 23–27 April 1971, MACIG Investigators visited the Records Holding Center, Fort Buckner, Okinawa, to make a physical search of available records of the 173d Airborne Brigade and Headquarters, IFFV, to determine if any records could provide evidence relating to the allegations.

(h) On 30 April 1971 OTIG requested completion date and copies of the findings (Tab G).

(i) During the inquiry 572 statements and documents provided by USACIDA and OTIG, and obtained by MACIG, were reviewed and analyzed to determine their relevancy to the allegations. Of the statements and documents analyzed, 35 statements and five documents were found relevant and are included in this report.

3. Specific allegations and conclusions.

(a) Allegation. The general state of discipline in the 173d Airborne Brigade was disgraceful, and the brigade was a substandard military organization that could not be considered a fighting unit.

(b) Conclusion. While the standards of appearance were not enforced and there may have been discipline problems in the rear areas under General Allen, there is no evidence to substantiate the allegation.

(c) Allegation. In September 1968, Company A, 4th Battalion, 503d Infantry, was overrun and sustained heavy casualties as a result of widespread use of marijuana and the 173d Airborne Brigade subsequently cov-

ered up the incident by publishing in its unit newspaper and releasing to the news media a false account of this incident.

(d) Conclusions.

(1) Company A, 4–503d Infantry, was attacked by an enemy sapper unit at Firebase Lance on 7 September 1968, resulting in 9 US KIA, 30 US WIA and 15 NVA KIA.

(2) The 173d Airborne Brigade did publish a factual account of the action in the brigade newspaper.

(3) The allegation that the use of marijuana by personnel contributed to the enemy penetration of the first base perimeter and that this was subsequently covered up by publishing a false account in the unit newspaper was not substantiated.

(e) Allegation. During August 1968, the 2503d Infantry, 173 Airborne Brigade, had been ordered to level the hamlets surrounding Landing Zone English in the vicinity of Bong Son, RVN.

(f) Conclusions.

(1) Five or six houses were destroyed and a religious structure was damaged by members of Company A, 2d Bn, 503d Infantry, in August 1968.

(2) BG Allen, upon observing houses burned, took immediate and positive action to stop further destruction of property.

(3) This was an act of war apparently brought about by a misinterpretation of the term "Search and Destroy," or a substitution of that term for "Search and Clear."

(4) The allegation is not substantiated.

4. Other matters revealed during this inquiry:

(a) On 6 February 1969, LTC Herbert assumed command of the 2d Battalion, 503d Infantry, 173d Airborne Brigade. On 5 April 1969, he was relieved by BG John W. Barnes, Commanding General, 173d Airborne Brigade, and an adverse efficiency report was rendered.

(b) On 9 April 1969 LTC Herbert requested redress under the provisions of Article 138, UCMJ, concerning the unjustified relief from command. Major General John R. Russ completed the investigation on 5 May upholding the relief and no redress was warranted. These recommendations were approved by CG, First Field Force, Vietnam, on 20 May 1969.

(c) LTC Herbert submitted a reclama to the adverse efficiency report, but was unsuccessful.

(d) On 28 September 1970, LTC Herbert, in a sworn statement to the Inspector General, Third US Army, alleged he had knowledge of several events which he considered to be war crimes during his assignment to the brigade (September 1968 to 5 April 1969). These matters were referred to the Inspector General, DA, and subsequently to the United States CID Agency. After indepth interviews with LTC Herbert in November 1970, 21 separate allegations became the subject of a world wide investigation directed by General Westmoreland.

(e) Of the 21 allegations, five had already been reported and appropriate action had been taken, 12 were unfounded, and four were founded, but in each of these cases LTC Herbert witnessed the incident and had failed to report it until 28 September 1970.

(c) On or about 10 March 1971, LTC Herbert aired his allegations and intent to prefer charges against COL Franklin, former Deputy Brigade Commander, 173d Airborne Brigade, through Fred Farrar of the Chicago Tribune. On 12 March, he preferred charges against MG John W. Barnes and COL Joseph R. Franklin for failure to report war crimes and dereliction of duty in failing to have alleged war crimes investigated. Due to an administrative correction the charges against COL Franklin were actually preferred on 15 March 1971. The findings of the preliminary inquiry of the charges against COL Franklin established there was no evidence that the incidents had been reported to him or he had knowledge of the incidents and failed to take the appropriate action. All charges and specifications were dismissed by MG John H. Cushman on 5 July 1971.

(g) On 22 March 1971, LTC Herbert was quoted in Newsweek Magazine about the killing of detainees by Tam Quan District Forces on 14 February 1969. He very tragically described an incident where a woman with a crying child clutching her leg had her throat cut. He further claimed he reported the incident upon his return to LZ English that night to COL Franklin. The inquiry into this allegation revealed LTC Herbert was the only one who had knowledge of this incident and COL Franklin was in Hawaii on R&R on 14 February 1969.

(h) On or about 4 June 1971, LTC Herbert was quoted by the Associated Press that Major Carl E. Hensley, USACIDA Investigator, attempted to stop him (Herbert) from filing war crime charges by threatening to accuse him of assault in the alleged massacre of civilians at Bong Son. On 17 April 1971, Major Hensley was found dead of an apparently self-inflicted wound. Thus, LTC Herbert's accusation can neither be substantiated or refuted.

(i) On or about 8 July 1971, LTC Herbert was quoted by United Press International that the reasons for atrocities was a failure of command responsibility.

(j) In his initial statement to the Third Army Inspector General, LTC Herbert stated his purpose for reporting these alleged war crimes was:

(1) He felt morally bound to do so.

(2) He felt legally bound and the laws of the UCMJ required him to do so or he would be considered a criminal himself.

(3) He wanted to make these reports official and on record, to insure he had done everything possible, morally and legally.

(k) On 4 November 1970, he also stated his reason was that he felt morally, legally and technically obigated to do so.

1. In Newsweek, LTC Herbert was quoted as saying, "We've got to make a goddam purge from within or the Army'll destroy itself." In his statement of June and July he attacks a deceased officer and commanders in general. Thus, his interest and sincerity are not consistent.

5. General Discussion:

(a) The three original allegations were unsubstantiated.

(b) On 28 September 1970, LTC Herbert made a statement to the Third Army Inspector General which developed into a worldwide investigation of 21 separate allegations, some of which were later recast as court-martial charges against his former superior officer. Each of these allegations/charges, when investigated, revealed appropriate action had been taken by the commander, the allegation was unfounded or LTC Herbert, himself, had failed to take appropriate action.

(c) In his 28 September 1970 statement, LTC Herbert testified that the purpose and reasons for his bringing these alleged wrongdoings to light was that he felt morally and legally bound as his interpretation of the laws of the UCMJ required him to do so or he would be considered a criminal himself. To *Newsweek* Magazine in March 1971, he stated his reasons were, "We have got to make a goddam purge from within or the Army'll destroy itself." Thus, his intent and sincerity are not consistent. Instead of preferring charges against the individuals who committed the unlawful acts, he selected only two superior officers: COL Franklin, the officer who recommended him for command and relief and who rendered an adverse efficiency report against him; and BG Barnes, who relieved him and endorsed the adverse efficiency report. Since this inquiry, USACIDA's investigation, and the preliminary inquiry of the unsubstantiated charges against COL Franklin, the true motive is not one of moral or legal obligation and responsibilities, but a vindictive act at the expense of two superior officers.

(d) Making sworn official statements to competent authority and misrepresenting to the nation-wide press incidents, accusations and charges against superior officers which, when investigated, prove to be untrue or unfounded is conduct which the Army cannot condone nor should tolerate. This is clearly an example of intentional omission or misstatement of fact in official statements for the purpose of misrepresentation. Such is professional dereliction and is cause and reason for elimination from the service as required by paragraph 5–12, AR 635–100.

6. General conclusions:

(a) The three original allegations were unsubstantiated.

(b) The allegations and charges made by LTC Herbert against COL Franklin were untrue or unfounded.

(c) This was a self-serving act to enhance himself at the expense of two superior officers.

(d) Such conduct is prejudicial to the good order and discipline of the United States Army which cannot be condoned and should not be tolerated.

7. Recommendations. It is recommended that:

(a) Appropriate administrative action be taken against LTC Anthony B. Herbert.

(b) The letter at Tab A be approved and returned to MACIG for signature and dispatch (Action Agency: MACJO2).

(c) The message at Tab B be approved and released for dispatch (Action Agency: MACJO2).

(d) The Report of Inquiry at Tab H be approved and the 1st Indorsement signed at Red Marker following page (Action Agency: MACJO2).

(e) This inquiry be closed and the report be returned to MACIG.

ARTHUR E. SIKES,
Colonel, U.S. Army, Deputy Inspector General.

REPORT OF INQUIRY CONCERNING THE ALLEGATIONS BY LT. COL. ANTHONY B. HERBERT, FORMERLY OF THE 173D AIRBORNE BRIGADE

ADMINISTRATIVE ACTIONS

1. The following are administrative, nonpunitive measures that may be taken against a Regular Army officer who is found to have failed to meet the standards expected of an officer of his position, grade, and experience.

(a) A letter of admonition, reprimand, or censure may be given the officer, and a copy of the letter may be included in the officer's official military personnel file. However, under the provisions of paragraph 4a, Army Regulation 640–98, 19 July 1965, no adverse suitability information may be filed in a member's OMPF without his knowledge and an opportunity being afforded him either to make a written statement in reply to the adverse communication or to decline, in writing, to make such a statement.

(b) The appointment of an officer holding temporary grade higher than his permanent grade may be vacated under the provisions of Title 10, United States Code, Section 3447. The officer would then revert to his next lower temporary grade, or his permanent grade, which ever is the higher. This power may be exercised by the Secretary acting for the President.

(c) An officer may be eliminated from the service pursuant to paragraph 5–12, Army Regulation 635–100, 19 February 1969, as changed by Change 6, 1 July 1970, for moral or professional dereliction.

2. A letter of admonition, reprimand, or censure would be ineffective in the sense of having an adverse effect against Lieutenant Colonel Herbert as he has already indicated his desire to retire effective 1 March 1972. Furthermore, while the issuance of such a letter would probably have a minimal effect

on Lieutenant Colonel Herbert, it could serve as a vehicle to renew media interest in the affairs of Lieutenant Colonel Herbert. As noted earlier, he must also be given the opportunity to rebut the letter.

3. Lieutenant Colonel Herbert holds the permanent grade of major, RA; thus, he could be admnistratively reduced to that grade. A reduction in grade would have little financial impact on him as he has served sufficient time in his present grade to insure that he will retire as a lieutenant colonel. While a reduction in grade might have some impact on Lieutenant Colonel Herbert, it is very likely that it would be negligible. It is almost certain that the press and public would look on a grade reduction as a vindicative reprisal and the post-retirement return to the grade of lieutenant colonel would also be difficult to explain to the public.

4. Elimination for moral or professional dereliction is essentially no longer an alternative. Lieutenant Colonel Herbert is scheduled for retirement effective 1 March 1972. Assuming that grounds for elimination action could be substantiated, one of the options available to Lieutenant Colonel Herbert is retirement in lieu of elimination at any time in the process. The assumption is, however, not beyond challenge as any of the three boards which must hear and/or review the case might decide in favor of Lieutenant Colonel Herbert.

5. The principal argument to take no adverse administrative action is that the other alternatives are impractical. Furthermore, to take adverse administrative action against Lieutenant Colonel Herbert could be construed by the public and the press as "pound of flesh" action on the part of the Army, regardless of the fairness and appropriateness of the action. The adverse administrative action taken against Lieutenant Colonel Herbert has the inherent danger of regenerating high public visibility for Lieutenant Colonel Herbert. Futhermore, such action would not probably be a deterrent to other Army personnel so inclined to speak out as individual responsibility, more than fear of violation of rules and regulations, governs such conduct.

6. There are two certificates of appreciation issued to an individual upon his retirement. One is given in the name of the Commander-in-Chief and the other certificate is from the Chief of Staff, United States Army. Since Lieutenant Colonel Herbert has been valorous in two wars and apparently has conducted himself honorably throughout his 20 years of service, it is considered appropriate that the Certificate of Appreciation by the Commander-in-Chief be awarded (Tab F). However it is also considered inappropriate that the Chief of Staff Certificate of Appreciation be given to Lieutenant Colonel Herbert, as his conduct recently has not met the desired professional standards.

DEPARTMENT OF THE ARMY: CERTIFICATE OF APPRECIATION

On the occasion of your retirement from active service, I wish to extend to you my personal thanks and the sincere appreciation of the United States Army for the many years of outstanding service which you have given to our country. You have helped to maintain the security of this nation during a most critical period in its history with a devotion to duty and a spirit of sacrifice in keeping with the proud traditions of the military service.

I share your pride in the contributions you have made to the Army and its ability to accomplish its mission. I trust that you will maintain an active interest in the Army and its objectives during your retirement.

You take with you my best wishes and those of your comrades for happiness and success in the years that lie ahead.

CERTIFICATE OF APPRECIATION

I extend to you my personal thanks and the sincere appreciation of a grateful nation for your contribution of honorable service to our country. You have helped maintain the security of the nation during a critical time in its history with a devotion to duty and a spirit of sacrifice in keeping with the proud tradition of the military service.

I trust that in the coming years you will maintain an active interest in the Armed Forces and the purpose for which you served.

My best wishes to you for happiness and success in the future.

RICHARD NIXON,
Commander in Chief.

ROUTING AND TRANSMITTAL SLIP

Attached are changes made to the summary sheet action, subject: Retirement of Lieutenant Colonel Anthony B. Herbert.

The summary sheet was forwarded to OCSA on 18 February 1972.

REQUEST FOR EXEMPTION FROM GRANTING A CERTIFICATE OF APPRECIATION—DD FORM 1725)

Reference is made to DOD Instruction Number 1348.22 dated 25 March 1970, subject: Recognition for Military Service (Enclosed).

In reviewing the circumstances surrounding Lieutenant Colonel Anthony B. Herbert, Infantry, USA, the Chief of Staff, U.S. Army has concluded that the Certificate of Appreciation (DA Form 3563) normally awarded to personnel leaving the Army honorably should not be granted to Colonel Herbert on his retirement effective 1 March 1972.

I agree with General Westmoreland's position. Furthermore, I believe it would be incongruous for this officer to receive a Certificate of Appreciation under the signature of the President as Commander-in-Chief of the Armed Forces while not receiving the Army's Certificate of Appreciation. Therefore, I am recommending that an exception be granted to the provisions of paragraph IIC of reference DOD Instruction. Approval of this recommendation will result in neither Certificate of Appreciation being given Colonel Herbert on his retirement.

It must be acknowledged that there is a high probability of some interest being displayed by the media if Colonel Herbert does not receive the certificates. I believe, however, that the potential for unfavorable public and internal reaction, and the downgrading of the import of the certificates, if awarded, outweigh this probability.

ROBERT F. FROEHLKE,
Secretary of the Army.

FEBRUARY 18, 1972.

While Army officers, generally, but particularly the higher grades, will view withholding the certificates of appreciation as a just rebuke of an apparently disloyal and reckless critic, the public, the media and Members of Congress will undoubtedly see it as a vindictive and contradictory act. Herbert's character faults are well known to the few who have all the facts. Still, the Army has chosen not to charge him with any offense, either through the judicial process or in public statements, recently promoted him in the Regular Army and intends to issue him an honorable discharge. Thus, on the basis of the public record, no unfavorable action appears justified. Moreover, the question will inevitably arise as to whether Herbert's harsh criticism of the Army of the last two years outweighs his contributions to the country for 18 years, particularly in Korea, to the extent that there should be no expressions of appreciation for his overall service. The benefits of the Army's quiet, tolerant handling of the Herbert case to this point may well be canceled out by what will inevitably be considered smallness on the part of the Army if the President's certificate is withheld.

I believe it in the Army's best interest to issue to Herbert the President's Certificate of Appreciation, as is routinely given all persons leaving the service with an honorable discharge, and thus deny Herbert and his sympathizers fresh material for an attack upon the Army.

BERNARD W. ROGERS,
Major General, GS, Chief of Legislative Liaison.

RETIREMENT OF LT. COL. ANTHONY B. HERBERT

That the two Certificates of Appreciation (DA Form 3563 and DD Form 1725) normally presented to an individual upon retirement not be issued (copies at Tabs E and F).

Conclusion: Actions by LTC Herbert have been prejudicial to the Army. However, any action against LTC Herbert would act as a catalyst for him to continue his public remarks, and would appear vindictive on the part of the Army. It also would not be a deterrent to other Army personnel inclined to speak out.

Recommendations:

1. That no adverse administrative action be taken against LTC Herbert.

2. That the Certificate of Appreciation, DA Form 3563, not be included in the retirement packet given to LTC Herbert.

3. That the Secretary of the Army sign the memorandum to the Secretary of Defense (Tab G) recommending that the Certificate of Appreciation, DD Form 1725, not be included in the retirement packet given to LTC Herbert.

4. Elimination for moral or professional derelection is essentially no longer an alternative. Lieutenant Colonel Herbert is scheduled for retirement effective 1 March 1972. Assuming that grounds for elimination action could be substantiated, one of the options available to Lieutenant Colonel Herbert is retirement in lieu of elimination at any time in the process. The assumption is, however, not beyond challenge as any of the three boards which must hear and/or review the case might decide in favor of Lieutenant Colonel Herbert.

5. The principal argument to take no adverse administrative action is that the other alternatives are impractical. Furthermore, to take adverse administrative action against Lieutenant Colonel Herbert could be construed by the public and the press as "pound of flesh" action on the part of the Army, regardless of the fairness and appropriateness of the action. The adverse administrative action taken against Lieutenant Colonel Herbert has the inherent danger of regenerating high public visibility for Lieutenant Colonel Herbert. Furthermore, such action would not probably be a deterrent to other Army personnel so inclined to speak out, as individual responsibility, more than a fear of violation of rules and regulations, governs such conduct.

6. There are two certificates of appreciation issued to an individual upon his retirement. One is given in the name of the Commander-in-Chief and the other certificate is from the Chief of Staff, United States Army. While Lieutenant Colonel Herbert has been valorous in two wars and apparently has conducted himself honorably throughout his 20 years of service, it is nonetheless a matter of record that he has not met fully the professional standards expected of an officer of his grade and experience. Therefore it is considered appropriate that the two certificates of appreciation cited above not be awarded Lieutenant Colonel Herbert upon his retirement.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

AUTHORIZATION FOR ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate, Senate Resolution 35.

The Senate proceeded to consider the resolution (S. Res. 35) authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States, which had been reported from the Committee on Rules and Administration with amendments, on page 2, line 5, after the word "exceed", strike out "$725,000" and insert "$675,000"; after line 9, strike out:

SEC. 3. For the purpose of this resolution the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1973, through February 28, 1974, is authorized, in its, his, or their discretion, (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents; (2) to hold hearings; (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate; (4) to administer oaths; and (5) take testimony, either orally or by sworn statement.

At the beginning of line 21, change the section number from "4" to "3"; and, on page 3, at the beginning of line 3, change the section number from "5" to "4", so as to make the resolution read:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $675,000 of which amount not to exceed $75,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CANNON. Mr. President, I ask unanimous consent that William M. Cochrane and John Coder of the committee staff be permitted to be on the floor during the consideration of these resolutions.

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

Mr. CANNON. Mr. President, this resolution would authorize the Committee on Foreign Relations to expend not to exceed $725,000 during the next 12 months for inquiries and investigations.

During the last session of the Congress the committee was authorized to expend not to exceed $500,000 for that purpose. The committee estimates it will return approximately $135,000 of that amount to the Treasury.

The pending request includes an increase of $225,000 over last year's authorization.

The Committee on Rules and Administration has amended Senate Resolution 35 by reducing the requested amount from $725,000 to $675,000, a reduction of $50,000.

Our committee has further amended the resolution by striking out the section relating to the issuance of subpenas, et cetera, which reads in pertinent part as follows:

Sec. 3. For the purpose of this resolution, the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, . . . is authorized, in its, his, or their discretion, (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents; . . .

and renumbering the subsequent sections accordingly. This action has been taken by the committee since it considers such section to be unnecessary, inasmuch as the subpena and other powers enumerated therein are granted to all standing committees of the Senate uniformly by the Legislative Reorganization Act of 1946, as amended. Section 134(a) of that act provides as follows:

Sec. 134 (a) Each standing committee of the Senate, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures (not in excess of $10,000 for each committee during any Congress) as it deems advisable. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding 25 cents per hundred words. The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

Senator FULBRIGHT is chairman of the Committee on Foreign Relations, and Senator AIKEN is its ranking minority member.

Mr. FULBRIGHT. Mr. President, I wish to say to the distinguished chairman of the Committee on Rules and Administration that I appreciate the fact that the committee did restore $50,000 of a proposed cut of $100,000 to the Foreign Relations Committee. I believe the committee can live with this.

I might, by way of explanation, say that the committee has undertaken an obligation and responsibility to investigate the multinational corporations which are very much in the news these days, and we do not have the staff to proceed to do that in depth. That was the occasion for the increase in the requested funds.

Senators will understand, of course, that if we are to do that, and we must have further money, we will have to ask for more, which I presume would be provided in due course. I hope we will not need more, but that has been the case in the past.

With regard to the subpena power. I wish to make some legislative history on it, and put the question to the chairman as to what the significance of this is.

As the chairman has said, the resolution has been amended by the Committee on Rules and Administration, which dropped the paragraph relating to the subpena power of the subcommittee.

Mr. President, my understanding is that the deletion of that paragraph in no way detracts from the power of the Committee on Foreign Relations or any of its subcommittees to issue subpenas. Is that understanding correct?

Mr. CANNON. That is my understanding; yes.

Mr. FULBRIGHT. And under the Congressional Reorganization Act, every committee and duly constituted subcommittee of Congress has subpena power. Is that correct?

Mr. CANNON. The Senator is correct.

Mr. FULBRIGHT. It is further my understanding that it is then up to each standing committee and subcommittee to issue rules governing the handling of subpenas and those rules are compleletely up to the committee. Is that correct?

Mr. CANNON. That is correct. I think that the rules a committee or subcommittee might adopt, might be required to be within the bounds of the Legislative Reorganization Act and within the court decisions, but it is up to them to adopt their own rules and, subject to those limitations, to prescribe whatever procedures they desire with respect to the issuance of subpenas.

I make that somewhat qualified statement in light of the Court of Appeals decision, some time ago, that held that the issuance of subpenas by a member or a chairman was not adequate without having the approval of the committee. That was the case in Shelton against United States of America.

Mr. FULBRIGHT. I understand that is the case where the issuance was not in accord with the rules of the subcommittee. Our rules in the subcommittee do require, of course, the approval of the subcommittee. When they make the rules,

they can delegate to the chairman, and they do on occasion, the right for him to delegate some other member of the committee to issue the subpena, but it is in accordance with the rules of the committee.

May I say in that connection that the proposal in the original amendment in the Committee on Foreign Relations was copied verbatim from the provision presently in the resolution with regard to the Government Operations Committee. It was believed to be in accord with the practice of the Senate. So that is why I wish to elaborate that, in the eyes of the chairman of the Committee on Rules and Administration, what the Rules Committee did was in no way intended to change the substantive power of the committee——

Mr. CANNON. Absolutely not.

Mr. FULBRIGHT. So I ask this further question: Then the reason the Rules Committee dropped the language from the Foreign Relations Committee resolution was merely a matter of form and it had no substantive effect. Is that correct?

Mr. CANNON. That is correct. That is my understanding.

Mr. FULBRIGHT. Is it correct further to say that any subpena presently issued by a subcommittee of the Foreign Relations Committee in accordance with the Legislative Reorganization Act, and in accordance with its duly adopted rules, is enforceable despite the amendment offered by the Rules Committee?

Mr. CANNON. I would say yes, without a doubt.

Mr. FULBRIGHT. I think that should clear up the matter. I raised it only because this provision, having been put in—and I say this in all good faith and belief—having been modeled precisely after the provision in Government Operations, and that, having been put in and then removed, it may have raised in the minds of some, that it had some——

Mr. CANNON. I say to the distinguished chairman of the Foreign Relations Committee that this happened to be the first place it was called to our attention. Had it been called to our attention before we considered Government Operations, I would have, myself, been inclined to take the same position I did here. There are still two other resolutions not yet to come to the floor which have similar provisions in them.

Mr. FULBRIGHT. Commerce is one, I believe.

Mr. CANNON. Commerce is one; yes. But the committee has not acted yet. Judiciary is another, which has a similar one, and if a proposal should be made on the floor to strike those provisions, I certainly would not object, because I think that the authority granted under the Legislative Reorganization Act is adequate and complete. I think it is. If we are going to tinker around with it, we should amend the Legislative Reorganization Act.

Mr. FULBRIGHT. I do not disagree with the chairman. He has a good point. It is simply that I think this colloquy clears it up. One of the reasons I wanted to make it clear is that the subcommittee has already issued a subpena, fully in accordance with the Legislative Reorganization Act; that is, it was approved by the subcommittee which issued the subpena. I have no doubt that it is in accordance with the Legislative Reorganization Act, as well as the rules of the subcommittee. But I did not want, nor did anyone on the staff of the subcommittee want, through this action of the Rules Committee, to cast any shadow of a doubt on the validity of any existing subpena.

Mr. CANNON. I would think there could be no doubt cast on it, as long as the subpena is issued in accordance with the Legislative Reorganization Act and the rules of the committee or the subcommittee.

Mr. FULBRIGHT. I appreciate very much the statement of the chairman of the Committee on Rules and Administration.

Mr. GRIFFIN. Mr. President, will the Senator from Nevada yield for an observation?

Mr. CANNON. I yield.

Mr. GRIFFIN. I address myself to this particular resolution with two hats on, since I am a member of the Committee on Foreign Relations as well as a member of the Committee on Rules and Administration. I wish to confirm and support the statement by the distinguished chairman of the Rules Committee when he indicated that by striking this particular language from the resolution, the Committee on Foreign Relations is not left without subpena power. The committee and its subcommittees will continue to have the subpena power available to all standing committees and subcommittees of the Senate under the Legislative Reorganization Act. Of course, the Foreign Relations Committee, like other standing committees, is free to adopt committee rules so long as such rules are not inconsistent with the Standing Rules of the Senate or with the Legislative Reorganization Act.

While I do not know the circumstances with respect to the subpena outstanding, to which reference has been made, certainly if there was a meeting of the particular subcommittee, and if the subcommittee authorized issuance of the subpena, then its action would seem to be in compliance with the Legislative Reorganization Act, and would not be affected by our action with respect to this resolution.

I see no reason why the Foreign Relations Committee or its subcommittees would be handicapped by adopting the amendment which strikes out section 3.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The clerk will report the first committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 5, after the word "exceed", strike out "$725,000" and insert "$675,000"; after line 9, strike out:

SEC. 3. For the purpose of this resolution the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 4, 1973, through February 28, 1974, is authorized, in its, his, or their discretion, (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents; (2) to hold hearings; (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate; (4) to administer oaths; and (5) take testimony, either orally or by sworn statment.

Mr. GRIFFIN. Mr. President, what was that amendment that was just read?

The PRESIDING OFFICER. The clerk will restate the amendment.

The assistant legislative clerk read as follows:

On page 2, line 5, after the word "exceed", strike out $725,000" and insert "$675,000"; after line 9, strike out:

SEC. 3. For the purpose of this resolution the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1973, through February 23, 1974, is authorized, in its, his, or their decision, (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents; (2) to hold hearings; (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate; (4) to administer oaths, and (5) take testimony, either orally or by sworn statement.

Mr. GRIFFIN. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the second committee amendment.

The assistant legislative clerk read as follows:

At the beginning of line 21, change the section number from "4" to "3"; and, on page 3, at the beginning of line 3, change the section number from "5" to "4".

The PRESIDING OFFICER. The question is on agreeing to the second committee amendment.

The committee amendment was agreed to.

Mr. FULBRIGHT. Mr. President, one further inquiry. Is my understanding correct that the chairman of the Rules Committee intends that other committees be brought into accord with the decision of this committee so that all committees are directly alike in this respect?

Mr. CANNON. That is my intention. The Judiciary Committee resolution has already been reported without an amendment, but, if someone offers an amendment on the floor to bring it in line, I would be willing to accept the amendment. The Commerce resolution has not been acted on, but we would hope to take action on it to so amend it.

Mr. FULBRIGHT. I appreciate that. I think that would be correct.

Mr. GRIFFIN. Mr. President, if I may be recognized briefly, and I shall not detain the Senate for very long, I want to comment on the matter of minority staffing as it applies to the Foreign Relations Committee. I am a very brand new member of that committee but I have been interested in this subject as a member of the minority leadership in terms of having adequate staff for the minority across the board.

I commend the ranking Republican member, Senator AIKEN, who had an organizational meeting in his office several weeks ago. The Republican members talked about the problem of being adequately staffed. As a result, a letter was directed to the chairman, signed by all the minority members. It called attention to the provision of the Legislative Reorganization Act and the spirit of that act, which would indicate that when the minority so desires a third of the staff should be accountable to the minority.

I also want to indicate that the chairman of the committee (Mr. FULBRIGHT) was very understanding when this letter was presented to him. Some important steps have been taken toward giving the minority better staff facilities. A working arrangement has been arrived at between the chairman and the ranking member, the distinguished dean of the minority, Senator AIKEN.

Although not all of us can be a hundred percent satisfied, I want to indicate that I am pleased that the problem has been recognized. We realize that in situations such as this you cannot disrupt a staff that is already in place, and that in most instances the staff is very competent, very professional.

I commend personally both the chairman and the ranking member for the effort that is being made here to accommodate minority members.

Mr. President, I ask unanimous consent that the letter to which I made reference be printed at this point in the RECORD.

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

JANUARY 17, 1973.

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

DEAR BILL: Recently the Republican members of the Committee on Foreign Relations met in Senator Aiken's office to discuss some of the matters which can be expected to confront the Committee during this session. In the course of our discussion favorable comments were expressed about the Committee's leadership as well as the caliber of work performed over the years by the Committee's staff.

However, general concern was expressed that the minority on the Committee is not adequately staffed. There is a consensus among Republican members that the intent of the Legislative Reorganization Act should be observed. You will recall that Section 301 of the Legislative Reorganization Act of 1970 provides that two professional staff positions out of the six made available to each standing Committee should be allocated to the minority upon request. The 1970 Act further provides that if the six regular professional staff positions are filled at the time such a request is made, two additional positions are to be created and assigned to the minority until such time as vacancies occur.

Furthermore, when the Committee seeks authorization for additional staffing and consulting services beyond that regularly provided by the Act, Republican members believe approximately one-third of such additional assistance should be assigned to the minority.

We want you to know that we stand ready and willing to fully support any reasonable budget request you wish to submit in order that the Committee can be adequately staffed to carry out its important responsibilities so long as an equitable allocation for minority staffing is provided.

We feel certain that you will understand and agree with these suggestions.

Sincerely,

GEORGE D. AIKEN,
CLIFFORD P. CASE,
JACOB K. JAVITS,
HUGH SCOTT,
JAMES B. PEARSON,
CHARLES H. PERCY,
ROBERT P. GRIFFIN,
U.S. Senators.

Mr. FULBRIGHT. Mr. President, I do not wish to delay the Senate. I appreciate the attitude of the distinguished minority whip, who is a member of the Committee on Foreign Relations.

I might say, by way of short comment, that it is true that there is provision in the Reorganization Act for two members to be—whatever it means—assigned to the minority. Two of the six, I may say, professional members, permanent members.

Since 1947, the Committee on Foreign Relations has never attempted to implement that provision. That provision is purely permissive; it is not mandatory. No request, to my knowledge, has ever been made on the part of the minority members for a distinct staff. The staff has been strictly nonpartisan. We have a personnel committee composed of two of the minority and two of the majority members, the same number, and they have passed upon the qualifications of all the professional staff.

To my knowledge, since I have been on the committee, no question has ever been asked about their political affiliations. It was always considered that foreign relations is rather in a class by itself in this respect, in contrast to purely domestic programs, such as agriculture or banking and currency or interior or labor and public welfare.

I understand that sometime ago this matter was arranged in accordance with the minority and majority, which, in a sense, is having two staffs. But, the law being what it is, the majority of the committee acceded to the request of the minority.

I am very pleased to have the comments of the minority whip as to how to deal with this matter without disrupting the staff, without creating an attitude of partisanship. His suggestion is very wise, and I will do my best to implement it to the satisfaction of the minority, without the necessity of creating a sense of partisanship on the part of the staff or on the part of the committee, for that matter.

On the whole, the committee, aside from the staff, has been nonpartisan to a very great extent, so far as it can be in these controversial issues. I recall that the criticism by the Democrats of a Democratic President was just as acute as their criticism of a Republican President. They have been nonpartisan in their criticism—and in their approval, for that matter. I think that has been characteristic of the committee.

I believe that the wisdom of the Senator from Vermont and the Senator from Michigan will prove to be a very satisfactory solution to this problem.

Mr. AIKEN. Mr. President, I think that the newest member of the committee, on the minority side, Senator GRIFFIN, has performed a real service in calling the wording of the law to our attention.

The fact is that up to now I do not believe we have ever questioned whether a new member of the staff belonged to the minority or the majority, but it is probably better that some of them are assigned to the minority, as required by the law. I have found the chairman of the committee fully cooperative in that respect.

I think the matter has been pretty well reconciled without adding materially to the cost of operating the committee, and that situation will be improved. That does not mean we will not have disagreements. We have disagreements within the minority and within the majority. So that I will not say it is a partisan matter, but it looks as though we are going to function very well from now on.

One member of the permanent staff is now representing the minority members; and in attending the meetings, he keeps us very well informed. He is very knowledgeable. He is one of the better members of the staff. That makes it much easier for us to do our work as we ought to do it. So I do not anticipate any further difficulties in the situation.

Again, I want to express my appreciation to the Senator from Michigan for making this suggestion as his first act as a new member of the committee.

Mr. GRIFFIN. Mr. President, I believe there is a good deal of misunderstanding not only among the Members of the Senate but also among some of the staff people as to what the Legislative Reorganization Act requires or provides in this situation.

It is true that in section 202 of the Legislative Reorganization Act there is a provision that applies to the six professional staff members that every standing committee has. With regard to those six professional staff people, there is the provision that whenever the majority or the minority requests, two of the six shall be assigned to the minority.

I invite attention to another provision of the Legislative Reorganization Act. It is part of section 133 of the Legislative Reorganization Act of 1946, and it is in subparagraph (g) thereof. I will read it:

> The minority shall receive fair consideration in the appointment of staff personnel pursuant to any such annual or supplemental resolution.

I do not know what "fair" means, but it must mean something. That is the language that applies in terms of the resolution authorizing staff over and beyond the six who are already automatically assigned to each standing committee without such a resolution.

So I think when the minority says at least one-third is fair, we not only have the simple principles of equity, but also the precise language of the Legislative Reorganization Act to back us up.

The PRESIDING OFFICER. The ques-

tion is on agreeing to the resolution (S. Res. 35) as amended.

The resolution (S. Res. 35), as amended, was agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $675,000 of which amount not to exceed $75,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

AUTHORIZATION FOR ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

The PRESIDING OFFICER. Under the previous order, following disposition of Senate Resolution 35, the Chair lays before the Senate, Senate Resolution 56, which the clerk will state by title.

The assistant legislative clerk read the resolution (Senate Resolution 56), as follows:

A resolution authorizing additional expenditures by the Committee on the Judiciary for inquiries and investigations.

Mr. CANNON. Mr. President, this resolution would authorize the Committee on the Judiciary to expend not to exceed $4,312,300 during the next 12 months for inquiries and investigations.

During the last session of the Congress the committee was authorized to expend not to exceed $3,657,700 for that purpose. The committee estimates it will return approximately $167,450 of that amount to the Treasury.

The pending request includes an increase of $654,600 over last year's authorization.

The Committee on Rules and Administration has amended Senate Resolution 56 by reducing the requested amount from $4,312,300 to $3,946,800, a reduction of $365,500.

Senator EASTLAND is chairman of the Committee on the Judiciary and Senator HRUSKA is its ranking minority member.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The assistant legislative clerk read as follows:

On page 2, at the beginning of line 8, strike out the numeral and insert "$3,946,800".

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the second committee amendment.

The assistant legislative clerk read as follows:

On page 2, in line 23, after the word "exceed", strike out the numeral and insert "$377,800".

The PRESIDING OFFICER. The question is on agreeing to the second committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will report the third committee amendment.

The assistant legislative clerk read as follows:

On page 3, line 3, after the word "exceed" strike out the numeral and insert "$767,000".

The PRESIDING OFFICER. The question is on agreeing to the third committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the fourth committee amendment.

The assistant legislative clerk read as follows:

On page 3, line 8, strike the numeral and insert "$239,700".

The PRESIDING OFFICER. The question is on agreeing to the fourth committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the fifth committee amendment.

The assistant legislative clerk read as follows:

On page 3, line 13, strike the numeral and insert "$299,900".

The PRESIDING OFFICER. The question is on agreeing to the fifth committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the sixth committee amendment.

The assistant legislative clerk read as follows:

On page 3, line 18, strike the numeral and insert "$210,200".

The PRESIDING OFFICER. The question is on agreeing to the sixth committee amendment.

Mr. McCLELLAN. Mr. President, will the distinguished Senator in charge of the bill yield?

Mr. CANNON. I yield.

Mr. McCLELLAN. Mr. President, I would like to get a clarification of this item. There is allowed some $28,000 less than was requested, I believe.

Mr. CANNON. The Senator is correct.

Mr. McCLELLAN. At the time this resolution was presented to the Committee on the Judiciary an amendment was offered and added by the Committee on the Judiciary authorizing the request for, I believe, $18,224 for a new assistant minority counsel. This was an amendment that was added to the bill in the Committee on the Judiciary.

Mr. CANNON. Yes.

Mr. McCLELLAN. At that time, as chairman of the subcommittee, I made the statement that this was an item over and above the request that we had made in the original resolution. I felt the burden was on the minority to appear before the Committee on Rules and Administration and establish justification for it. The minority, I believe, was represented by the distinguished Senator from Nebraska (Mr. HRUSKA). I believe he appeared at the same time I did and gave testimony in support of this increase in the amount of the request.

I am unable to determine whether that increase was granted. Was the action of the Committee on Rules and Administration intended to and did take this item into account? Did it grant an additional amount to cover that request?

The reason I am concerned, and I am sure I am correct, is that I know it was the intention of the Committee on Rules and Administration to grant at least an amount to cover the increase in salaries, which would be about 5 percent.

The increase the committee did grant was about $18,700 over the expenditures last year. But what is this supposed to cover?

Can the Senator give us some guidance on that, and state whether that increase for additional personnel was granted or not granted by the Committee on Rules and Administration?

Mr. CANNON. I will respond as best I can. The committee did not either accept or reject the proposals of the various subcommittees with respect to specific numbers of personnel, whether they should have more or less, but we did look at the overall columns and basically we attempted to make reductions where increases in personnel were sought over the numbers requested last year, for a variety of reasons, one being economic, and second, because we do not have the added space in which to house the committee members.

So with respect to this particular instance, I do not recall there was any specific discussion whether they would or would not permit additional personnel. There was no restriction in the action of the committee, nor a complete disregard of it, but the proposal that was made for these reductions provided, as I recall, roughly about a 7.5-percent increase over last year, which would be adequate to take care of the raises if those raises were all passed on, and a small amount in addition.

Last year this committee did use nearly all its money. It turned back $4,000, so based on last year's rate of expenditures it would have $15,400 or roughly $19,000 more this year than last year out of which it would have to take care of that.

Mr. McCLELLAN. That is true, but we are keeping the same personnel as last year. We are required, of course, to meet their salaries. And we have work to do.

Mr. CANNON. The Senator is correct. But there is no requirement the salary be increased. Some committees have passed on all the increase and some have not.

Mr. McCLELLAN. Well, of course, we are confronted with the situation that if one committee staff member was a good staff member on another committee and entitled to the increase, I assume a good

staff member on my commitee is entitled to the increase. If other good staff members get an increase, I would naturally feel that the staff member on my committee, a good one, is entitled to one, too.

I thought all increases had been passed on. I personally do not know of any instance in which they have not. There could be.

But the point I am trying to make is that if it is intended that the subcommittee must provide this additional personnel at the salary, or somewhere near the salary proposed—that was a special item and was testified to as such—then this money has to come out of somebody else's salary or out of the expense that will have to be incurred if the subcommittee operates.

I do not want to deny the minority of any personnel it feels it needs, and that it can justify, but it leaves us in a kind of bind as to how to make these adjustments. I would not want to reduce the salaries of other staff members in order to make that adjustment or to stop work.

I point out to the Senator and for the record that we are confronted with a very heavy workload this year. I am not arguing for more money at the moment, but I do not want to place a more complete statement in the RECORD in a minute.

Last year was a very difficult year for me, because I was campaigning much of the time, and did not have the opportunity to devote as much time to the work and responsibilities of this committee as I normally would have. That is understandable, I am sure, but even with that, last year the subcommitee made rather good progress, I think, in the crime field.

During the last Congress 79 bills were referred to the subcommittee for consideration, in addition to the project for the revision of title 18 of the code, and that is a big project. I introduced a comprehensive bill on this subject early in this session of Congress, S. 1, the Codification Revision and Reform Act of 1973. I think that is one of the largest bills ever introduced in Congress, approximately 500 pages, as I recall. It must be processed. We are working on it. We have sent out questionnaires. We have invited the best qualified people in the land to testify on it and give us the benefit of their experience, counsel, and recommendations. It is a very difficult and tedious process to get a bill of this size reported.

In addition to that project, the committee reported last year 12 bills. Eleven of them passed the Senate. Four of the bills became public law. Some of the bills that passed the Senate last year and are not public law are before us once again. We have already had placed on the calendar one package crime bill, S. 800, the Victims of Crime Act of 1973. Now we are processing individual bills that comprise that package. That is the way we did last year. We passed the package bill, the omnibus bill. Then we also passed separate bills covering several titles in that bill here in the Senate. It is deemed advisable to do that in order to get more prompt action in the House of Representatives.

Anyway, I just want to emphasize that this subcommittee has a tremendous workload. It may be necessary—I do not know this; we try to operate economically—that if we make progress, particularly on the recodification measure, we will have to come back for further expense money—not for personnel, but it requires a lot of effort. If we are going to do it right, get out the questionnaires and do all those other tasks, there will be some expense included. I hope we can make progress on it.

I only wanted to make these remarks with respect to the work of the subcommittee, so that the record may be clear that it is a tremendous job for the subcommittee to meet its responsibilities.

We are going to proceed with diligence and to try to get bills that are meritorious reported out of the committee and processed by the Senate, in the hope that they may be enacted.

The matter of what staff the majority is to have and what the minority is to have is becoming a problem. I think we are approaching a time when there ought to be a hard and fast rule with respect to it so there will be no confusion and we will avoid haggling from time to time. I am not opposed to the minority's having any staff that is at all reasonable and that they feel they need. I would request the same thing for the majority. But it is difficult and it is embarrassing at times to have them request additional staff that they feel they need, when we do not have the money to provide for it and all we can do is say, "Well, you will just have to ask for it, and if you make your case before the Rules Committee, you will get it."

That is the problem we face. I think we should give consideration to revising the rules so that there can be only one interpretation as to what the will of Congress is.

I want to thank the Senator for the consideration he and his committee have given us, not only as to this resolution, but as to others that I have presented from time to time as chairman of subcommittees, not only this year but in years past. We all have a duty to try to hold down expenditures, not only in the legislative branch but throughout Government. That is my view about it, and I certainly want to cooperate to that end and not ask for funds to operate a committee that are not absolutely required to let that committee function and meet its responsibilities.

Mr. President, I have a more detailed statement to make on this particular item. I ask that it appear in the RECORD at this point.

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

SECTION 7 OF SENATE RESOLUTION 56

Section 7 of S. Res. 56, as reported by the Committee on Rules, authorizes an expenditure of $210,200 for the Subcommittee on Criminal Laws and Procedures. This is an increase of approximately $18,700 over the funds actually expended last year, but a cut of $27,800 from what the Committee on the Judiciary had recommended. The Committee on the Judiciary had approved $18,224 for a new Assistant Minority Counsel. As approved by the Committee on Rules, the increase will just cover the approximate cost of the 5% salary increase and the additional hearings contemplated by the Subcommittee in this Session of the Congress.

The Subcommittee was authorized to expend $195,500 for the period March 1, 1972, through February 28, 1973. Of this amount, approximately $4,000 will be returned as unexpended. Our requested authorization was reduced last Session by $24,500. Consequently, we had to curtail certain activities. We were not able to use the services of the Library of Congress to the expected extent, as the funds for reimbursable payments to agencies was deleted from the budget. Further, we could not conduct all the hearings we had anticipated in our consideration of the new Federal Criminal Code.

Nevertheless, the Subcommittee continued to make progress in the crime field. During the last Congress, 79 bills were referred to the Subcommittee for consideration, in addition to the project for the revision of title 18 of the Code. The Subcommittee reported 12 bills and 11 of these passed the Senate. Four of the bills became public law.

In the last Session, the Subcommittee processed four measures relating to the victims of crime. These bills were reported and passed by the Senate, each as a separate bill and as a part of an amendment to a House-passed bill, which bill then became an omnibus victims of crime package. These Senate-passed proposals did not receive House action except for the Administration sponsored $50,000 gratuity for the survivors of a slain public safety officer. This bill passed both Houses in different forms and the conferees agreed to the filing of a conference report, but the adjournment of the Congress prevented the House from acting on this report. The Democratic Policy Committee has urged me as Chairman of the Subcommittee to expedite the processing of this package again this Session. I have introduced the package bill (S. 800) which was placed directly on the Calendar and we are now processing the individual bills through Committee.

In the present Session, it is anticipated that the Subcommittee will hold extensive legislative hearings on the proposed new Federal Crime Code. In the last Congress we conducted 13 days of hearings, comprising 7 volumes with over 4,000 pages. In addition to hearings, considerable detailed work is involved in this enormous Code revision. The staff will continue to work closely with the special unit in the Department of Justice, with the various government agencies, with bar associations and with special committees created to assist in this effort. Numerous questionnaires, interrogatories and other mailings have been made to criminal law professors, judges, State attorneys general, prosecutors, public defenders, probation officers and others seeking a wide cross-section of ideas on the recommendations of the National Commission on the Reform of the Federal Criminal Laws and on the proposed revision bill, S. 1, the "Criminal Justice Codification, Reform and Revision Act of 1973." We contemplate more such mailings as we get into the specific sections of the proposed bill.

Also, the Law Enforcement Assistance Administration is due to end June 30th of this year. It is expected that hearings will be necessary to determine the most advantageous ways in which to continue the program of assistance to law enforcement and corrections, which has now become a $850 million a year item in our criminal justice system. I am sure we will want, and the Congress should have, a reassessment of this entire program. Consequently, an additional load of hearings in this area will be necessary as we consider various proposals for continuing this agency.

Other areas to be considered separately or in conjunction with the Code include appellate review of sentences, air piracy, gun control, abortion and death penalty proposals.

I feel that the Subcommittee is doing extremely important work and operating in an economical manner. I believe that to do justice to our task the authorization should provide for our minimum requirements.

I ask that this section of the resolution be agreed to.

Mr. GRIFFIN. Mr. President, I am particularly pleased that the distinguished Senator from Arkansas is here representing the Committee on the Judiciary, particularly because, having served as the chairman of the Permanent Investigations Subcommittee of the Government Operations Committee, I think he is very familiar with the subject I am going to raise.

I would like to focus attention on some language in the resolution applying to the Committee on the Judiciary. On page 2, beginning at line 16——

Mr. McCLELLAN. I beg the Senator's pardon. What is that?

Mr. GRIFFIN. The resolution for the Judiciary Committee.

On page 2, line 16, the language reads:

For the purposes of this resolution, the committee or a duly authorized subcommittee thereof, or the chairman of the committee or of such subcommittees, or any other member of the committee or of such subcommittee designated by the chairman of the committee, may issue subpoenas under the authority vested in the committee by section 134(a) of such Act.

If the Senator from Arkansas was on the floor, he will recall we had a colloquy with the distinguished Senator from Arkansas (Mr. FULBRIGHT) regarding somewhat similar language with respect to the Foreign Relations Committee. The Committee on Rules and Administration struck that out, pointing out that under the Legislative Reorganization Act all standing committees and subcommittees have the authority to issue subpenas, except that it has to be by action of the committee or subcommittee. And then, of course, the subpena is issued in the name of the chairman.

There is really a legal question that arises if we try to delegate this authority to an individual member of the committee and let him decide whether he is going to issue a subpena or not.

I just wondered, having taken the action we did take in the Foreign Relations Committee, if the senior Senator from Arkansas—and I do not know if he can speak for the Judiciary Committee as a whole—really feels this language is needed in the resolution.

Mr. McCLELLAN. Mr. President, I would not presume to speak for the Judiciary Committee as a whole. I am not authorized to so speak. This is the first time the language has been called to my attention.

I have never had any problem with it as chairman of the Permanent Subcommittee on Investigations. I have never had any problem in that respect because no one issues any subpenas except the chairman. I do not know where this idea originated that the chairman delegate to someone else the power or the ability to issue subpenas. I have no desire that the language be retained.

Mr. GRIFFIN. Mr. President, I might say that the Government Operations Committee is the one exception that has been recognized in the past where the committee has had authority.

Mr. McCLELLAN. That was by special resolution.

Mr. GRIFFIN. The Senator is correct. And I am aware of the fact that in the Government Operations Committee it is not used because they know that when they issue a subpena they want it to stick.

There is the matter of the Permanent Investigations Subcommittee that authorizes the issuance of subpenas. At least, it was that way when I served on it.

Mr. McCLELLAN. Mr. President, what we do is to have the subcommittee authorize the investigation. And in that investigation, of course, there is the power to issue subpenas. We may make a preliminary inquiry. But we do not start to issue subpenas until and unless the subcommittee has approved an investigation. Having done that, then the authority is in the chairman to issue subpenas.

We have never had any problem occur when we issued subpenas. I am no longer the chairman of the committee, as the distinguished Senator from Michigan knows. However, in the course of the years when I was chairman, when we issued subpenas we wanted them to be legal. We wanted them to have a validity and legal authority so that there could be no question.

Mr. GRIFFIN. Mr. President, having taken this action, as a member of the Committee on Rules and Administration, with respect to the Foreign Relations Committee, of which I am also a member, I am inclined to offer an amendment leaving the Judiciary Committee in exactly the same position as all other standing committees. They would have the same power as the other committees and subcommittees under the Legislative Reorganization Act.

Mr. McCLELLAN. Mr. President, if the Senator desires to do that, I would not try to dissuade him. I believe that I am the only member of the committee present on the floor. I would like to advise the chairman of the full committee, the Senator from Mississippi (Mr. EASTLAND), and also undertake to advise the chairmen of the subcommittees before any final action is taken. I feel that we should get that information to them. And if the Senator would proceed with the resolution and the consideration of the provisions in it and withhold that for a time, possibly we would then have to have a short quorum call. I will undertake to get this message to the other chairmen so that they might have an opportunity to participate in the discussion of it. I think it would be only fair to do that since they have had no notice of this matter coming up.

Mr. GRIFFIN. Maybe there was some special reason why it was proposed.

Mr. McCLELLAN. That may be.

Mr. President, I ask, as a matter of courtesy to other members of the committee and to the chairman of the subcommittees, that they be given an opportunity to participate in the discussion and deliberation of this proposal.

Mr. GRIFFIN. Mr. President, in light of that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. McCLELLAN. Mr. President, I have to go to a conference in a short while. I have one other matter that we could take up by agreement at this time.

Mr. GRIFFIN. That would be perfectly agreeable with me.

Mr. McCLELLAN. Mr. President, I should like to request the distinguished Senator from Nevada (Mr. CANNON), the chairman of the Committee on Rules and Administration, who is in charge of the bill, to make a unanimous-consent request to skip to the consideration of section 13, and let us dispose of it. I make that request because at 3 o'clock I have to attend a conference on the continuing resolution which we agreed to yesterday.

Mr. CANNON. Mr. President, I ask unanimous consent that we proceed to the consideration of section 13 of the resolution, relating to patents, trademarks, and copyrights. The request was for $185,000; the amount reported in the amendment is $143,000.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 5, line 3, strike out "$185,000" and insert in lieu thereof "$143,000" and, in line 11, after the word "exceed", strike out "$227,000" and insert "$172,500".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment on page 5, line 3, was agreed to.

Mr. CANNON. Mr. President, I ask unanimous consent that the remainder of the amendment with respect to dollar amounts be considered and agreed to en bloc.

The PRESIDING OFFICER. Is there objection? If not, the question is on agreeing to the remainder of the committee amendments en bloc.

The remaining committee amendments were agreed to en bloc as follows:

In line 21, after the word "exceed", strike out "$15,500" and insert "$14,500"; on page 4, line 1, after the word "exceed", strike out "$259,000" and insert "$223,000"; in line 4, after the word "exceed", strike out "$612,000" and insert "$532,500"; in line 19, after the word "such", strike out "$612,000" and insert "$532,500"; in line 22, after the word "exceed", strike out "$367,700" and insert "$335,400";

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

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

Mr. GRIFFIN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, in line 16, strike the word "for" and all that follows in lines 10 through 22.

Mr. GRIFFIN. Mr. President, there has already been some discussion of this matter in connection with the Foreign Relations Committee. The Rules Committee has been reluctant to approve this kind of language because of the Legislative Reorganization Act, which gives each standing committee the authority to issue subpenas.

Not only is it questionable practice, I suggest, to try to delegate that authority to a subcommitee chairman or whomever he might designate, but I believe there is real question as to whether it would be recognized legally. There are several cases where the issuance of subpenas has been challenged in the courts. When that situation arises, it is very important that there be clear authorization for the issuance of subpenas.

I think that in the interest of good, orderly practice in the Senate and its committees, we should not assume that power can be delegated.

Because we took that action with regard to the Foreign Relations Committee on which I happen to be a member, I noticed that the language was in the Judiciary Committee resolution.

Unless there is some very strong and compelling reason to retain it, I hope that this amendment to strike out that language will be adopted.

Mr. HRUSKA. Mr. President, will the distinguished Senator from Michigan yield?

Mr. GRIFFIN. I yield.

Mr. HRUSKA. Does the Senator from Nebraska understand correctly that by approving the amendment now pending, there would be uniformity in the committees which have been found to be in this same situation?

Mr. GRIFFIN. Yes, generally speaking. It has been mentioned on the floor before that the Permanent Investigating Subcommittee for the past—I do not know how far it goes back—has had special treatment in this regard. But the distinguished Senator from Arkansas (Mr. MCCLELLAN) was on the floor and acknowledged that, actually, the Permanent Investigating Subcommittee has always been meticulous about having committee action when it issues subpenas.

Mr. HRUSKA. Then the effect of the amendment would make each committee or subcommittee of the Judiciary Committee rely for its subpena power upon the Legislative Reorganization Act.

Mr. GRIFFIN. That is right. Just to make the point perfectly clear, let me read now section 134 of the Legislative Reorganization Act of 1946 as amended:

Each standing committee of the Senate, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses, and the production of such correspondence, books, papers, and documents, . . .

So the Legislative Reorganization Act contemplates that it is the committee or the subcommittee that is doing it.

Mr. HRUSKA. I would say that I will support the amendment and hope that it will be adopted.

Mr. CANNON. Mr. President, I also would support the amendment. I think the subpoena powers are quite well defined in the Legislative Reorganization Act. This amendment would help bring the committees into uniformity.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan (Mr. GRIFFIN).

The amendment was agreed to.

The PRESIDING OFFICER. The resolution is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the resolution, as amended.

The resolution (S. Res. 56), as amended, was agreed to as follows:

S. RES. 56

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate so far as applicable, the Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services or personnel of any such department or agency.

SEC. 2. The Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1973, through February 28, 1974, to expend not to exceed $3,946,800 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $377,800 shall be available for a study or investigation of administrative practice and procedure, of which amount not to exceed $3,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 4. Not to exceed $767,000 shall be available for a study or investigation of antitrust and monopoly, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. Not to exceed $239,700 shall be available for a study or investigation of constitutional amendments, of which amount not to exceed $12,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 6. Not to exceed $299,900 shall be available for a study or investigation of constitutional rights, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 7. Not to exceed $210,200 shall be available for a study or investigation of criminal laws and procedures.

SEC. 8. Not to exceed $14,500 shall be available for a study or investigation of Federal charters, holidays, and celebrations.

SEC. 9. Not to exceed $240,000 shall be available for a study or investigation of immigration and naturalization.

SEC. 10. Not to exceed $223,000 shall be available for a study or investigation of improvements in judicial machinery.

SEC. 11. Not to exceed $532,500 shall be available for a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended, (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States, and (3) the extent, nature, and effect of subversive activities in the United States, its territories and possessions, including, but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organization controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence or otherwise threatening the internal security of the United States. Of such $532,500, not to exceed $3,785 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 12. Not to exceed $335,400 shall be available for a study or investigation of juvenile delinquency, of which amount not to exceed $14,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 13. Not to exceed $143,000 shall be available for a study or investigation of patents, trademarks, and copyrights.

SEC. 14. Not to exceed $79,000 shall be available for a study or investigation of national penitentiaries, of which amount not to exceed $1,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 15. Not to exceed $172,500 shall be available for a study or investigation of refugees and escapees, of which amount not to exceed $2,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 16. Not to exceed $62,300 shall be available for a study or investigation of revision and codification.

SEC. 17. Not to exceed $250,000 shall be available for a study or investigation of separation of powers between the executive, judicial, and legislative branches of Government, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 18. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1974.

SEC. 19. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

QUORUM CALL

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR CONSIDERATION OF CALENDAR NO. 37, SENATE RESOLUTION 41, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, immediately following the transaction of routine morning business, the Senate proceed to the consideration of Calendar Order No. 37, Senate Resolution 41, a resolution authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations.

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

Mr. ROBERT C. BYRD. Then it would be my understanding, in accordance with the previous order, which has just been amended, that upon the disposition of Calendar No. 37, Senate Resolution 41, the Senate would proceed to the consideration of Calendar No. 55, S. 7.

PROGRAM FOR TOMORROW AND THURSDAY

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes each, at the conclusion of which the Senate will proceed to the consideration of Calendar No. 37, Senate Resolution 41, a money resolution relating to the Committee on Banking, Housing and Urban Affairs.

Upon the disposition of Senate Resolution 41, the Senate will take up S. 7, a bill to amend the Vocational Rehabilitation Act. There may be yea-and-nay votes tomorrow.

On Thursday, the Senate will convene at 11 o'clock a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized for not to exceed 10 minutes each: The Senator from New Jersey (Mr. WILLIAMS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alabama (Mr. SPARKMAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Washington (Mr. JACKSON), the Senator from Nevada (Mr. CANNON), the Senator from Utah (Mr. MOSS), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. MUSKIE), and the Senator from Utah (Mr. CHURCH).

After the orders for the recognition of Senators have been consummated on Thursday, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes each.

At the conclusion of routine morning business on Thursday, in the event the Senate has finally disposed of S. 7, the bill to amend the Vocational Rehabilitation Act, the leadership would intend to proceed to the consideration of Senate resolution 69, a resolution to amend rule XXV relative to open and closed sessions of committees. There may be yea-and-nay votes thereon.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 12 o'clock meridian tomorrow.

The motion was agreed to; and at 3:20 p.m., the Senate adjourned until tomorrow, Wednesday, February 28, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 27, 1973:

SELECTIVE SERVICE SYSTEM

Byron V. Pepitone, of Virginia, to be Director of Selective Service, vice Curtis W. Tarr, resigned.

CONFIRMATION

Executive nomination confirmed by the Senate February 27, 1973:

NEW ENGLAND REGIONAL COMMISSION

Russell Field Merriman, of Vermont, to be Federal Cochairman of the New England Regional Commission.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

"MY RESPONSIBILITY TO FREEDOM", AN ESSAY BY MISS MARJORIE LYNN O'CONNOR OF MARION HIGH SCHOOL, MISHAWAKA, IND.

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 27, 1973

Mr. BRADEMAS. Mr. Speaker, the Veterans of Foreign Wars' annual Voice of Democracy Contest has again been concluded, and I am delighted to report that the winning entry from my State was submitted by Miss Marjorie Lynn O'Connor of Marion High School in Mishawaka, Ind.

Miss O'Connor addresses herself very eloquently to the dangers of complacency in a democratic society, and her essay on "My Responsibility to Freedom" is well worth the attention of the Members.

I would, therefore, like to include Miss O'Connor's winning entry in the RECORD at this point in order that it might be available to all:

MY RESPONSIBILITY TO FREEDOM

If you are one of the people who read the comics section of the newspaper, you may have seen a recent episode of Mort Walker's *Beetle Bailey*. In this particular episode, Beetle was leaning against a tree, talking to himself. He said:

"I don't know why everybody's always hopping on me for being lazy. Half the trouble in this world is caused by too much energy . . . People running around starting fights and trying to get stuff! I oughta write a book! I could go around making speeches . . . I could get people behind me and run for office! Baileyism, that's what I'd call it! Baileyism would sweep the country! Even the world! Except that it all sounds like a lot of work."

In the last frame, Bailey was still resting under the tree, all his grand plans never to be put into effect.

The reasoning behind those plans seems to be that since zeal can have undesirable results, it is praiseworthy to be apathetic. However, Beetle can do nothing to improve society without committing himself to "a lot of work." This general apathy is ironic, because Beetle, as a soldier, is theoretically committed to the specific cause of freedom, and willing to expend not only his energy, but also his life to defend it. The defense of freedom will never be achieved through the concept of Baileyism, for it is only by positive action that the liberty we have can be preserved.

The term "positive action" means taking definite steps to preserve one's own freedom by protecting the rights of others. There are many ways to become a leader in the protection of human liberty. However, one can not hope to speak up in the community until he speaks up in his own family. He should not expect to defeat pollution on a large scale until he conquers his own selfish, polluting habits and he will never be able to free an oppressed minority group if he fails to safeguard individual rights. We must meet his responsibility to freedom not through Baileyism's empty promises, nor by merely refraining from undermining liberty, but by taking positive action, both in major concerns and the little matters one meets daily.

I can not honestly say that I have always met this obligation, because at times I have failed to use my opportunities to act or speak out in behalf of someone else. I have avoided taking part in family arguments over the use of the television, although I knew it was the third straight week of Monday night football, and time for my little sister to watch her favorite program instead.

Generally indifferent about pollution, I have often overlooked discarded pop cans or candy wrappers, depriving everyone of his right to a clean America. Rather than come forward, I have seen an innocent student punished for the misdeeds of a friend. I have stood by while a child was bullied by the neighbor children, and given tacit approval to the merciless teasing that I have seen in home and at school.

According to the philosophy of Baileyism, I should be praised because in each of these situations I did nothing wrong. I say I am guilty, of infringing on my own freedom as well as my neighbor's, because I didn't